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CS/CS/HB 7117, Engrossed 3

2012 Legislature

1
2 An act relating to energy; amending s. 163.08, F.S.;
3 revising the definition of the term "local
4 government"; amending s. 186.801, F.S.; adding factors
5 for the Public Service Commission to consider in
6 reviewing the 10-year site plans submitted to the
7 commission by electric utilities; amending s. 212.055,
8 F.S.; providing for a portion of the proceeds of the
9 local government infrastructure surtax to be used for
10 financial assistance to residential and commercial
11 property owners who make energy efficiency
12 improvements or install renewable energy devices;
13 defining the term "energy efficiency improvement";
14 amending s. 212.08, F.S.; providing definitions for
15 the terms "biodiesel," "ethanol," and "renewable
16 fuel"; providing for tax exemptions in the form of a
17 rebate for the sale or use of certain equipment,
18 machinery, and other materials for renewable energy
19 technologies; providing eligibility requirements and
20 tax credit limits; authorizing the Department of
21 Revenue and the Department of Agriculture and Consumer
22 Services to adopt rules; directing the Department of
23 Agriculture and Consumer Services to determine and
24 publish certain information relating to exemptions;
25 providing for expiration of the exemption; amending s.
26 213.053, F.S.; expanding the authority of the
27 Department of Revenue to disclose certain information;
28 amending s. 220.192, F.S.; providing definitions;

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

29 reestablishing a corporate tax credit for certain
30 costs related to renewable energy technologies;
31 providing eligibility requirements and credit limits;
32 providing for use of authorized but unallocated credit
33 amounts; providing rulemaking authority to the
34 Department of Revenue and the Department of
35 Agriculture and Consumer Services; directing the
36 Department of Agriculture and Consumer Services to
37 determine and publish certain information; providing
38 for expiration of the tax credit; amending s. 220.193,
39 F.S.; reestablishing a corporate tax credit for
40 renewable energy production; providing definitions;
41 providing a tax credit for the production and sale of
42 renewable energy; providing requirements relating to
43 the priority and proration of such tax credits under
44 certain circumstances; providing for the use and
45 transfer of the tax credit; limiting the amount of tax
46 credits that may be granted to an individual taxpayer
47 per state fiscal year and for all taxpayers per state
48 fiscal year; increasing the cap for all taxpayers
49 during a specified period; providing for use of
50 authorized but unallocated credit amounts; providing
51 rulemaking authority to the Department of Revenue and
52 the Department of Agriculture and Consumer Services;
53 directing the Department of Agriculture and Consumer
54 Services to provide certain information on its
55 website; providing for expiration of the tax credit;
56 amending s. 255.257, F.S.; directing the Department of

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

57 Management Services, in coordination with the
58 Department of Agriculture and Consumer Services, to
59 further develop the state energy management plan;
60 amending s. 288.106, F.S.; redefining the term "target
61 industry business," for purposes of a tax refund
62 program, to exclude certain electrical utilities;
63 amending s. 366.92, F.S.; deleting an obsolete
64 directive to the Public Service Commission to adopt
65 rules for a renewable portfolio standard; deleting
66 related definitions; removing a provision that allowed
67 full cost recovery for certain renewable energy
68 projects; creating s. 366.94, F.S.; providing that the
69 provision of electric vehicle charging to the public
70 by a nonutility is not the retail sale of electricity;
71 providing that the rates, terms, and conditions of
72 electric vehicle charging services by a nonutility are
73 not subject to regulation under ch. 366, F.S.;

74 requiring the Department of Agriculture and Consumer
75 Services to develop rules for sales at electric
76 vehicle charging stations; prohibiting the obstruction
77 of a parking space at an electric vehicle charging
78 station; providing a penalty; requiring that the
79 Public Service Commission study the effects of
80 charging stations on energy consumption in the state
81 and the effects on the grid and report the results to
82 the President of the Senate, the Speaker of the House
83 of Representatives, and the Executive Office of the
84 Governor; amending s. 377.703, F.S.; requiring the

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

85 Department of Agriculture and Consumer Services to
86 annually prepare an assessment of the use of specified
87 energy-related tax credits; requiring specified
88 information to be included in such assessment;
89 amending s. 526.203, F.S.; revising the definitions of
90 the terms "blended gasoline" and "unblended gasoline";
91 defining the term "alternative fuel"; directing the
92 Department of Agriculture and Consumer Services to
93 compile a list of retail fuel stations that sell or
94 offer to sell unblended gasoline and provide that
95 information on the department's website; amending s.
96 581.083, F.S.; prohibiting the cultivation of certain
97 algae in plantings greater in size than 2 contiguous
98 acres; providing exceptions; providing for exemption
99 from special permitting requirements by rule; revising
100 certain bonding requirements; requiring the Department
101 of Agriculture and Consumer Services to conduct a
102 statewide forest inventory; requiring the Department
103 of Agriculture and Consumer Services to work with
104 other specified entities to develop information on
105 cost savings for energy efficiency and conservation
106 measures and post it on the department's website;
107 providing an appropriation from the Florida Public
108 Service Regulatory Trust Fund for the purpose of the
109 Public Service Commission, in consultation with the
110 Department of Agriculture and Consumer Services, to
111 contract for an independent evaluation of the Florida
112 Energy Efficiency and Conservation Act; requiring

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

113 reports to the Legislature and the Executive Office of
 114 the Governor; providing an effective date.

115

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

117

118 Section 1. Paragraph (a) of subsection (2) of section
 119 163.08, Florida Statutes, is amended to read:

120 163.08 Supplemental authority for improvements to real
 121 property.—

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

123 (a) "Local government" means a county, a municipality, ~~or~~
 124 a dependent special district as defined in s. 189.403, or a
 125 separate legal entity created pursuant to s. 163.01(7).

126 Section 2. Subsection (2) of section 186.801, Florida
 127 Statutes, is amended to read:

128 186.801 Ten-year site plans.—

129 (2) Within 9 months after the receipt of the proposed
 130 plan, the commission shall make a preliminary study of such plan
 131 and classify it as "suitable" or "unsuitable." The commission
 132 may suggest alternatives to the plan. All findings of the
 133 commission shall be made available to the Department of
 134 Environmental Protection for its consideration at any subsequent
 135 electrical power plant site certification proceedings. It is
 136 recognized that 10-year site plans submitted by an electric
 137 utility are tentative information for planning purposes only and
 138 may be amended at any time at the discretion of the utility upon
 139 written notification to the commission. A complete application
 140 for certification of an electrical power plant site under

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

141 chapter 403, when such site is not designated in the current 10-
 142 year site plan of the applicant, shall constitute an amendment
 143 to the 10-year site plan. In its preliminary study of each 10-
 144 year site plan, the commission shall consider such plan as a
 145 planning document and shall review:

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

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

149 (c) The anticipated environmental impact of each proposed
 150 electrical power plant site.

151 (d) Possible alternatives to the proposed plan.

152 (e) The views of appropriate local, state, and federal
 153 agencies, including the views of the appropriate water
 154 management district as to the availability of water and its
 155 recommendation as to the use by the proposed plant of salt water
 156 or fresh water for cooling purposes.

157 (f) The extent to which the plan is consistent with the
 158 state comprehensive plan.

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

161 (h) The amount of renewable energy resources the utility
 162 produces or purchases.

163 (i) The amount of renewable energy resources the utility
 164 plans to produce or purchase over the 10-year planning horizon
 165 and the means by which the production or purchases will be
 166 achieved.

167 (j) A statement describing how the production and purchase
 168 of renewable energy resources impact the utility's present and

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

169 future capacity and energy needs.

170 Section 3. Paragraph (d) of subsection (2) of section
 171 212.055, Florida Statutes, is amended to read:

172 212.055 Discretionary sales surtaxes; legislative intent;
 173 authorization and use of proceeds.—It is the legislative intent
 174 that any authorization for imposition of a discretionary sales
 175 surtax shall be published in the Florida Statutes as a
 176 subsection of this section, irrespective of the duration of the
 177 levy. Each enactment shall specify the types of counties
 178 authorized to levy; the rate or rates which may be imposed; the
 179 maximum length of time the surtax may be imposed, if any; the
 180 procedure which must be followed to secure voter approval, if
 181 required; the purpose for which the proceeds may be expended;
 182 and such other requirements as the Legislature may provide.
 183 Taxable transactions and administrative procedures shall be as
 184 provided in s. 212.054.

185 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

186 (d) The proceeds of the surtax authorized by this
 187 subsection and any accrued interest shall be expended by the
 188 school district, within the county and municipalities within the
 189 county, or, in the case of a negotiated joint county agreement,
 190 within another county, to finance, plan, and construct
 191 infrastructure; to acquire land for public recreation,
 192 conservation, or protection of natural resources; to provide
 193 loans, grants, or rebates to residential or commercial property
 194 owners who make energy efficiency improvements to their
 195 residential or commercial property, if a local government
 196 ordinance authorizing such use is approved by referendum; or to

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

197 finance the closure of county-owned or municipally owned solid
 198 waste landfills that have been closed or are required to be
 199 closed by order of the Department of Environmental Protection.
 200 Any use of the proceeds or interest for purposes of landfill
 201 closure before July 1, 1993, is ratified. The proceeds and any
 202 interest may not be used for the operational expenses of
 203 infrastructure, except that a county that has a population of
 204 fewer than 75,000 and that is required to close a landfill may
 205 use the proceeds or interest for long-term maintenance costs
 206 associated with landfill closure. Counties, as defined in s.
 207 125.011, and charter counties may, in addition, use the proceeds
 208 or interest to retire or service indebtedness incurred for bonds
 209 issued before July 1, 1987, for infrastructure purposes, and for
 210 bonds subsequently issued to refund such bonds. Any use of the
 211 proceeds or interest for purposes of retiring or servicing
 212 indebtedness incurred for refunding bonds before July 1, 1999,
 213 is ratified.

214 1. For the purposes of this paragraph, the term
 215 "infrastructure" means:

216 a. Any fixed capital expenditure or fixed capital outlay
 217 associated with the construction, reconstruction, or improvement
 218 of public facilities that have a life expectancy of 5 or more
 219 years and any related land acquisition, land improvement,
 220 design, and engineering costs.

221 b. A fire department vehicle, an emergency medical service
 222 vehicle, a sheriff's office vehicle, a police department
 223 vehicle, or any other vehicle, and the equipment necessary to
 224 outfit the vehicle for its official use or equipment that has a

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

225 life expectancy of at least 5 years.

226 c. Any expenditure for the construction, lease, or
 227 maintenance of, or provision of utilities or security for,
 228 facilities, as defined in s. 29.008.

229 d. Any fixed capital expenditure or fixed capital outlay
 230 associated with the improvement of private facilities that have
 231 a life expectancy of 5 or more years and that the owner agrees
 232 to make available for use on a temporary basis as needed by a
 233 local government as a public emergency shelter or a staging area
 234 for emergency response equipment during an emergency officially
 235 declared by the state or by the local government under s.
 236 252.38. Such improvements are limited to those necessary to
 237 comply with current standards for public emergency evacuation
 238 shelters. The owner must enter into a written contract with the
 239 local government providing the improvement funding to make the
 240 private facility available to the public for purposes of
 241 emergency shelter at no cost to the local government for a
 242 minimum of 10 years after completion of the improvement, with
 243 the provision that the obligation will transfer to any
 244 subsequent owner until the end of the minimum period.

245 e. Any land acquisition expenditure for a residential
 246 housing project in which at least 30 percent of the units are
 247 affordable to individuals or families whose total annual
 248 household income does not exceed 120 percent of the area median
 249 income adjusted for household size, if the land is owned by a
 250 local government or by a special district that enters into a
 251 written agreement with the local government to provide such
 252 housing. The local government or special district may enter into

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

253 a ground lease with a public or private person or entity for
254 nominal or other consideration for the construction of the
255 residential housing project on land acquired pursuant to this
256 sub-subparagraph.

257 2. For the purposes of this paragraph, the term "energy
258 efficiency improvement" means any energy conservation and
259 efficiency improvement that reduces consumption through
260 conservation or a more efficient use of electricity, natural
261 gas, propane, or other forms of energy on the property,
262 including, but not limited to, air sealing; installation of
263 insulation; installation of energy-efficient heating, cooling,
264 or ventilation systems; installation of solar panels; building
265 modifications to increase the use of daylight or shade;
266 replacement of windows; installation of energy controls or
267 energy recovery systems; installation of electric vehicle
268 charging equipment; and installation of efficient lighting
269 equipment.

270 ~~3.2.~~ Notwithstanding any other provision of this
271 subsection, a local government infrastructure surtax imposed or
272 extended after July 1, 1998, may allocate up to 15 percent of
273 the surtax proceeds for deposit in a trust fund within the
274 county's accounts created for the purpose of funding economic
275 development projects having a general public purpose of
276 improving local economies, including the funding of operational
277 costs and incentives related to economic development. The ballot
278 statement must indicate the intention to make an allocation
279 under the authority of this subparagraph.

280 Section 4. Paragraph (hhh) is added to subsection (7) of

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

281 section 212.08, Florida Statutes, to read:

282 212.08 Sales, rental, use, consumption, distribution, and
 283 storage tax; specified exemptions.—The sale at retail, the
 284 rental, the use, the consumption, the distribution, and the
 285 storage to be used or consumed in this state of the following
 286 are hereby specifically exempt from the tax imposed by this
 287 chapter.

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

306 (hhh) Equipment, machinery, and other materials for
 307 renewable energy technologies.—

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

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

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

314 "Biodiesel" may refer to biodiesel blends designated BXX, where
 315 XX represents the volume percentage of biodiesel fuel in the
 316 blend.

317 b. "Ethanol" means an anhydrous denatured alcohol produced
 318 by the conversion of carbohydrates meeting the specifications
 319 for fuel ethanol and fuel ethanol blends with petroleum products
 320 as adopted by rule of the Department of Agriculture and Consumer
 321 Services. "Ethanol" may refer to fuel ethanol blends designated
 322 EXX, where XX represents the volume percentage of fuel ethanol
 323 in the blend.

324 c. "Renewable fuel" means a fuel produced from biomass
 325 that is used to replace or reduce the quantity of fossil fuel
 326 present in motor fuel or diesel fuel. "Biomass" means biomass as
 327 defined in s. 366.91, "motor fuel" means motor fuel as defined
 328 in s. 206.01, and "diesel fuel" means diesel fuel as defined in
 329 s. 206.86.

330 2. The sale or use in the state of the following is exempt
 331 from the tax imposed by this chapter. Materials used in the
 332 distribution of biodiesel (B10-B100), ethanol (E10-E100), and
 333 other renewable fuels, including fueling infrastructure,
 334 transportation, and storage, up to a limit of \$1 million in tax
 335 each state fiscal year for all taxpayers. Gasoline fueling
 336 station pump retrofits for biodiesel (B10-B100), ethanol (E10-

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

337 E100), and other renewable fuel distribution qualify for the
 338 exemption provided in this paragraph.

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

342 4.a. The exemption provided in this paragraph shall be
 343 available to a purchaser only through a refund of previously
 344 paid taxes. An eligible item is subject to refund one time. A
 345 person who has received a refund on an eligible item shall
 346 notify the next purchaser of the item that the item is no longer
 347 eligible for a refund of paid taxes. The notification shall be
 348 provided to each subsequent purchaser on the sales invoice or
 349 other proof of purchase.

350 b. To be eligible to receive the exemption provided in
 351 this paragraph, a purchaser shall file an application with the
 352 Department of Agriculture and Consumer Services. The application
 353 shall be developed by the Department of Agriculture and Consumer
 354 Services, in consultation with the department, and shall
 355 require:

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

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

361 (III) The sales invoice or other proof of purchase showing
 362 the amount of sales tax paid, the date of purchase, and the name
 363 and address of the sales tax dealer from whom the property was
 364 purchased.

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

365 (IV) A sworn statement that the information provided is
366 accurate and that the requirements of this paragraph have been
367 met.

368 c. Within 30 days after receipt of an application, the
369 Department of Agriculture and Consumer Services shall review the
370 application and notify the applicant of any deficiencies. Upon
371 receipt of a completed application, the Department of
372 Agriculture and Consumer Services shall evaluate the application
373 for the exemption and issue a written certification that the
374 applicant is eligible for a refund or issue a written denial of
375 such certification. The Department of Agriculture and Consumer
376 Services shall provide the department a copy of each
377 certification issued upon approval of an application.

378 d. Each certified applicant is responsible for applying
379 for the refund and forwarding the certification that the
380 applicant is eligible to the department within 6 months after
381 certification by the Department of Agriculture and Consumer
382 Services.

383 e. A refund approved pursuant to this paragraph shall be
384 made within 30 days after formal approval by the department.

385 f. The Department of Agriculture and Consumer Services may
386 adopt by rule the form for the application for a certificate,
387 requirements for the content and format of information submitted
388 to the Department of Agriculture and Consumer Services in
389 support of the application, other procedural requirements, and
390 criteria by which the application will be determined. The
391 Department of Agriculture and Consumer Services may adopt other
392 rules pursuant to ss. 120.536(1) and 120.54 to administer this

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

393 paragraph, including rules establishing additional forms and
 394 procedures for claiming the exemption.

395 g. The Department of Agriculture and Consumer Services
 396 shall be responsible for ensuring that the total amount of the
 397 exemptions authorized do not exceed the limits specified in
 398 subparagraph 2.

399 5. Approval of the exemptions under this paragraph is on a
 400 first-come, first-served basis, based upon the date complete
 401 applications are received by the Department of Agriculture and
 402 Consumer Services. Incomplete placeholder applications shall not
 403 be accepted and shall not secure a place in the first-come,
 404 first-served application line. The Department of Agriculture and
 405 Consumer Services shall determine and publish on its website on
 406 a regular basis the amount of sales tax funds remaining in each
 407 fiscal year.

408 6. This paragraph expires July 1, 2016.

409 Section 5. Paragraph (w) of subsection (8) of section
 410 213.053, Florida Statutes, is amended to read:

411 213.053 Confidentiality and information sharing.—

412 (8) Notwithstanding any other provision of this section,
 413 the department may provide:

414 (w) Information relative to ss. 212.08(7) (hhh), 220.192,
 415 and 220.193 ~~s. 220.192~~ to the Department of Agriculture and
 416 Consumer Services for use in the conduct of its official
 417 business.

418
 419 Disclosure of information under this subsection shall be
 420 pursuant to a written agreement between the executive director

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

421 and the agency. Such agencies, governmental or nongovernmental,
 422 shall be bound by the same requirements of confidentiality as
 423 the Department of Revenue. Breach of confidentiality is a
 424 misdemeanor of the first degree, punishable as provided by s.
 425 775.082 or s. 775.083.

426 Section 6. Subsections (1), (2), (4), (6), (7), and (8) of
 427 section 220.192, Florida Statutes, are amended to read:

428 220.192 Renewable energy technologies investment tax
 429 credit.—

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

431 (a) "Biodiesel" means biodiesel as defined in s.
 432 212.08(7)(hhh) ~~former s. 212.08(7)(ccc)~~.

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

437 (c) "Eligible costs" means:

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

446 ~~2. Seventy-five percent of all capital costs, operation~~
 447 ~~and maintenance costs, and research and development costs~~
 448 ~~incurred between July 1, 2006, and June 30, 2010, up to a limit~~

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

449 ~~of \$1.5 million per state fiscal year for all taxpayers, and~~
 450 ~~limited to a maximum of \$12,000 per fuel cell, in connection~~
 451 ~~with an investment in commercial stationary hydrogen fuel cells~~
 452 ~~in the state, including, but not limited to, the costs of~~
 453 ~~constructing, installing, and equipping such technologies in the~~
 454 ~~state.~~

455 3. 75 ~~Seventy-five~~ percent of all capital costs, operation
 456 and maintenance costs, and research and development costs
 457 incurred between July 1, 2012 ~~2006~~, and June 30, 2016 ~~2010~~, not
 458 to exceed \$1 million per state fiscal year for each taxpayer and
 459 up to a limit of \$10 ~~\$6.5~~ million per state fiscal year for all
 460 taxpayers, in connection with an investment in the production,
 461 storage, and distribution of biodiesel (B10-B100), ~~and~~ ethanol
 462 (E10-E100), and other renewable fuel in the state, including the
 463 costs of constructing, installing, and equipping such
 464 technologies in the state. Gasoline fueling station pump
 465 retrofits for biodiesel (B10-B100), ethanol (E10-E100), and
 466 other renewable fuel distribution qualify as an eligible cost
 467 under this section ~~subparagraph~~.

468 (d) "Ethanol" means ethanol as defined in s.
 469 212.08(7)(hhh) ~~former s. 212.08(7)(ccc)~~.

470 (e) "Renewable fuel" means a fuel produced from biomass
 471 that is used to replace or reduce the quantity of fossil fuel
 472 present in motor fuel or diesel fuel. "Biomass" means biomass as
 473 defined in s. 366.91, "motor fuel" means motor fuel as defined
 474 in s. 206.01, and "diesel fuel" means diesel fuel as defined in
 475 s. 206.86.

476 ~~(e) "Hydrogen fuel cell" means hydrogen fuel cell as~~

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

477 ~~defined in former s. 212.08(7)(ccc).~~

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

480 (2) TAX CREDIT.—For tax years beginning on or after
 481 January 1, 2013 ~~2007~~, a credit against the tax imposed by this
 482 chapter shall be granted in an amount equal to the eligible
 483 costs. Credits may be used in tax years beginning January 1,
 484 2013 ~~2007~~, and ending December 31, 2016 ~~2010~~, after which the
 485 credit shall expire. If the credit is not fully used in any one
 486 tax year because of insufficient tax liability on the part of
 487 the corporation, the unused amount may be carried forward and
 488 used in tax years beginning January 1, 2013 ~~2007~~, and ending
 489 December 31, 2018 ~~2012~~, after which the credit carryover expires
 490 and may not be used. A taxpayer that files a consolidated return
 491 in this state as a member of an affiliated group under s.
 492 220.131(1) may be allowed the credit on a consolidated return
 493 basis up to the amount of tax imposed upon the consolidated
 494 group. Any eligible cost for which a credit is claimed and which
 495 is deducted or otherwise reduces federal taxable income shall be
 496 added back in computing adjusted federal income under s. 220.13.

497 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under
 498 this section, each taxpayer must apply to the Department of
 499 Agriculture and Consumer Services for an allocation of each type
 500 of annual credit by the date established by the Department of
 501 Agriculture and Consumer Services. The application form adopted
 502 by rule of the Department of Agriculture and Consumer Services
 503 must include an affidavit from each taxpayer certifying that all
 504 information contained in the application, including all records

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

505 of eligible costs claimed as the basis for the tax credit, are
 506 true and correct. Approval of the credits under this section is
 507 on a first-come, first-served basis, based upon the date
 508 complete applications are received by the Department of
 509 Agriculture and Consumer Services. A taxpayer must submit only
 510 one complete application based upon eligible costs incurred
 511 within a particular state fiscal year. Incomplete placeholder
 512 applications will not be accepted and will not secure a place in
 513 the first-come, first-served application line. If a taxpayer
 514 does not receive a tax credit allocation due to the exhaustion
 515 of the annual tax credit authorizations, then such taxpayer may
 516 reapply in the following year for those eligible costs and will
 517 have priority over other applicants for the allocation of
 518 credits. If the annual tax credit authorization amount is not
 519 exhausted by allocations of credits within that particular state
 520 fiscal year, any authorized but unallocated credit amounts may
 521 be used to grant credits that were earned pursuant to s. 220.193
 522 but unallocated due to a lack of authorized funds.

523 (6) TRANSFERABILITY OF CREDIT.—

524 (a) For tax years beginning on or after January 1, 2014
 525 ~~2009~~, any corporation or subsequent transferee allowed a tax
 526 credit under this section may transfer the credit, in whole or
 527 in part, to any taxpayer by written agreement without
 528 transferring any ownership interest in the property generating
 529 the credit or any interest in the entity owning such property.
 530 The transferee is entitled to apply the credits against the tax
 531 with the same effect as if the transferee had incurred the
 532 eligible costs.

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

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

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

557 (7) RULES.—The Department of Revenue and the Department of
558 Agriculture and Consumer Services shall have the authority to
559 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer
560 this section, including rules relating to:

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

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

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

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

574 Section 7. Section 220.193, Florida Statutes, is amended
 575 to read:

576 220.193 Florida renewable energy production credit.—

577 (1) The purpose of this section is to encourage the
 578 development and expansion of facilities that produce renewable
 579 energy in Florida.

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

581 (a) "Commission" means ~~shall mean~~ the Public Service
 582 Commission.

583 (b) "Department" means ~~shall mean~~ the Department of
 584 Revenue.

585 (c) "Expanded facility" means ~~shall mean~~ a Florida
 586 renewable energy facility that increases its electrical
 587 production and sale by more than 5 percent above the facility's
 588 electrical production and sale during the 2011 ~~2005~~ calendar

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

589 year.

590 (d) "Florida renewable energy facility" means ~~shall mean~~ a
 591 facility in the state that produces electricity for sale from
 592 renewable energy, as defined in s. 377.803.

593 (e) "New facility" means ~~shall mean~~ a Florida renewable
 594 energy facility that is operationally placed in service after
 595 May 1, 2006. The term includes a Florida renewable energy
 596 facility that has had an expansion operationally placed in
 597 service after May 1, 2006, and whose cost exceeded 50 percent of
 598 the assessed value of the facility immediately before the
 599 expansion.

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

603 (g) "Taxpayer" includes a general partnership, limited
 604 partnership, limited liability company, trust, or other
 605 artificial entity in which a corporation, as defined in s.
 606 220.03(1)(e), owns an interest and is taxed as a partnership or
 607 is disregarded as a separate entity from the corporation under
 608 this chapter.

609 (3) An annual credit against the tax imposed by this
 610 section shall be allowed to a taxpayer, based on the taxpayer's
 611 production and sale of electricity from a new or expanded
 612 Florida renewable energy facility. For a new facility, the
 613 credit shall be based on the taxpayer's sale of the facility's
 614 entire electrical production. For an expanded facility, the
 615 credit shall be based on the increases in the facility's
 616 electrical production that are achieved after May 1, 2012 ~~2006~~.

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

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

620 (b) The credit may be claimed for electricity produced and
 621 sold on or after January 1, 2013 ~~2007~~. Beginning in 2014 ~~2008~~
 622 and continuing until 2017 ~~2011~~, each taxpayer claiming a credit
 623 under this section must ~~first~~ apply to the Department of
 624 Agriculture and Consumer Services by the date established by the
 625 Department of Agriculture and Consumer Services by February 1 of
 626 each year for an allocation of available credits for that year
 627 ~~credit~~. The application form shall be adopted by rule of the
 628 Department of Agriculture and Consumer Services in consultation
 629 with the commission. ~~The department, in consultation with the~~
 630 ~~commission, shall develop an application form~~. The application
 631 form shall, at a minimum, require a sworn affidavit from each
 632 taxpayer certifying the increase in production and sales that
 633 form the basis of the application and certifying that all
 634 information contained in the application is true and correct.

635 (c) If the amount of credits applied for each year exceeds
 636 the amount authorized in paragraph (g) \$5 million, the
 637 Department of Agriculture and Consumer Services shall allocate
 638 credits to qualified applicants based on the following priority:
 639 ~~shall award to each applicant a prorated amount based on each~~
 640 ~~applicant's increased production and sales and the increased~~
 641 ~~production and sales of all applicants.~~

642 1. An applicant who places a new facility in operation
 643 after May 1, 2012, shall be allocated credits first, up to a
 644 maximum of \$250,000 each, with any remaining credits to be

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

645 granted pursuant to subparagraph 3., but if the claims for
 646 credits under this subparagraph exceed the state fiscal year cap
 647 in paragraph (g), credits shall be allocated pursuant to this
 648 subparagraph on a prorated basis based upon each applicant's
 649 qualified production and sales as a percentage of total
 650 production and sales for all applicants in this category for the
 651 fiscal year.

652 2. An applicant who does not qualify under subparagraph 1.
 653 but who claims a credit of \$50,000 or less shall be allocated
 654 credits next, but if the claims for credits under this
 655 subparagraph, combined with credits allocated in subparagraph 1.
 656 exceed the state fiscal year cap in paragraph (g), credits shall
 657 be allocated pursuant to this subparagraph on a prorated basis
 658 based upon each applicant's qualified production and sales as a
 659 percentage of total qualified production and sales for all
 660 applicants in this category for the fiscal year.

661 3. An applicant who does not qualify under subparagraph 1.
 662 or subparagraph 2. and an applicant whose credits have not been
 663 fully allocated under subparagraph 1., shall be allocated
 664 credits next. If there is insufficient capacity within the
 665 amount authorized for the state fiscal year in paragraph (g),
 666 and after allocations pursuant to subparagraphs 1. and 2., the
 667 credits allocated under this subparagraph shall be prorated
 668 based upon each applicant's unallocated claims for qualified
 669 production and sales as a percentage of total unallocated claims
 670 for qualified production and sales of all applicants in this
 671 category, up to a maximum of \$1 million per taxpayer per state
 672 fiscal year. If, after application of this \$1 million cap, there

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

673 is excess capacity under the state fiscal year cap in paragraph
 674 (g) in any state fiscal year, that remaining capacity shall be
 675 used to allocate additional credits with priority given in the
 676 order set forth in this subparagraph and without regard to the
 677 \$1 million per taxpayer cap.

678 (d) If the credit granted pursuant to this section is not
 679 fully used in one year because of insufficient tax liability on
 680 the part of the taxpayer, the unused amount may be carried
 681 forward for a period not to exceed 5 years. The carryover credit
 682 may be used in a subsequent year when the tax imposed by this
 683 chapter for such year exceeds the credit for such year, after
 684 applying the other credits and unused credit carryovers in the
 685 order provided in s. 220.02(8).

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

690 (f)1. Tax credits that may be available under this section
 691 to an entity eligible under this section may be transferred
 692 after a merger or acquisition to the surviving or acquiring
 693 entity and used in the same manner with the same limitations.

694 2. The entity or its surviving or acquiring entity as
 695 described in subparagraph 1. may transfer any unused credit in
 696 whole or in units of no less than 25 percent of the remaining
 697 credit. The entity acquiring such credit may use it in the same
 698 manner and with the same limitations under this section. Such
 699 transferred credits may not be transferred again although they
 700 may succeed to a surviving or acquiring entity subject to the

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

701 same conditions and limitations as described in this section.

702 3. In the event the credit provided for under this section
 703 is reduced as a result of an examination or audit by the
 704 department, such tax deficiency shall be recovered from the
 705 first entity or the surviving or acquiring entity to have
 706 claimed such credit up to the amount of credit taken. Any
 707 subsequent deficiencies shall be assessed against any entity
 708 acquiring and claiming such credit, or in the case of multiple
 709 succeeding entities in the order of credit succession.

710 (g) Notwithstanding any other provision of this section,
 711 credits for the production and sale of electricity from a new or
 712 expanded Florida renewable energy facility may be earned between
 713 January 1, 2013 ~~2007~~, and June 30, 2016 ~~2010~~. The combined total
 714 amount of tax credits which may be granted for all taxpayers
 715 under this section is limited to \$5 million in state fiscal year
 716 2012-2013 and \$10 million per state fiscal year in state fiscal
 717 years 2013-2014 through 2016-2017. If the annual tax credit
 718 authorization amount is not exhausted by allocations of credits
 719 within that particular state fiscal year, any authorized but
 720 unallocated credit amounts may be used to grant credits that
 721 were earned pursuant to s. 220.192 but unallocated due to a lack
 722 of authorized funds.

723 (h) A taxpayer claiming a credit under this section shall
 724 be required to add back to net income that portion of its
 725 business deductions claimed on its federal return paid or
 726 incurred for the taxable year which is equal to the amount of
 727 the credit allowable for the taxable year under this section.

728 (i) A taxpayer claiming credit under this section may not

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

729 claim a credit under s. 220.192. A taxpayer claiming credit
 730 under s. 220.192 may not claim a credit under this section.

731 (j) When an entity treated as a partnership or a
 732 disregarded entity under this chapter produces and sells
 733 electricity from a new or expanded renewable energy facility,
 734 the credit earned by such entity shall pass through in the same
 735 manner as items of income and expense pass through for federal
 736 income tax purposes. When an entity applies for the credit and
 737 the entity has received the credit by a pass-through, the
 738 application must identify the taxpayer that passed the credit
 739 through, all taxpayers that received the credit, and the
 740 percentage of the credit that passes through to each recipient
 741 and must provide other information that the Department of
 742 Agriculture and Consumer Services ~~department~~ requires.

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

746 (4) The Department of Agriculture and Consumer Services
 747 shall make a determination on the eligibility of the applicant
 748 for the credits sought and certify the determination to the
 749 applicant and the Department of Revenue. The corporation must
 750 attach the Department of Agriculture and Consumer Services'
 751 certification to the tax return on which the credit is claimed.
 752 The Department of Agriculture and Consumer Services is
 753 responsible for ensuring that the corporate income tax credits
 754 granted in each fiscal year do not exceed the limits provided
 755 for in this section.

756 (5) (a) In addition to its existing audit and investigation

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

757 authority, the Department of Revenue may perform any additional
 758 financial and technical audits and investigations, including
 759 examining the accounts, books, and records of the tax credit
 760 applicant, which are necessary to verify the information
 761 included in the tax credit return and to ensure compliance with
 762 this section. The Department of Agriculture and Consumer
 763 Services shall provide technical assistance when requested by
 764 the Department of Revenue on any technical audits or
 765 examinations performed pursuant to this section.

766 (b) It is grounds for forfeiture of previously claimed and
 767 received tax credits if the Department of Revenue determines, as
 768 a result of an audit or examination or from information received
 769 from the Department of Agriculture and Consumer Services, that a
 770 taxpayer received tax credits pursuant to this section to which
 771 the taxpayer was not entitled. The taxpayer is responsible for
 772 returning forfeited tax credits to the Department of Revenue,
 773 and such funds shall be paid into the General Revenue Fund of
 774 the state.

775 (c) The Department of Agriculture and Consumer Services
 776 may revoke or modify any written decision granting eligibility
 777 for tax credits under this section if it is discovered that the
 778 tax credit applicant submitted any false statement,
 779 representation, or certification in any application, record,
 780 report, plan, or other document filed in an attempt to receive
 781 tax credits under this section. The Department of Agriculture
 782 and Consumer Services shall immediately notify the Department of
 783 Revenue of any revoked or modified orders affecting previously
 784 granted tax credits. Additionally, the taxpayer must notify the

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

785 Department of Revenue of any change in its tax credit claimed.
 786 (d) The taxpayer shall file with the Department of Revenue
 787 an amended return or such other report as the Department of
 788 Revenue prescribes by rule and shall pay any required tax and
 789 interest within 60 days after the taxpayer receives notification
 790 from the Department of Agriculture and Consumer Services that
 791 previously approved tax credits have been revoked or modified.
 792 If the revocation or modification order is contested, the
 793 taxpayer shall file an amended return or other report as
 794 provided in this paragraph within 60 days after a final order is
 795 issued after proceedings.
 796 (e) A notice of deficiency may be issued by the Department
 797 of Revenue at any time within 3 years after the taxpayer
 798 receives formal notification from the Department of Agriculture
 799 and Consumer Services that previously approved tax credits have
 800 been revoked or modified. If a taxpayer fails to notify the
 801 Department of Revenue of any changes to its tax credit claimed,
 802 a notice of deficiency may be issued at any time.
 803 (6)(4) The Department of Revenue and the Department of
 804 Agriculture and Consumer Services ~~department~~ may adopt rules to
 805 implement and administer this section, including rules
 806 prescribing forms, the documentation needed to substantiate a
 807 claim for the tax credit, and the specific procedures and
 808 guidelines for claiming the credit.
 809 (7) The Department of Agriculture and Consumer Services
 810 shall determine and publish on its website on a regular basis
 811 the amount of available tax credits remaining in each fiscal
 812 year.

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

813 ~~(8)~~⁽⁵⁾ This section shall take effect upon becoming law
 814 and shall apply to tax years beginning on and after January 1,
 815 2013 ~~2007~~.

816 Section 8. Subsection (3) of section 255.257, Florida
 817 Statutes, is amended to read:

818 255.257 Energy management; buildings occupied by state
 819 agencies.—

820 (3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.—The
 821 Department of Management Services, in coordination with the
 822 Department of Agriculture and Consumer Services, shall further
 823 develop the a state energy management plan consisting of, but
 824 not limited to, the following elements:

- 825 (a) Data-gathering requirements;
- 826 (b) Building energy audit procedures;
- 827 (c) Uniform data analysis and reporting procedures;
- 828 (d) Employee energy education program measures;
- 829 (e) Energy consumption reduction techniques;
- 830 (f) Training program for state agency energy management
 831 coordinators; and
- 832 (g) Guidelines for building managers.

833
 834 The plan shall include a description of actions that state
 835 agencies shall take to reduce consumption of electricity and
 836 nonrenewable energy sources used for space heating and cooling,
 837 ventilation, lighting, water heating, and transportation.

838 Section 9. Paragraph (q) of subsection (2) of section
 839 288.106, Florida Statutes, is amended to read:

840 288.106 Tax refund program for qualified target industry

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

841 businesses.—

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

843 (q) "Target industry business" means a corporate
 844 headquarters business or any business that is engaged in one of
 845 the target industries identified pursuant to the following
 846 criteria developed by the department in consultation with
 847 Enterprise Florida, Inc.:

848 1. Future growth.—Industry forecasts should indicate
 849 strong expectation for future growth in both employment and
 850 output, according to the most recent available data. Special
 851 consideration should be given to businesses that export goods
 852 to, or provide services in, international markets and businesses
 853 that replace domestic and international imports of goods or
 854 services.

855 2. Stability.—The industry should not be subject to
 856 periodic layoffs, whether due to seasonality or sensitivity to
 857 volatile economic variables such as weather. The industry should
 858 also be relatively resistant to recession, so that the demand
 859 for products of this industry is not typically subject to
 860 decline during an economic downturn.

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

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

867 5. Industrial base diversification and strengthening.—The
 868 industry should contribute toward expanding or diversifying the

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

869 state's or area's economic base, as indicated by analysis of
870 employment and output shares compared to national and regional
871 trends. Special consideration should be given to industries that
872 strengthen regional economies by adding value to basic products
873 or building regional industrial clusters as indicated by
874 industry analysis. Special consideration should also be given to
875 the development of strong industrial clusters that include
876 defense and homeland security businesses.

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

882
883 The term does not include any business engaged in retail
884 industry activities; any electrical utility company as defined
885 in s. 366.02(2); any phosphate or other solid minerals
886 severance, mining, or processing operation; any oil or gas
887 exploration or production operation; or any business subject to
888 regulation by the Division of Hotels and Restaurants of the
889 Department of Business and Professional Regulation. Any business
890 within NAICS code 5611 or 5614, office administrative services
891 and business support services, respectively, may be considered a
892 target industry business only after the local governing body and
893 Enterprise Florida, Inc., make a determination that the
894 community where the business may locate has conditions affecting
895 the fiscal and economic viability of the local community or
896 area, including but not limited to, factors such as low per

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

897 | capita income, high unemployment, high underemployment, and a
 898 | lack of year-round stable employment opportunities, and such
 899 | conditions may be improved by the location of such a business to
 900 | the community. By January 1 of every 3rd year, beginning January
 901 | 1, 2011, the department, in consultation with Enterprise
 902 | Florida, Inc., economic development organizations, the State
 903 | University System, local governments, employee and employer
 904 | organizations, market analysts, and economists, shall review
 905 | and, as appropriate, revise the list of such target industries
 906 | and submit the list to the Governor, the President of the
 907 | Senate, and the Speaker of the House of Representatives.

908 | Section 10. Section 366.92, Florida Statutes, is amended
 909 | to read:

910 | 366.92 Florida renewable energy policy.—

911 | (1) It is the intent of the Legislature to promote the
 912 | development of renewable energy; protect the economic viability
 913 | of Florida's existing renewable energy facilities; diversify the
 914 | types of fuel used to generate electricity in Florida; lessen
 915 | Florida's dependence on natural gas and fuel oil for the
 916 | production of electricity; minimize the volatility of fuel
 917 | costs; encourage investment within the state; improve
 918 | environmental conditions; and, at the same time, minimize the
 919 | costs of power supply to electric utilities and their customers.

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

921 | ~~(a) "Florida renewable energy resources" means renewable~~
 922 | ~~energy, as defined in s. 377.803, that is produced in Florida.~~

923 | (a) ~~(b)~~ "Provider" means a "utility" as defined in s.
 924 | 366.8255(1)(a).

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

925 (b) ~~(e)~~ "Renewable energy" means renewable energy as
 926 defined in s. 366.91(2)(d).

927 ~~(d) "Renewable energy credit" or "REC" means a product~~
 928 ~~that represents the unbundled, separable, renewable attribute of~~
 929 ~~renewable energy produced in Florida and is equivalent to 1~~
 930 ~~megawatt-hour of electricity generated by a source of renewable~~
 931 ~~energy located in Florida.~~

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

936 ~~(3) The commission shall adopt rules for a renewable~~
 937 ~~portfolio standard requiring each provider to supply renewable~~
 938 ~~energy to its customers directly, by procuring, or through~~
 939 ~~renewable energy credits. In developing the RPS rule, the~~
 940 ~~commission shall consult the Department of Environmental~~
 941 ~~Protection and the Department of Agriculture and Consumer~~
 942 ~~Services. The rule shall not be implemented until ratified by~~
 943 ~~the Legislature. The commission shall present a draft rule for~~
 944 ~~legislative consideration by February 1, 2009.~~

945 ~~(a) In developing the rule, the commission shall evaluate~~
 946 ~~the current and forecasted levelized cost in cents per kilowatt~~
 947 ~~hour through 2020 and current and forecasted installed capacity~~
 948 ~~in kilowatts for each renewable energy generation method through~~
 949 ~~2020.~~

950 ~~(b) The commission's rule:~~

951 ~~1. Shall include methods of managing the cost of~~
 952 ~~compliance with the renewable portfolio standard, whether~~

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

953 ~~through direct supply or procurement of renewable power or~~
 954 ~~through the purchase of renewable energy credits. The commission~~
 955 ~~shall have rulemaking authority for providing annual cost~~
 956 ~~recovery and incentive-based adjustments to authorized rates of~~
 957 ~~return on common equity to providers to incentivize renewable~~
 958 ~~energy. Notwithstanding s. 366.91(3) and (4), upon the~~
 959 ~~ratification of the rules developed pursuant to this subsection,~~
 960 ~~the commission may approve projects and power sales agreements~~
 961 ~~with renewable power producers and the sale of renewable energy~~
 962 ~~credits needed to comply with the renewable portfolio standard.~~
 963 ~~In the event of any conflict, this subparagraph shall supersede~~
 964 ~~s. 366.91(3) and (4). However, nothing in this section shall~~
 965 ~~alter the obligation of each public utility to continuously~~
 966 ~~offer a purchase contract to producers of renewable energy.~~

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

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

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

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

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

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

986 ~~7. Shall include procedures to track and account for~~
 987 ~~renewable energy credits, including ownership of renewable~~
 988 ~~energy credits that are derived from a customer-owned renewable~~
 989 ~~energy facility as a result of any action by a customer of an~~
 990 ~~electric power supplier that is independent of a program~~
 991 ~~sponsored by the electric power supplier.~~

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

995 ~~(c) Beginning on April 1 of the year following final~~
 996 ~~adoption of the commission's renewable portfolio standard rule,~~
 997 ~~each provider shall submit a report to the commission describing~~
 998 ~~the steps that have been taken in the previous year and the~~
 999 ~~steps that will be taken in the future to add renewable energy~~
 1000 ~~to the provider's energy supply portfolio. The report shall~~
 1001 ~~state whether the provider was in compliance with the renewable~~
 1002 ~~portfolio standard during the previous year and how it will~~
 1003 ~~comply with the renewable portfolio standard in the upcoming~~
 1004 ~~year.~~

1005 ~~(4) In order to demonstrate the feasibility and viability~~
 1006 ~~of clean energy systems, the commission shall provide for full~~
 1007 ~~cost recovery under the environmental cost-recovery clause of~~
 1008 ~~all reasonable and prudent costs incurred by a provider for~~

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

1009 ~~renewable energy projects that are zero greenhouse gas emitting~~
 1010 ~~at the point of generation, up to a total of 110 megawatts~~
 1011 ~~statewide, and for which the provider has secured necessary~~
 1012 ~~land, zoning permits, and transmission rights within the state.~~
 1013 ~~Such costs shall be deemed reasonable and prudent for purposes~~
 1014 ~~of cost recovery so long as the provider has used reasonable and~~
 1015 ~~customary industry practices in the design, procurement, and~~
 1016 ~~construction of the project in a cost-effective manner~~
 1017 ~~appropriate to the location of the facility. The provider shall~~
 1018 ~~report to the commission as part of the cost recovery~~
 1019 ~~proceedings the construction costs, in-service costs, operating~~
 1020 ~~and maintenance costs, hourly energy production of the renewable~~
 1021 ~~energy project, and any other information deemed relevant by the~~
 1022 ~~commission. Any provider constructing a clean energy facility~~
 1023 ~~pursuant to this section shall file for cost recovery no later~~
 1024 ~~than July 1, 2009.~~

1025 (3)~~(5)~~ Each municipal electric utility and rural electric
 1026 cooperative shall develop standards for the promotion,
 1027 encouragement, and expansion of the use of renewable energy
 1028 resources and energy conservation and efficiency measures. On or
 1029 before April 1, 2009, and annually thereafter, each municipal
 1030 electric utility and electric cooperative shall submit to the
 1031 commission a report that identifies such standards.

1032 (4)~~(6)~~ Nothing in this section shall be construed to
 1033 impede or impair terms and conditions of existing contracts.

1034 (5)~~(7)~~ The commission may adopt rules to administer and
 1035 implement the provisions of this section.

1036 Section 11. Section 366.94, Florida Statutes, is created

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

1037 to read:

1038 366.94 Electric vehicle charging stations.—

1039 (1) The provision of electric vehicle charging to the

1040 public by a nonutility is not the retail sale of electricity for

1041 the purposes of this chapter. The rates, terms, and conditions

1042 of electric vehicle charging services by a nonutility are not

1043 subject to regulation under this chapter. This section does not

1044 affect the ability of individuals, businesses, or governmental

1045 entities to acquire, install, or use an electric vehicle charger

1046 for their own vehicles.

1047 (2) The Department of Agriculture and Consumer Services

1048 shall adopt rules to provide definitions, methods of sale,

1049 labeling requirements, and price-posting requirements for

1050 electric vehicle charging stations to allow for consistency for

1051 consumers and the industry.

1052 (3) (a) It is unlawful for a person to stop, stand, or park

1053 a vehicle that is not capable of using an electrical recharging

1054 station within any parking space specifically designated for

1055 charging an electric vehicle.

1056 (b) If a law enforcement officer finds a motor vehicle in

1057 violation of this subsection, the officer or specialist shall

1058 charge the operator or other person in charge of the vehicle in

1059 violation with a noncriminal traffic infraction, punishable as

1060 provided in s. 316.008(4) or s. 318.18.

1061 (4) The Public Service Commission is directed to conduct a

1062 study of the potential effects of public charging stations and

1063 privately owned electric vehicle charging on both energy

1064 consumption and the impact on the electric grid in the state.

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

1065 The Public Service Commission shall also investigate the
 1066 feasibility of using off-grid solar photovoltaic power as a
 1067 source of electricity for the electric vehicle charging
 1068 stations. The commission shall submit the results of the study
 1069 to the President of the Senate, the Speaker of the House of
 1070 Representatives, and the Executive Office of the Governor by
 1071 December 31, 2012.

1072 Section 12. Paragraph (n) is added to subsection (2) of
 1073 section 377.703, Florida Statutes, to read:

1074 377.703 Additional functions of the Department of
 1075 Agriculture and Consumer Services.—

1076 (2) DUTIES.—The department shall perform the following
 1077 functions, unless as otherwise provided, consistent with the
 1078 development of a state energy policy:

1079 (n) On an annual basis, the department shall prepare an
 1080 assessment of the utilization of the tax exemption authorized in
 1081 s. 212.08(7) (hhh), the renewable energy technologies investment
 1082 tax credit authorized in s. 220.192, and the renewable energy
 1083 production credit authorized in s. 220.193, which the department
 1084 shall submit to the President of the Senate, the Speaker of the
 1085 House of Representatives, and the Executive Office of the
 1086 Governor by February 1 of each year. The assessment shall
 1087 include, at a minimum, the following information:

1088 1. For the tax exemption authorized in s. 212.08(7) (hhh):

1089 a. The name of each taxpayer receiving an exemption under
 1090 this section;

1091 b. The amount of the exemption received by each taxpayer;

1092 and

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

1093 c. The type and description of each eligible item for
 1094 which each taxpayer is applying.
 1095 2. For the renewable energy technologies investment tax
 1096 credit authorized in s. 220.192:
 1097 a. The name of each taxpayer receiving an allocation under
 1098 this section;
 1099 b. The amount of the credits allocated for that fiscal
 1100 year for each taxpayer; and
 1101 c. The type of technology and a description of each
 1102 investment for which each taxpayer receives an allocation.
 1103 3. For the renewable energy production credit authorized
 1104 in s. 220.193:
 1105 a. The name of each taxpayer receiving an allocation under
 1106 this section;
 1107 b. The amount of credits allocated for that fiscal year
 1108 for each taxpayer;
 1109 c. The type and amount of renewable energy produced and
 1110 sold, whether the facility producing that energy is a new or
 1111 expanded facility, and the approximate date on which production
 1112 began; and
 1113 d. The aggregate amount of credits allocated for all
 1114 taxpayers claiming credits under this section for the fiscal
 1115 year.
 1116 Section 13. Subsection (1) of section 526.203, Florida
 1117 Statutes, is amended, and subsection (5) is added to that
 1118 section, to read:
 1119 526.203 Renewable fuel standard.—
 1120 (1) DEFINITIONS.—As used in this act, the term:

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

1121 (a) "Alternative fuel" means a fuel produced from biomass,
 1122 as defined in s. 366.91, which is used to replace or reduce the
 1123 quantity of fossil fuel present in a petroleum fuel that meets
 1124 the specifications as adopted by the department.

1125 (b)-(a) "Blender," "importer," "terminal supplier," and
 1126 "wholesaler" are defined as provided in s. 206.01.

1127 (c)-(b) "Blended gasoline" means a mixture of 90 to 91
 1128 percent gasoline and 9 to 10 percent fuel ethanol or other
 1129 alternative fuel, by volume, which ~~that~~ meets the specifications
 1130 as adopted by the department. The fuel ethanol or other
 1131 alternative fuel portion may be derived from any agricultural
 1132 source.

1133 (d)-(e) "Fuel ethanol" means an anhydrous denatured alcohol
 1134 produced by the conversion of carbohydrates which ~~that~~ meets the
 1135 specifications as adopted by the department.

1136 (e)-(d) "Unblended gasoline" means gasoline that has not
 1137 been blended with fuel ethanol or other alternative fuel and
 1138 that meets the specifications as adopted by the department.

1139 (5) This section does not prohibit a retail dealer, as
 1140 defined in s. 206.01, from selling or offering to sell unblended
 1141 gasoline. The Department of Agriculture and Consumer Services
 1142 shall compile a list of retail fuel stations that sell or offer
 1143 to sell unblended gasoline. This information shall be compiled
 1144 by the department as part of its routine retail fuel station
 1145 inspections, authorized under s. 525.07, and from information
 1146 provided voluntarily by retail dealers. The Department of
 1147 Agriculture and Consumer Services shall provide this information
 1148 on its website to inform consumers of the options available for

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

1149 unblended gasoline.

1150 Section 14. Subsection (4) of section 581.083, Florida
 1151 Statutes, is amended to read:

1152 581.083 Introduction or release of plant pests, noxious
 1153 weeds, or organisms affecting plant life; cultivation of
 1154 nonnative plants; special permit and security required.-

1155 (4) A person may not cultivate a nonnative plant, algae,
 1156 or blue-green algae, including a genetically engineered plant,
 1157 algae, or blue-green algae ~~or a plant that has been introduced,~~
 1158 ~~for purposes of fuel production or purposes other than~~
 1159 ~~agriculture~~ in plantings greater in size than 2 contiguous
 1160 acres, except under a special permit issued by the department
 1161 through the division, which is the sole agency responsible for
 1162 issuing such special permits. A permit is not required to
 1163 cultivate any plant or group of plants that, based on experience
 1164 or research data, does not pose a threat of becoming an invasive
 1165 species and is commonly grown in this state for the purpose of
 1166 human food consumption, commercial feed, feedstuff, forage for
 1167 livestock, nursery stock, or silviculture. The department is
 1168 authorized to adopt additional exemptions to the permitting
 1169 requirements of this section if the department determines, after
 1170 consulting with the Institute of Food and Agricultural Sciences
 1171 at the University of Florida, that based on experience or
 1172 research data, the nonnative plant, algae, or blue-green algae
 1173 does not pose a threat of becoming an invasive species or a pest
 1174 of plants or native fauna under conditions in this state and
 1175 subsequently exempts the plant or group of plants by rule ~~Such a~~
 1176 ~~permit shall not be required if the department determines, in~~

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

1177 ~~in~~ conjunction with the Institute of Food and Agricultural Sciences
 1178 at the University of Florida, that the plant is not invasive and
 1179 subsequently exempts the plant by rule.

1180 (a)1. Each application for a special permit must be
 1181 accompanied by a fee as described in subsection (2) and proof
 1182 that the applicant has obtained, on a form approved by the
 1183 department, ~~a bond in the form approved by the department and~~
 1184 issued by a surety company admitted to do business in this state
 1185 or a certificate of deposit, or other type of security adopted
 1186 by rule of the department, which provides a financial assurance
 1187 of cost recovery for the removal of a planting. The application
 1188 must include, on a form provided by the department, the name of
 1189 the applicant and the applicant's address or the address of the
 1190 applicant's principal place of business; a statement completely
 1191 identifying the nonnative plant to be cultivated; and a
 1192 statement of the estimated cost of removing and destroying the
 1193 plant that is the subject of the special permit and the basis
 1194 for calculating or determining that estimate. If the applicant
 1195 is a corporation, partnership, or other business entity, the
 1196 applicant must also provide in the application the name and
 1197 address of each officer, partner, or managing agent. The
 1198 applicant shall notify the department within 10 business days of
 1199 any change of address or change in the principal place of
 1200 business. The department shall mail all notices to the
 1201 applicant's last known address.

1202 2. As used in this subsection, the term "certificate of
 1203 deposit" means a certificate of deposit at any recognized
 1204 financial institution doing business in the United States. The

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

1205 department may not accept a certificate of deposit in connection
 1206 with the issuance of a special permit unless the issuing
 1207 institution is properly insured by the Federal Deposit Insurance
 1208 Corporation or the Federal Savings and Loan Insurance
 1209 Corporation.

1210 (b) Upon obtaining a permit, the permitholder may annually
 1211 cultivate and maintain the nonnative plants as authorized by the
 1212 special permit. If the permitholder ceases to maintain or
 1213 cultivate the plants authorized by the special permit, if the
 1214 permit expires, or if the permitholder ceases to abide by the
 1215 conditions of the special permit, the permitholder shall
 1216 immediately remove and destroy the plants that are subject to
 1217 the permit, if any remain. The permitholder shall notify the
 1218 department of the removal and destruction of the plants within
 1219 10 days after such event.

1220 (c) If the department:

1221 1. Determines that the permitholder is no longer
 1222 maintaining or cultivating the plants subject to the special
 1223 permit and has not removed and destroyed the plants authorized
 1224 by the special permit;

1225 2. Determines that the continued maintenance or
 1226 cultivation of the plants presents an imminent danger to public
 1227 health, safety, or welfare;

1228 3. Determines that the permitholder has exceeded the
 1229 conditions of the authorized special permit; or

1230 4. Receives a notice of cancellation of the surety bond,

1231
 1232 the department may issue an immediate final order, which shall

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

1233 be immediately appealable or enjoicable as provided by chapter
1234 120, directing the permitholder to immediately remove and
1235 destroy the plants authorized to be cultivated under the special
1236 permit. A copy of the immediate final order must ~~shall~~ be mailed
1237 to the permitholder and to the surety company or financial
1238 institution that has provided security for the special permit,
1239 if applicable.

1240 (d) If, upon issuance by the department of an immediate
1241 final order to the permitholder, the permitholder fails to
1242 remove and destroy the plants subject to the special permit
1243 within 60 days after issuance of the order, or such shorter
1244 period as is designated in the order as public health, safety,
1245 or welfare requires, the department may enter the cultivated
1246 acreage and remove and destroy the plants that are the subject
1247 of the special permit. If the permitholder makes a written
1248 request to the department for an extension of time to remove and
1249 destroy the plants that demonstrates specific facts showing why
1250 the plants could not reasonably be removed and destroyed in the
1251 applicable timeframe, the department may extend the time for
1252 removing and destroying plants subject to a special permit. The
1253 reasonable costs and expenses incurred by the department for
1254 removing and destroying plants subject to a special permit shall
1255 be reimbursed to the department by the permitholder within 21
1256 days after the date the permitholder and the surety company or
1257 financial institution are served a copy of the department's
1258 invoice for the costs and expenses incurred by the department to
1259 remove and destroy the cultivated plants, along with a notice of
1260 administrative rights, unless the permitholder or the surety

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

1261 company or financial institution object to the reasonableness of
 1262 the invoice. In the event of an objection, the permitholder or
 1263 surety company or financial institution is entitled to an
 1264 administrative proceeding as provided by chapter 120. Upon entry
 1265 of a final order determining the reasonableness of the incurred
 1266 costs and expenses, the permitholder has ~~shall have~~ 15 days
 1267 after ~~following~~ service of the final order to reimburse the
 1268 department. Failure of the permitholder to timely reimburse the
 1269 department for the incurred costs and expenses entitles the
 1270 department to reimbursement from the applicable bond or
 1271 certificate of deposit.

1272 (e) Each permitholder shall maintain for each separate
 1273 growing location a bond or a certificate of deposit in an amount
 1274 determined by the department, but not more ~~less~~ than 150 percent
 1275 of the estimated cost of removing and destroying the cultivated
 1276 plants. The bond or certificate of deposit may not exceed \$5,000
 1277 per acre, unless a higher amount is determined by the department
 1278 to be necessary to protect the public health, safety, and
 1279 welfare or unless an exemption is granted by the department
 1280 based on conditions specified in the application which would
 1281 preclude the department from incurring the cost of removing and
 1282 destroying the cultivated plants and would prevent injury to the
 1283 public health, safety, and welfare. The aggregate liability of
 1284 the surety company or financial institution to all persons for
 1285 all breaches of the conditions of the bond or certificate of
 1286 deposit may not exceed the amount of the bond or certificate of
 1287 deposit. The original bond or certificate of deposit required by
 1288 this subsection shall be filed with the department. A surety

ENROLLED

CS/CS/HB 7117, Engrossed 3

2012 Legislature

1289 | company shall give the department 30 days' written notice of
1290 | cancellation, by certified mail, in order to cancel a bond.
1291 | Cancellation of a bond does not relieve a surety company of
1292 | liability for paying to the department all costs and expenses
1293 | incurred or to be incurred for removing and destroying the
1294 | permitted plants covered by an immediate final order authorized
1295 | under paragraph (c). A bond or certificate of deposit must be
1296 | provided or assigned in the exact name in which an applicant
1297 | applies for a special permit. The penal sum of the bond or
1298 | certificate of deposit to be furnished to the department by a
1299 | permitholder in the amount specified in this paragraph must
1300 | guarantee payment of the costs and expenses incurred or to be
1301 | incurred by the department for removing and destroying the
1302 | plants cultivated under the issued special permit. The bond or
1303 | certificate of deposit assignment or agreement must be upon a
1304 | form prescribed or approved by the department and must be
1305 | conditioned to secure the faithful accounting for and payment of
1306 | all costs and expenses incurred by the department for removing
1307 | and destroying all plants cultivated under the special permit.
1308 | The bond or certificate of deposit assignment or agreement must
1309 | include terms binding the instrument to the Commissioner of
1310 | Agriculture. Such certificate of deposit shall be presented with
1311 | an assignment of the permitholder's rights in the certificate in
1312 | favor of the Commissioner of Agriculture on a form prescribed by
1313 | the department and with a letter from the issuing institution
1314 | acknowledging that the assignment has been properly recorded on
1315 | the books of the issuing institution and will be honored by the
1316 | issuing institution. Such assignment is irrevocable while a

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

1317 special permit is in effect and for an additional period of 6
 1318 months after termination of the special permit if operations to
 1319 remove and destroy the permitted plants are not continuing and
 1320 if the department's invoice remains unpaid by the permitholder
 1321 under the issued immediate final order. If operations to remove
 1322 and destroy the plants are pending, the assignment remains in
 1323 effect until all plants are removed and destroyed and the
 1324 department's invoice has been paid. The bond or certificate of
 1325 deposit may be released by the assignee of the surety company or
 1326 financial institution to the permitholder, or to the
 1327 permitholder's successors, assignee, or heirs, if operations to
 1328 remove and destroy the permitted plants are not pending and no
 1329 invoice remains unpaid at the conclusion of 6 months after the
 1330 last effective date of the special permit. The department may
 1331 not accept a certificate of deposit that contains any provision
 1332 that would give to any person any prior rights or claim on the
 1333 proceeds or principal of such certificate of deposit. The
 1334 department shall determine by rule whether an annual bond or
 1335 certificate of deposit will be required. The amount of such bond
 1336 or certificate of deposit shall be increased, upon order of the
 1337 department, at any time if the department finds such increase to
 1338 be warranted by the cultivating operations of the permitholder.
 1339 In the same manner, the amount of such bond or certificate of
 1340 deposit may be adjusted downward or removed ~~decreased~~ when a
 1341 decrease in the cultivating operations of the permitholder
 1342 occurs or when research or practical field knowledge and
 1343 observations indicate a low risk of invasiveness by the
 1344 nonnative species ~~warrants such decrease.~~ Factors that may be

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

1345 considered for change include multiple years or cycles of
 1346 successful large-scale contained cultivation; no observation of
 1347 plant, algae, or blue-green algae escape from managed areas; or
 1348 science-based evidence that established or approved adjusted
 1349 cultivation practices provide a similar level of containment of
 1350 the nonnative plant, algae, or blue-green algae. This paragraph
 1351 applies to any bond or certificate of deposit, regardless of the
 1352 anniversary date of its issuance, expiration, or renewal.

1353 (f) In order to carry out the purposes of this subsection,
 1354 the department or its agents may require from any permitholder
 1355 verified statements of the cultivated acreage subject to the
 1356 special permit and may review the permitholder's business or
 1357 cultivation records at her or his place of business during
 1358 normal business hours in order to determine the acreage
 1359 cultivated. The failure of a permitholder to furnish such
 1360 statement, to make such records available, or to make and
 1361 deliver a new or additional bond or certificate of deposit is
 1362 cause for suspension of the special permit. If the department
 1363 finds such failure to be willful, the special permit may be
 1364 revoked.

1365 Section 15. The Department of Agriculture and Consumer
 1366 Services shall conduct a comprehensive statewide forest
 1367 inventory analysis and study, using a geographic information
 1368 system, to identify where available biomass is located,
 1369 determine the available biomass resources, and ensure forest
 1370 sustainability within the state. The department shall submit the
 1371 results of the study to the President of the Senate, the Speaker
 1372 of the House of Representatives, and the Executive Office of the

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CS/CS/HB 7117, Engrossed 3

2012 Legislature

1373 Governor by July 1, 2013.

1374 Section 16. The Office of Energy within the Department of
 1375 Agriculture and Consumer Services, in consultation with the
 1376 Public Service Commission, the Florida Building Commission, and
 1377 the Florida Energy Systems Consortium, shall develop a
 1378 clearinghouse of information regarding cost savings associated
 1379 with various energy efficiency and conservation measures. The
 1380 department shall post the information on its website by July 1,
 1381 2013.

1382 Section 17. For the 2012-2013 fiscal year, the
 1383 nonrecurring sum of \$250,000 is appropriated from the Florida
 1384 Public Service Regulatory Trust Fund for the purpose of the
 1385 Public Service Commission, in consultation with the Department
 1386 of Agriculture and Consumer Services, contracting for an
 1387 independent evaluation of the Florida Energy Efficiency and
 1388 Conservation Act to determine if the act remains in the public
 1389 interest. The evaluation must consider the costs to ratepayers,
 1390 the incentives and disincentives associated with the provisions
 1391 in the act, and if the programs create benefits without undue
 1392 burden on the customer. The models and methods used to determine
 1393 conservation goals must be specifically addressed in the report.
 1394 The commission shall submit the report to the President of the
 1395 Senate, the Speaker of the House of Representatives, and the
 1396 Executive Office of the Governor by January 31, 2013.

1397 Section 18. This act shall take effect July 1, 2012.