CHAPTER 2008-227

House Bill No. 7135

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low carbon emitting electric power plants, including nuclear plants; amending ss. 196.012 and 196.175, F.S.; deleting outdated, obsolete language; removing the expiration date of the property tax exemption for real property on which a renewable energy source device is installed and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. 350.031, 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 appoint-

ment, 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 conduct a referendum election of all its retail electric 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 geological 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 energy 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, 377.703, 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 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 application 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 siting 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; provides 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 performance of buildings subject to the Florida Energy Efficiency Code for Building Construction; providing energy-efficiency performance options and elements for achieving performance goals; requiring the commission to adopt rules and implement a cost-effectiveness test; amending s. 553.909, F.S.; requiring the Florida Energy Efficiency Code for Building Construction to set minimum requirements for certain commercial or residential appliances; requiring the Agency for Enterprise Information Technology to define specified objective standards 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 2. 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, 1994~~, 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 b~~ased 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 2.8; 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, 1985, 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:~~

~~(a) The assessed value of such real property less any other exemptions applicable under this chapter;~~

~~(b)~~ 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~~; or~~

~~(c) 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 ~~1980, or after December 31, 1990~~.

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 destination as to the county in the state to which the motor fuel was delivered for resale at retail or use shall be specified in the report. The total taxable gallons sold shall agree with the total gallons reported to the county destinations for resale at retail or use. All gallons of motor fuel sold shall be invoiced and shall name the county of destination for resale at retail or use.

(b) Each terminal supplier, importer, blender, and wholesaler shall also include in the report to the department the number of gallons of blended and unblended gasoline, as defined in s. 526.203, sold.

Section 9. Paragraph (ccc) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

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

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

(ccc) Equipment, machinery, and other materials for renewable energy technologies.—

1. As used in this paragraph, the term:

a. "Biodiesel" means the mono-alkyl esters of long-chain fatty acids derived from plant or animal matter for use as a source of energy and meeting

the specifications for biodiesel and biodiesel blends with petroleum products as adopted by the Department of Agriculture and Consumer Services. Biodiesel may refer to biodiesel blends designated BXX, where XX represents the volume percentage of biodiesel fuel in the blend.

b. "Ethanol" means an ~~nominally~~ anhydrous denatured alcohol produced by the conversion of carbohydrates ~~fermentation of plant sugars~~ meeting the specifications for fuel ethanol and fuel ethanol blends with petroleum products as adopted by the Department of Agriculture and Consumer Services. Ethanol may refer to fuel ethanol blends designated EXX, where XX represents 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 each subsequent purchaser on the sales invoice or other proof of purchase.

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. 212.095 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:

1.~~(a)~~ One hundred percent for a qualifying project which results in a cumulative capital investment of at least $100 million.

2.~~(b)~~ Seventy-five percent for a qualifying project which results in a cumulative capital investment of at least $50 million but less than $100 million.

3.~~(c)~~ Fifty 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 capital investment tax 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)(ccc).

(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)~~(b)~~ "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.

(d)~~(c)~~ "Ethanol" means ethanol as defined in s. 212.08(7)(ccc).

(e)~~(d)~~ "Hydrogen fuel cell" means hydrogen fuel cell as defined in s. 212.08(7)(ccc).

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

(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, 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 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 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.

(7)~~(6)~~ RULES.—The Department of Revenue shall have the authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section, including rules relating to:

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

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

(8)~~(7)~~ PUBLICATION.—The Florida Energy and Climate Commission ~~Department of Environmental Protection~~ shall determine and publish on a regular basis the amount of available tax credits remaining in each fiscal year.

Section 12. Paragraphs (f) and (g) are added to subsection (2) and paragraphs (j) and (k) are added to subsection (3) of section 220.193, Florida Statutes, to read:

220.193 Florida renewable energy production credit.—

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

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

(g) "Taxpayer" includes a general partnership, limited partnership, limited liability company, trust, or other artificial entity in which a corporation, as defined in s. 220.03(1)(e), owns an interest and is taxed as a partnership or 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.

(j) 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.

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

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:

253.02 Board of trustees; powers and duties.—

(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.

3. 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.

4. 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 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 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.

Section 15. Paragraph (d) of subsection (3) of section 255.249, Florida Statutes, is amended to read:

255.249 Department of Management Services; responsibility; department rules.—

(3)

(d) 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:

255.251 Energy Conservation and Sustainable ~~in~~ Buildings Act; short title.—This act shall be cited as the "Florida Energy Conservation and Sustainable ~~in~~ Buildings Act ~~of 1974~~."

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 80 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 ~~underway 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 approved by the department ~~in a manner which will minimize the consumption of energy used in the operation and maintenance of such buildings~~. It is further the policy of the state, when economically feasible, to retrofit existing state-owned buildings in a manner which will minimize the consumption of energy used in the operation and maintenance of such buildings.

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

255.253 Definitions; ss. 255.251-255.258.—

(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 toxic materials and waste in its design, construction, landscaping, and operation.

(7) "Sustainable building rating" means a rating established by 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.

Section 19. Subsection (1) of section 255.254, Florida Statutes, is amended to read:

255.254 No facility constructed or leased without life-cycle costs.—

(1) No state agency shall lease, construct, or have constructed, within limits prescribed in this section ~~herein~~, a facility without having secured

from the department an ~~a proper~~ evaluation of life-cycle costs based on sustainable building ratings~~, as computed by an architect or engineer~~. Furthermore, construction shall proceed only upon disclosing to the department, for the facility chosen, the life-cycle costs as determined in s. 255.255, the facility's sustainable building rating goal, and the capitalization of the initial construction costs of the building. The life-cycle costs and the sustainable building rating goal shall be ~~a~~ primary considerations ~~consideration~~ in the selection of a building design. ~~Such analysis shall be required only for construction of buildings with an area of 5,000 square feet or greater.~~ For leased buildings more than 5,000 ~~areas of 20,000~~ square feet in area ~~or greater~~ within a given building boundary, an energy performance ~~a life-cycle~~ analysis consisting of a projection of the annual energy consumption costs in dollars per square foot of major energy-consuming equipment and systems based on actual expenses from the last 3 years and projected forward for the term of the proposed lease shall be performed. The~~, and a~~ lease shall only be made where there is a showing that the energy ~~life-cycle~~ costs incurred by the state are minimal compared to available like facilities. A lease agreement for any building leased by the state from a private-sector entity shall include provisions for monthly energy use data to be collected and submitted monthly to the department by the owner of the building.

Section 20. Subsection (1) of section 255.255, Florida Statutes, is amended to read:

255.255 Life-cycle costs.—

(1) The department shall adopt ~~promulgate~~ rules and procedures, including energy conservation performance guidelines based on sustainable building ratings, for conducting a life-cycle cost analysis of alternative architectural and engineering designs and alternative major items of energy-consuming equipment to be retrofitted in existing state-owned ~~or leased~~ facilities and for developing energy performance indices to evaluate the efficiency of energy utilization for competing designs in the construction of state-financed and leased facilities.

Section 21. Section 255.257, Florida Statutes, is amended to read:

255.257 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 shall ~~may~~ develop a state energy management plan consisting of, but not limited to, the following elements:

(a) Data-gathering requirements;

(b) Building energy audit procedures;

(c) Uniform data analysis procedures;

(d) Employee energy education program measures;

(e) Energy consumption reduction techniques;

(f) Training program for state agency energy management coordinators; and

(g) Guidelines for building managers.

The plan shall include a description of actions that state agencies shall take to reduce consumption of electricity and nonrenewable energy sources used for space heating and cooling, ventilation, lighting, water heating, and transportation.

(4) ADOPTION OF STANDARDS.—

(a) All state agencies shall adopt 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 for all new buildings and renovations to existing buildings.

(b) No state agency shall enter into new leasing agreements for office space that does not meet Energy Star building standards, except when determined by the appropriate state agency head that no other viable or cost-effective alternative exists.

(c) All state agencies shall develop energy conservation measures and guidelines for new and existing office space where state agencies occupy more than 5,000 square feet. These 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 processed 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 a 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:

287.063 Deferred-payment commodity contracts; preaudit review.—

(2)

(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 deemed 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.~~

3.~~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, in-~~

~~cluding~~ the cost of energy, water, or wastewater efficiency and conservation measures~~, each~~ 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 pursuant to the master equipment financing agreement under this subsection~~ may exceed 5 years but may not exceed 20 ~~10~~ 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 ~~that~~ the Chief Financial Officer has determined is appropriate or which ~~that~~ the Legislature has designated for payment 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.

Section 27. Present paragraphs (a) through (n) of subsection (2) of section 288.1089, Florida Statutes, are redesignated as paragraphs (b) through (o), respectively, and a new paragraph (a) is added to that subsection, subsections (3), (5), (6), and (7) of that section are amended, and paragraph (d) is added to subsection (4) of that section, to read:

288.1089 Innovation Incentive Program.—

(1) The Innovation Incentive Program is created within the Office of Tourism, Trade, and Economic Development to ensure that sufficient resources are available to allow the state to respond expeditiously to extraordinary economic opportunities and to compete effectively for high-value research and development and innovation business projects.

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

(a) "Alternative and renewable energy" means electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: ethanol, cellulosic ethanol, biobutanol, biodiesel,

biomass, biogas, hydrogen fuel cells, ocean energy, hydrogen, solar, hydro, wind, or geothermal.

(3) To be eligible for consideration for an innovation incentive award, an innovation business or research and development entity, or alternative and renewable energy project must submit a written application to Enterprise Florida, Inc., before making a decision to locate new operations in this state or expand an existing operation in this state. The application must include, but not be limited to:

(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.

(4) 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 the business project.

(5) 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.

(k) 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.

(l) 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 this 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.

(7) 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 award agreement, or its earlier 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 ~~High occupancy vehicle~~ lanes.—

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

(a) "High-occupancy-vehicle ~~"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 ~~that~~ 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 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~~. 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.

~~(5) As used in this section, the term "hybrid vehicle" means a motor vehicle:~~

~~(a) That draws propulsion energy from onboard sources of stored energy which are both:~~

~~1. An internal combustion or heat engine using combustible fuel; and~~

~~2. A rechargeable energy storage system; and~~

~~(b) That, in the case of a passenger automobile or light truck:~~

~~1. Has received a certificate of conformity under the Clean Air Act, 42 U.S.C. ss. 7401 et seq.; and~~

~~2. Meets or exceeds the equivalent qualifying California standards for a low-emission vehicle.~~

(7)~~(6)~~ 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 and access to such 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, ~~and~~ 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. 339.2819(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 encouraged to consider strategies that integrate transportation 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 s. 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~~(5), (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~~(5), (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 1979~~. 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 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:

350.03 Power of Governor to remove and to fill vacancies.—The Governor shall have the same power to remove, suspend, or appoint to fill vacancies in the office of commissioners as in other offices, as set forth in s. 7, Art. IV of the State Constitution.

Section 34. Subsections (1), (5), (6), (7), and (8) of section 350.031, Florida Statutes, are amended, and subsection (9) is added to that section, to read:

350.031 Florida Public Service Commission Nominating Council.—

(1)(a) There is created a Florida Public Service Commission Nominating Council consisting of 12 ~~nine~~ members. At least one member of the council must be 60 years of age or older. Six ~~Three~~ members, including three members ~~one member~~ of the House of Representatives, one of whom shall be a member of the minority party, shall be appointed by and serve at the pleasure of the Speaker of the House of Representatives. Six~~; three~~ members, including three members ~~one member~~ of the Senate, one of whom shall be a member of the minority party, shall be appointed by and serve at the pleasure of the President of the Senate~~; and three members shall be selected and appointed by a majority vote of the other six members of the council~~.

(b) All terms shall be for 4 years except those members of the House and Senate, who shall serve 2-year terms concurrent with the 2-year elected terms of House members. All terms of the members of the Public Service Commission Nominating Council existing on June 30, 2008, shall terminate upon the effective date of this act; however, such members may serve an additional 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 Coun-

cil 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 applicants 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.

Section 35. Subsection (1) of section 350.061, Florida Statutes, is amended to read:

350.061 Public Counsel; appointment; oath; restrictions on Public Counsel and his or her employees.—

(1) The Committee on Public Counsel ~~Service Commission~~ Oversight shall appoint a Public Counsel by majority vote of the members of the committee to represent the general public of Florida before the Florida Public Service Commission. The Public Counsel shall be an attorney admitted to practice before the Florida Supreme Court and shall serve at the pleasure of the Committee on Public Counsel ~~Service Commission~~ Oversight, subject to biennial reconfirmation by the committee. The Public Counsel shall perform his or her duties independently. Vacancies in the office shall be filled in the same manner as the original appointment.

Section 36. Subsection (2) of section 350.0614, Florida Statutes, is amended to read:

350.0614 Public Counsel; compensation and expenses.—

(2) The Legislature declares and determines that the Public Counsel is under the legislative branch of government within the intention of the legislation as expressed in chapter 216, and no power shall be in the Executive Office of the Governor or its successor to release or withhold funds appropriated to it, but the same shall be available for expenditure as provided by law and the rules or decisions of the Committee on Public Counsel ~~Service Commission~~ Oversight.

Section 37. Subsection (7) is added to section 366.04, Florida Statutes, to read:

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 ~~cogeneration 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:~~,~~

(a) "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 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 ~~cogeneration~~, 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 completed, the commission shall deter-~~

~~mine 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)~~(3)~~ Following adoption of goals pursuant to subsections ~~subsection~~ (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 $5 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.

(9) The commission is authorized to allow an investor-owned electric utility an additional return on equity of up to 50 basis points for exceeding 20 percent of their annual load-growth through energy efficiency and conservation measures. The additional return on equity shall be established by the commission through a limited proceeding.

(10)~~(4)~~ The commission shall require periodic reports from each utility and shall provide the Legislature and the Governor with an annual report by March 1 of the goals it has adopted and its progress toward meeting those goals. The commission shall also consider the performance of each utility pursuant to ss. 366.80-366.85 and 403.519 when establishing rates for those utilities over which the commission has ratesetting authority.

(11)~~(5)~~ The commission shall require each utility to offer, or to contract to offer, energy audits to its residential customers. This requirement need not be uniform, but may be based on such factors as level of usage, geographic location, or any other reasonable criterion, so long as all eligible customers are notified. The commission may extend this requirement to some or all commercial customers. The commission shall set the charge for audits by rule, not to exceed the actual cost, and may describe by rule the general form and content of an audit. In the event one utility contracts with another utility to perform audits for it, the utility for which the audits are performed shall pay the contracting utility the reasonable cost of performing the audits. Each utility over which the commission has ratesetting authority shall estimate its costs and revenues for audits, conservation programs, and

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.

(12)~~(6)(a)~~ 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)~~(7)~~ 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.~~; and~~

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 (8), and new subsections (5), (6), and (7) are added to that section, to read:

366.91 Renewable energy.—

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

(a) "Biomass" means a power source that is comprised of, but not limited to, combustible residues or gases from forest products manufacturing, waste, byproducts, or products from agricultural and orchard crops, waste or co-products ~~products~~ from livestock and poultry operations, waste or byproducts from ~~and~~ 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)~~(b)~~ "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.

(6) 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.

(7) 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 at retail.

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

366.92 Florida renewable energy policy.—

(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:

(a) "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. 366.91(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 rates 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 electric power supplier that is independent of a program sponsored by the electric power supplier.

8. Shall provide for the conditions and options for the repeal or alteration of the rule in the event that new provisions of federal law supplant or conflict with the rule.

(c) Beginning on April 1 of the year following final adoption of the commission's renewable portfolio standard rule, each provider shall submit a report to the commission describing the steps that have been taken in the previous year and the steps that will be taken in the future to add renewable energy to the provider's energy supply portfolio. The report shall state whether the provider was in compliance with the renewable portfolio standard during the previous year and how it will comply with the renewable portfolio standard in the upcoming year.

(4) In order to demonstrate the feasibility and viability of clean energy systems, the commission shall provide for full cost recovery under the environmental cost-recovery clause of all reasonable and prudent costs incurred by a provider for renewable energy projects that are zero greenhouse gas emitting at the point of generation, up to a total of 110 megawatts statewide, and for which the provider has secured necessary land, zoning permits, and transmission rights within the state. Such costs shall be deemed reasonable and prudent for purposes of cost recovery so long as the provider has used reasonable and customary industry practices in the design, procurement, and construction of the project in a cost-effective manner appropriate to the location of the facility. The provider shall report to the commission as part of the cost-recovery proceedings the construction costs, in-service costs, operating and maintenance costs, hourly energy production of the renewable energy project, and any other information deemed relevant by the commission. Any provider constructing a clean energy facility pursuant to this section shall file for cost recovery no later than July 1, 2009.

(5) Each municipal electric utility and rural electric cooperative shall develop standards for the promotion, encouragement, and expansion of the

use of renewable energy resources and energy conservation and efficiency measures. On or before April 1, 2009, and annually thereafter, each municipal electric utility and electric cooperative shall submit to the commission a report that identifies such standards.

(6) Nothing in this section shall be construed to impede or impair terms and conditions of existing contracts.

~~(3) The commission may adopt appropriate goals for increasing the use of existing, expanded, and new Florida renewable energy resources. The commission may change the goals. The commission may review and reestablish the goals at least once every 5 years.~~

(7)~~(4)~~ The commission may adopt rules to administer and implement the provisions of this section.

Section 43. Subsections (1), (2), and (6) of section 366.93, Florida Statutes, are amended to read:

366.93 Cost recovery for the siting, design, licensing, and construction of nuclear and integrated gasification combined 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 ~~is~~ an electrical power plant as defined in s. 403.503(14)~~(13)~~ that uses synthesis gas produced by integrated gasification technology.

(d) "Nuclear power plant" or "plant" means ~~is~~ an electrical power plant as defined in s. 403.503(14)~~(13)~~ 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 be 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 front line 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 types 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.~~

(2)~~(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. 377.901, Florida Statutes, shall be transferred from the Office of Legislative Services to the Florida Energy and Climate 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 a vacancy occurs for any reason other than the expiration of the term. The Governor, the Commissioner of Agriculture, and the Chief Financial Officer may proffer 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.

8. The Governor or the Governor's successor may recall an appointee.

(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 con-

trols, 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.

4. A representative of the Department of Financial 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 public to provide information on specific issues.

(5) The commission shall:

(a) Administer the Florida Renewable Energy and Energy 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.

(j) Be a party in the proceedings to adopt goals and submit comments to the Public Service Commission pursuant to s. 366.82.

(k) Adopt rules pursuant to chapter 120 in order to implement all powers and duties described in this section.

Section 47. Section 377.602, Florida Statutes, is amended to read:

377.602 Definitions.—As used in ss. 377.601-377.608:

(1) "Commission" means the Florida Energy and Climate Commission.

(2)~~(1)~~ "Energy resources" includes, but shall not be limited to:

(a) Energy converted from solar radiation, wind, hydraulic potential, tidal movements, biomass, geothermal sources, and other energy resources the commission determines to be important to the production or supply of energy.

(b)~~(a)~~ Propane, butane, motor gasoline, kerosene, home heating oil, diesel fuel, other middle distillates, aviation gasoline, kerosene-type jet fuel, naphtha-type jet fuel, residual fuels, crude oil, and other petroleum products and hydrocarbons as may be determined by the commission ~~department~~ to be of importance.

(c)~~(b)~~ All natural gas, including casinghead gas, all other hydrocarbons not defined as petroleum products in paragraph (b) ~~(a)~~, and liquefied petroleum gas as defined in s. 527.01.

(d)~~(c)~~ All types of coal and products derived from its conversion and used as fuel.

(e)~~(d)~~ All types of nuclear energy, special nuclear material, and source material, as defined in former s. 290.07.

~~(e) 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) ~~(1)~~, 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, allocations, 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), Florida Statutes, to the Florida Energy and Climate Commission in the Executive Office of the Governor.

Section 49. Section 377.603, Florida Statutes, is amended to read:

377.603 Energy data collection; powers and duties of the commission ~~Department of Environmental Protection~~.—

(1) The commission may ~~department shall~~ collect data on the extraction, production, importation, exportation, refinement, transportation, transmission, conversion, storage, sale, or reserves of energy resources in this state in an efficient and expeditious manner.

(2) The commission may ~~department shall~~ prepare periodic reports of energy data it collects.

~~(3) The department shall prescribe and furnish forms for the collection of information as required by ss. 377.601-377.608 and shall consult with other state entities to assure that such data collected will meet their data requirements.~~

(3)~~(4)~~ The commission ~~department~~ may adopt and promulgate such rules and regulations as are necessary to carry out the provisions of ss. 377.601-377.608. Such rules shall be pursuant to chapter 120.

(4)~~(5)~~ The commission ~~department~~ shall maintain internal validation procedures to assure the accuracy of information received.

Section 50. Section 377.604, Florida Statutes, is amended to read:

377.604 Required reports.—Every person who produces, imports, exports, refines, transports, transmits, converts, 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, punishable as provided in ss. 775.082 and 775.083. 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) A ~~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. 119.07(1). Nothing in this subsection shall be construed to prevent inspection of reports by the Attorney General, members of the Legislature, and interested state agencies; however, such agencies and their employees and members are bound by the requirements set forth in this subsection.

(5) Any person who willfully fails to submit information required by this act or submits false information or who violates any provision of this act commits ~~is guilty of~~ a misdemeanor of the first degree and shall be punished as provided in ss. 775.082 and 775.083.

Section 55. Section 377.703, Florida Statutes, is amended to read:

377.703 Additional functions of the Florida Energy and Climate Commission ~~Department of Environmental Protection; energy emergency contingency plan; federal and state conservation programs.—~~

(1) LEGISLATIVE INTENT.—Recognizing that energy supply and demand questions have become a major area of concern to the state which must be dealt with by effective and well-coordinated state action, it is the intent of the Legislature to promote the efficient, effective, and economical management of energy problems, centralize energy coordination responsibilities, pinpoint responsibility for conducting energy programs, and ensure the accountability of state agencies for the implementation of s. 377.601(2)~~(4)~~, the state energy policy. It is the specific intent of the Legislature that nothing in this act shall in any way change the powers, duties, and responsibilities assigned by the Florida Electrical Power Plant Siting Act, part II of chapter 403, or the powers, duties, and responsibilities of the Florida Public Service Commission.

~~(2) DEFINITIONS.—~~

~~(a) "Coordinate," "coordination," or "coordinating" means the examination and evaluation of state plans and programs and the providing of recommendations to the Cabinet, Legislature, and appropriate state agency on any measures deemed necessary to ensure that such plans and programs are consistent with state energy policy.~~

~~(b) "Energy conservation" means increased efficiency in the utilization of energy.~~

~~(c) "Energy emergency" means an actual or impending shortage or curtailment of usable, necessary energy resources, such that the maintenance of necessary services, the protection of public health, safety, and welfare, or the maintenance of basic sound economy is imperiled in any geographical section of the state or throughout the entire state.~~

~~(d) "Energy source" means electricity, fossil fuels, solar power, wind power, hydroelectric power, nuclear power, or any other resource which has the capacity to do work.~~

~~(e) "Facilities" means any building or structure not otherwise exempted by the provisions of this act.~~

~~(f) "Fuel" means petroleum, crude oil, petroleum product, coal, natural gas, or any other substance used primarily for its energy content.~~

~~(g) "Local government" means any county, municipality, regional planning agency, or other special district or local 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)~~(3) 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. 20.255 and 377.701,~~ 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 ~~department~~ shall then respond by instituting the appropriate measures of the contingency plan to meet the given emergency or energy shortage. The Governor may utilize the provisions of s. 252.36(5) to carry out any emergency actions required by a 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 and underway ~~under way~~ in the past year and shall 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. 377.601(2)~~(4)~~, the state energy policy, and recommendations for better fulfilling this policy.

(g) The commission ~~department~~ has authority to adopt rules pursuant to ss. 120.536(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 ~~department~~ 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.

(l) The commission ~~department~~ 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, new sources of energy must be developed and applied. One such source, 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 lifecycle 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 grants 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 ~~Renewable Energy Technologies and Energy Efficiency~~ Act.

~~(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.~~

(2)~~(3)~~ "Commission" means the Florida Energy and Climate ~~Public Service~~ Commission.

~~(4) "Department" means the Department of Environmental Protection.~~

(3)~~(5)~~ "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, or any other public or private entity.

(4)~~(6)~~ "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.

(5)~~(7)~~ "Renewable energy technology" means any technology that generates or utilizes a renewable energy resource.

(6)~~(8)~~ "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.

(7)~~(9)~~ "Solar photovoltaic system" means a device that converts incident sunlight into electrical current.

(8)~~(10)~~ "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 departments 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) SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.—

(a) Eligibility requirements.—A solar photovoltaic system qualifies for a rebate if:

1. The system is installed by a state-licensed master electrician, electrical contractor, or solar contractor.

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. ~~Btu 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.

(5) APPLICATION.—Application for a rebate must be made within 120 ~~90~~ days after the purchase of the solar energy equipment.

(6) 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.

(7) 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 govern-

ments, 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 Harbors Act of 1899, 33 U.S.C. ss. 401 et seq., as amended.

2. Permits and licenses required under the Marine Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. ss. 1401-1445 and 16 U.S.C. ss. 1431-1445, as amended.

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. 717-717w, 3301-3432, 42 U.S.C. ss. 7101-7352, and 43 U.S.C. ss. 1331-1356 for construction and operation of interstate gas pipelines and storage facilities.

6. Permits and licenses required for the siting and construction of any new electrical power plants as defined in s. 403.503(14)~~(13)~~, 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.

7. Permits and licenses required under the Mining Law of 1872, 30 U.S.C. ss. 21 et seq., as amended; the Mineral Lands Leasing Act, 30 U.S.C. ss. 181 et seq., as amended; the Mineral Leasing Act for Acquired Lands, 30 U.S.C. ss. 351 et seq., as amended; the Federal Land Policy and Management Act, 43 U.S.C. ss. 1701 et seq., as amended; the Mining in the Parks Act, 16 U.S.C. ss. 1901 et seq., as amended; and the OCS Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, for drilling, mining, pipelines, geological and geophysical activities, or rights-of-way on public lands and permits and licenses required under the Indian Mineral Development Act, 25 U.S.C. ss. 2101 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.

9. Permits and licenses required under the Deepwater Port Act of 1974, 33 U.S.C. ss. 1501 et seq., as amended.

10. Permits required for the taking of marine mammals under the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. s. 1374.

Section 64. Subsection (20) of section 403.031, Florida Statutes, is amended to read:

403.031 Definitions.—In construing this chapter, or rules and regulations adopted pursuant hereto, the following words, phrases, or terms, unless the context otherwise indicates, have the following meanings:

(20) "Electrical power plant" means, for purposes of this part of this chapter, any electrical generating facility that uses any process or fuel and that is owned or operated by an electric utility, as defined in s. 403.503(14)~~(13)~~, and includes any associated facility that directly supports the operation of the electrical power plant.

Section 65. Section 403.44, Florida Statutes, is created to read:

403.44 Florida Climate Protection Act.—

(1) The Legislature finds it is in the best interest of the state to document, to the greatest extent practicable, greenhouse gas emissions and to pursue a market-based emissions abatement program, such as cap and trade, to address greenhouse gas emissions reductions.

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

(a) "Allowance" means a credit issued by the department through allotments or auction which represents an authorization to emit specific amounts of greenhouse gases, as further defined in department rule.

(b) "Cap and trade" or "emissions trading" means an administrative approach used to control pollution by providing a limit on total allowable emissions, providing for allowances to emit 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 ratepayers 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.

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

(7) 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)~~(6)~~ "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.

(9)~~(8)~~ "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.

(11)~~(10)~~ "Corridor" means the proposed area within which an associated linear facility right-of-way is to be located. The width of the corridor pro-

posed 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 reports was filed.

(14)~~(13)~~ "Electrical power plant" means, for the purpose of certification, any steam or solar electrical generating facility using any process or fuel, including nuclear materials, except that this term does not include any steam or solar electrical generating facility of less than 75 megawatts in capacity unless the applicant for such a facility elects to apply for certification under this act. This term also includes the site; all associated facilities that will ~~to~~ be owned by the applicant that ~~which~~ are physically connected to the ~~electrical power plant~~ site; all associated facilities that ~~or which~~ are indirectly ~~directly~~ connected to the ~~electrical power plant~~ site by other proposed associated facilities that will ~~to~~ be owned by the applicant;~~,~~ and associated transmission lines that will ~~to~~ be owned by the applicant which connect the electrical power plant to an existing transmission network or rights-of-way to ~~of~~ which the applicant intends to connect. At the applicant's option, this term may include any offsite associated facilities that ~~which~~ will not be owned by the applicant; offsite associated facilities that ~~which~~ are owned by the applicant but that ~~which~~ are not directly 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 generation injected into the system from the proposed electrical power plant.

(28)~~(27)~~ "Site" means any proposed location within which will be located ~~wherein~~ an electrical power plant's generating facility and onsite support facilities ~~plant~~, 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.

(30)~~(29)~~ "Ultimate site capacity" means the maximum gross generating capacity for a site as certified by the board, unless otherwise specified as net generating capacity.

Section 68. Subsections (2) through (5), (9), and (11) of section 403.504, Florida Statutes, are amended to read:

403.504 Department of Environmental Protection; powers and duties enumerated.—The department shall have the following powers and duties in relation to this act:

(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.

(3) To receive applications for electrical power plant ~~site~~ certifications and to determine the completeness and sufficiency thereof.

(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 ~~issue final orders after receipt of the administrative law judge's order relinquishing jurisdiction pursuant to s. 403.508(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 ~~35~~ 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)~~(b)~~ 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 corridor portion of its application to be processed under the proposed schedule, only one certification hearing shall be held for the entire plant in accordance with s. 403.508(2). The proposed ~~This~~ schedule shall be timely provided by the department to the applicant, the administrative law judge, all agencies identified pursuant to subsection (2), and all parties. Within 7 days after the filing of the proposed schedule, the administrative law judge shall issue an order establishing a schedule for the matters addressed in the department's proposed schedule and other appropriate matters, if any.

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

403.5065 Appointment of administrative law judge; powers and duties.—

(1) Within 7 days after receipt of an application, the department shall request the Division of Administrative Hearings to designate an administrative law judge to conduct the hearings required by this act. The division director shall designate an administrative law judge within 7 days after receipt of the request from the department. In designating an administrative law judge for this purpose, the division director shall, whenever practicable, assign an administrative law judge who has had prior experience or training in electrical power plant ~~site~~ certification proceedings. Upon being advised that an administrative law judge has been appointed, the department shall immediately file a copy of the application and all supporting documents with the designated administrative law judge, who shall docket the application.

Section 72. Subsection (3) of section 403.50663, Florida Statutes, is amended to read:

403.50663 Informational public meetings.—

(3) A local government or regional planning council that intends to conduct an informational public meeting must provide notice of the meeting to all parties not less than 5 days prior to the meeting and to the general public in accordance with s. 403.5115(5). The expense for such notice is eligible for reimbursement under s. 403.518(2)(c)1.

Section 73. Section 403.50665, Florida Statutes, is amended to read:

403.50665 Land use consistency.—

(1) The applicant shall include in the application a statement on the consistency of the site and ~~or~~ any ~~directly~~ associated facilities that constitute

a "development," as defined in s. 380.04, with existing land use plans and zoning ordinances that were in effect on the date the application was filed and a full description of such consistency. This information shall include an identification of those associated facilities that the applicant believes are exempt from the requirements of land use plans and zoning ordinances under the provisions of the Local Government Comprehensive Planning and Land Development Regulation Act provisions of chapter 163 and s. 380.04(3).

(2)(a) Within 45 days after the filing of the application, each local government shall file a determination with the department, the applicant, the administrative law judge, and all parties on the consistency of the site, and ~~or~~ any ~~directly~~ 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 55 ~~35~~ days later if the application has been determined incomplete based in whole or in part upon a local government request for ~~has 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. 403.5066(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.

(3)(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 local proceed-

ing.~~, and~~ 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. 403.519:

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 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 ~~If~~ 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, 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 under s. 403.50665.~~

(b) Notice of the land use hearing shall be published in accordance with the requirements of s. 403.5115.

(c) The sole issue for determination at the land use hearing shall be whether or not the proposed site or nonexempt associated facility is consistent and in compliance with existing land use plans and zoning ordinances. If the administrative law judge concludes that the proposed site or nonexempt associated facility is not consistent or in compliance with existing land

use plans and zoning ordinances, the administrative law judge shall receive at the hearing evidence on, and address in the recommended order any changes to or approvals or variances under, the applicable land use plans or zoning ordinances which will render the proposed site or nonexempt associated facility consistent and in compliance with the local land use plans and zoning ordinances.

(d) The designated administrative law judge's recommended order shall be issued within 30 days after completion of the hearing and shall be reviewed by the board within 60 days after receipt of the recommended order by the board.

(e) If it is determined by the board that the proposed site or nonexempt associated facility does conform with existing land use plans and zoning ordinances in effect as of the date of the application, or as otherwise provided by this act, 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 electrical power plant on the proposed site or ~~directly~~ associated 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 ~~as a site~~ for a site or associated facility ~~an 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.~~

(3)

(f) Any agency, including those whose properties or works are being affected pursuant to s. 403.509(5)~~(4)~~, 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 if applicable, shall meet the criteria of this section. When more than one transmission line corridor is proper for certification under s. 403.503(11) and meets the criteria of this section, the board, or secretary if applicable, 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 if applicable, finds that an alternate corridor rejected pursuant to s. 403.5271 as incorporated by reference in s. 403.5064(1)(b) meets the criteria of subsection (3) and has the least adverse impact regarding the criteria in subsection (3), the board, or secretary if applicable, shall deny certification or shall allow the applicant to submit an amended application to include the corridor.

(c) If the board, or secretary if applicable, 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 if applicable, shall

certify the corridor preferred by the applicant if the corridor is one proper for certification under s. 403.503(11).

(6)~~(5)~~ 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.

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 ~~a directly~~ associated linear facility pursuant to this act, the applicant shall file, in accordance with s. 28.222, 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)~~(2)~~ 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)~~(3)~~ 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)~~(4)~~ 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)~~(1)~~ within 21 days after the deadline for the filing of the determination ~~is filed~~.

(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)~~(f)~~ 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)~~(g)~~ 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 paragraph (b) and subsection (2).~~

~~(i) Notice of existing site certification pursuant to s. 403.5175. Notices shall be published as specified in paragraph (b) and subsection (2).~~

(2) Notices provided by the applicant shall be published 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. 403.50665(2)~~(1)~~ 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)~~(g)~~ 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)~~(h)~~ Notice of the hearing before the board, if applicable.

(j)~~(i)~~ 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 local 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 local 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).

(b) No later than 45 days from the filing of an alternate corridor for certification, the proponent of an alternate corridor shall file a list with the department's Siting Coordination Office of landowners and residences that were notified.

Section 81. Paragraph (b) of subsection (1) of section 403.516, Florida Statutes, is amended to read:

403.516 Modification of certification.—

(1) A certification may be modified after issuance in any one of the following ways:

(b)1. The department may modify specific conditions of a ~~site~~ certification which are inconsistent with the terms of any federally delegated or approved permit for the certified electrical power plant.

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 ~~site~~ 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)~~(13)~~ 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 regulation 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 ~~or 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 facility ~~plant~~ 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 ~~is~~ 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)1. 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 site size, type, increase in generating capacity proposed, or change in an associated ~~linear~~ facility location.

(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 ~~site~~ certification application fee, not to exceed $200,000, to cover all reasonable costs and expenses of the review processing and proceedings for certification of an existing power plant site under s. 403.5175. This fee must be 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 electrical transmission lines or facilities of any size that are necessary to serve the nuclear power plant, shall not be subject to challenge unless and only to the extent the commission finds, based on a preponderance of the evidence adduced at a hearing before the commission under s. 120.57, that certain costs were imprudently incurred. Proceeding with the construction of the nuclear or integrated gasification combined cycle power plant following an order by the commission approving the need for the nuclear or integrated gasification combined cycle power plant under this act shall not constitute or be evidence of imprudence. Imprudence shall not include any cost increases due to events beyond the utility's control. Further, a utility's right to recover costs associated with a nuclear or integrated gasification combined cycle power plant may not be raised in any other forum or in the review of proceedings in such other forum. Costs incurred prior to commercial operation shall be recovered pursuant to chapter 366.

Section 86. Subsection (1) of section 403.5252, Florida Statutes, is amended to read:

403.5252 Determination of completeness.—

(1)(a) Within 30 days after the filing ~~distribution~~ of an application, the affected agencies shall file a statement with the department containing the recommendations of each agency concerning the completeness of the application for certification.

(b) Within 37 ~~7~~ days after the filing ~~receipt~~ of the application ~~completeness statements of each agency~~, the department shall file a statement with the Division of Administrative Hearings, with the applicant, and with all parties declaring its position with regard to the completeness of the application. The statement of the department shall be based upon its consultation with the affected agencies.

Section 87. Subsection (1) and paragraph (a) of subsection (2) of section 403.526, Florida Statutes, are amended to read:

403.526 Preliminary statements of issues, reports, and project analyses; studies.—

(1) Each affected agency that is required to file a report in accordance with this section shall submit a preliminary statement of issues to the department and all parties no later than the submittal of each agency's recommendation that the application is complete ~~50 days after the filing of the application. Such statements of issues shall be made available to each local government for use as information for public meetings held under s. 403.5272~~. The failure to raise an issue in this preliminary statement of issues does not preclude the issue from being raised in the agency's report.

(2)(a) No later than 90 days after the filing of the application, the following agencies shall prepare reports as provided below, unless a final order denying the determination of need has been issued under s. 403.537 ~~and shall submit them to the department and the applicant no later than 90 days after the filing of the application~~:

1. The department shall prepare a report as to the impact of each proposed transmission line or corridor as it relates to 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 comprehensive plans, zoning ordinances, or other regulations made after the date required for the filing of the local government's report required by this section is not applicable to the certification of the proposed transmission line or corridor unless the certification is denied or the application is withdrawn.

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. 403.537, 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)~~ A local government shall notify the administrative law judge and all parties not later than 50 ~~21~~ 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) 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.

(d)~~(b)~~ 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)~~(c)~~ If a local government does not request a public hearing within 50 ~~21~~ 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 ~~persons residing~~ within the jurisdiction of the local government may testify during the ~~that portion of the certification~~ hearing held under paragraph (b) ~~at which public testimony is heard~~.

(6)(a) No later than 29 ~~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 105 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 schedules, 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.

Section 90. Subsection (3) of section 403.5272, Florida Statutes, is amended to read:

403.5272 Informational public meetings.—

(3) A local government or regional planning council that intends to conduct an informational public meeting must provide notice of the meeting, with notice sent to all parties listed in s. 403.527(2)(a), not less than 15 ~~5~~ days before the meeting and to the general public in accordance with s. 403.5363(4).

Section 91. Subsection (1) of section 403.5312, Florida Statutes, is amended to read:

403.5312 Filing of notice of certified corridor route.—

(1) Within 60 days after certification of a ~~directly associated transmission line under ss. 403.501-403.518 or a~~ transmission line corridor under ss. 403.52-403.5365, the applicant shall file with the department and, in accordance with s. 28.222, with the clerk of the circuit court for each county through which the corridor will pass, a notice of the certified route.

Section 92. Section 403.5363, Florida Statutes, is amended to read:

403.5363 Public notices; requirements.—

(1)(a) The applicant shall arrange for the publication of the notices specified in paragraph (b).

1. The notices shall be published in newspapers of general circulation within counties crossed by the transmission line corridors proper for certification. The required newspaper notices ~~for filing of an application and for the certification hearing~~ shall be ~~one-half page in size in a standard-size newspaper or a full page in a tabloid-size newspaper and~~ published in a section of the newspaper other than the section for legal notices. ~~These two notices must include a map generally depicting all transmission corridors proper for certification.~~ A newspaper of general circulation shall be the newspaper within a county crossed by a transmission line corridor proper for certification which newspaper has the largest daily circulation in that county and has its principal office in that county. If the newspaper having the largest daily circulation has its principal office outside the county, the notices must appear in both the newspaper having the largest circulation in that county and in a newspaper authorized to publish legal notices in that county.

2. The department shall adopt rules specifying the content of the newspaper notices.

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

(b) Public notices that must be published under this section include:

1. The notice of the filing of an application, which must include a description of the proceedings required by this act. The notice must describe the provisions of s. 403.531(1) and (2) and give the date by which notice of intent to be a party or a petition to intervene in accordance with s. 403.527(2) must be 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 subparagraph 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 deferment 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. 403.5271(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. 403.5271(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.~~4.~~ 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 ~~The~~ 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 propo-

nents 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. 403.5271(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 50 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. 403.5271(1)(b)2. The notice must be published at least 7 days before the date of the originally scheduled certification hearing.

(e)(d) The notice of the hearing before the siting board, if applicable.

(f)(e) The notice of stipulations, proposed agency action, or a petition for modification.

(4) A local government or regional planning council that proposes to conduct an informational public meeting pursuant to s. 403.5272 must publish notice of the meeting in a newspaper of general circulation within the county or counties in which the proposed electrical transmission line 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.

(5)(a) A good faith effort shall be made by the applicant to provide direct 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 local 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 only includes a transmission line as defined by s. 403.522(22).

(b) No later than 60 days after 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.

(6)(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 notice of the filing of an alternate corridor for certification by United States mail or hand delivery of the filing no later than 30 days after filing of the alternate corridor to all local 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).

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

Section 93. Paragraphs (d) and (e) of subsection (1) of section 403.5365, Florida Statutes, are amended to read:

403.5365 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) An application fee.

(d)1. Upon written request with proper itemized accounting within 90 days after final agency action by the siting board or the department or the written notification of the withdrawal of the application, the agencies that prepared reports under s. 403.526 or s. 403.5271 or participated in a hearing under s. 403.527 or s. 403.5271 may submit a written request to the department for reimbursement of expenses incurred during the certification proceedings. The request must 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 under this act, and for the local government or regional planning council providing additional notice of the informational public meeting. The department shall review the request and verify whether a claimed expense is valid. Valid expenses shall be reimbursed; however, if the amount of funds available for reimbursement is insufficient to provide

for full compensation to the agencies, 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 under subparagraph 1. 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.

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

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, local governmental agency, or state government agency 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 ~~is 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 ~~or 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. Diversion 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 terminus, or vice versa, and the section shall not end in a wetland; and

(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) <u>This subsection also applies to transmission lines and appurtenances certified under part II of this chapter. However,</u> 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 <u>s. 403.927</u> ~~ss. 403.91-403.929~~ 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<u>, water, and wastewater</u> performance savings contracting.—

(1) SHORT TITLE.—This section may be cited as the "Guaranteed Energy<u>, Water, and Wastewater</u> Performance Savings Contracting Act."

(2) LEGISLATIVE FINDINGS.—The Legislature finds that investment in energy<u>, water, and wastewater efficiency and</u> conservation measures in

agency facilities can reduce the amount of energy and water consumed and wastewater produced and produce immediate and long-term savings. It is the policy of this state to encourage each agency ~~agencies~~ to invest in energy, water, and wastewater efficiency and conservation measures ~~that reduce energy consumption, produce a cost savings for the agency, and improve the quality of indoor air in public facilities and to operate, maintain, and, when economically feasible, build or renovate existing agency facilities in such a manner as~~ to minimize energy and water consumption and wastewater production and maximize energy, water, and wastewater savings. It is further the policy of this state to encourage agencies to reinvest any ~~energy~~ savings resulting from energy, water, and wastewater efficiency and conservation measures in additional energy, water, and wastewater efficiency and conservation measures ~~efforts~~.

(3) DEFINITIONS.—As used in this section, the term:

(a) "Agency" means the state, a municipality, or a political subdivision.

(b) "Energy, water, and wastewater efficiency and conservation measure" means a training program incidental to the contract, facility alteration, or equipment purchase to be used in new construction, including an addition to ~~an~~ existing 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.

6. Energy recovery systems.

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 ~~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.

(4) 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 saving 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 installment 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 selection 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~~ 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)~~(g)~~ 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 moneys, 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.

(6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.—The Department of Management Services, with the assistance of the Office of the Chief Financial Officer, shall ~~may~~, within available resources, provide technical content 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 ~~may~~, 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.

Section 100. Section 526.06, Florida Statutes, is amended to read:

526.06 Mixing, blending, compounding, or adulteration of liquid fuels of same manufacturer prohibited; sale of gasoline blended with ethanol ~~gasohol~~.—It is unlawful for any person to mix, blend, compound, or adulterate the liquid fuel, lubricating oil, grease, or similar product of a manufacturer or distributor with a liquid fuel, lubricating oil, grease, or similar product of the same manufacturer or distributor of a character or nature different from the character or nature of the liquid fuel, lubricating oil, grease, or similar product so mixed, blended, compounded, or adulterated, and expose for sale, offer for sale, or sell the same as the unadulterated product of such manufacturer or distributor or as the unadulterated product of any other manufacturer or distributor. However, nothing in this chapter shall be construed to prevent the lawful owner of such products from applying his, her, or its own trademark, trade name, or symbol to any product or material. Ethanol-blended ~~Alcohol-blended~~ fuels which contain ~~90 percent~~ unleaded gasoline and up to 10 percent denatured ethanol by volume ~~ethyl alcohol of a minimum of 198 proof and a maximum 50 parts per million of acetic acid, commonly known as "gasohol,"~~ may be sold at retail service stations for use in motor vehicles~~, as long as the gasoline component complies with current state specifications, until the American Society for Testing and Materials approves specifications for gasohol~~. To provide retail service stations flexibility during the transition period to ethanol-blended fuels, the T50 and TV/L specifications for gasoline containing 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 an 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 unblended gasoline shall include the following statement: "Unblended gasoline may be sold only for the purposes authorized under s. 526.203(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 unblended 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 unblended gasoline, then the sale or delivery of unblended 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 unblended 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. 120.536(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. 120.536(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, 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 the 2007 Florida Building Code adopted October 31, 2007.

(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 October 31, 2007.

(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 October 31, 2007.

(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 October 31, 2007.

(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 thermostat settings 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 pumps 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 = the total volume, in gallons, when spas are measured in accordance with the spa industry test protocol.

(6)~~(3)~~ 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.

(7)~~(4)~~ If the provisions of this section are preempted in part 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 data 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. Reports shall enable the tracking of energy performance over time and comparisons between facilities.

(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 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.

Approved by the Governor June 25, 2008.

Filed in Office Secretary of State June 25, 2008.