A bill to be entitled
An act relating to economic incentives for energy
initiatives; amending s. 377.601, F.S., providing a
statement of legislative intent; amending s. 212.08, F.S.,
extending sales and use tax exemptions; amending s.
220.192, F.S., extending the renewable energy technologies
investment tax credit and applying the credit to solar
energy systems; defining “solar energy systems”; amending
s. 220.193, F.S., extending the renewable energy
production credit; amending s. 366.02, F.S.; excluding
specified entities from the definition of “public
utility”; creating s. 366.90, F.S., providing a statement
of legislative intent; amending s. 366.91, F.S.; including
“recycling byproducts” in the definition of “biomass”;
establishing requirements for the purchase of renewable
energy from entities that meet specified operational
requirements and establishing the full avoided cost to
which such entities are entitled; amending s. 366.92,
F.S., providing a mechanism for providers to recover costs
to produce or purchase specified amounts of renewable
energy through the environmental cost recovery clause
subject to specified conditions; requiring the Public
Service Commission to include specified information
related to renewable energy development in its ten-year
site plan report; authorizing a developer of solar energy
generation to locate a solar energy generation facility,
subject to size restrictions, on the premises of a host
consumer for purposes of sale to the consumer for
consumption only on the premises; requiring the commission to adopt rules and make reports; providing a severability clause; amending s. 403.503, F.S.; exempting solar electrical generating facilities from the certification requirements of the Florida Electrical Power Plant Siting Act; amending s. 288.9602, F.S., regarding findings and declarations of necessity to enhance economic activity in the state; amending s. 288.9603, F.S.; amending definitions; amending s. 288.9604, F.S.; amending the description of the Florida Development Finance Corporation; amending s. 288.9605, F.S.; clarifying the powers of the corporation; amending s. 288.9606, F.S.; amending the processes for issuance of revenue bonds; amending s. 288.9607, F.S.; providing that any guaranty shall not exceed five percent of the total aggregate principal amount of bonds or other indebtedness relating to any one capital project; amending s. 288.9608, F.S.; creating the Energy, Technology and Economic Development Guaranty Fund; amending s. 288.9609, F.S.; providing for bonds as legal investments; amending s. 288.9610, F.S.; providing for annual reports of Florida Development Finance Corporation; providing an effective date.

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

Section 1. Section 377.601, Florida Statutes, is amended to read:

377.601 Legislative intent.—
It is the intent of the Legislature to ensure an adequate and reliable supply of energy for Florida in a manner that promotes the health and welfare of the public, promotes sustainable economic growth, and minimizes and mitigates adverse impacts. The Legislature also intends that governance of energy policy within Florida be efficiently directed toward achieving these purposes. 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.

(2) In furtherance of these purposes, energy policies of
the State of Florida shall be implemented through effective,
efficient, and certain governance, and shall be guided by the
following goals, in order of priority:

(a) Ensuring an affordable energy supply;
(b) Ensuring adequate supply and capacity;
(c) Ensuring a secure and reliable energy supply;
(d) Minimizing energy cost volatility;
(e) Minimizing negative impacts of energy production on
Florida’s environment, social fabric, and the public health and
care;
(f) Maximizing economic synergies for Florida associated
with energy policy;
(g) Reducing the net export of energy expenditures; and

(3) It is the policy of the State of Florida to:
(a) Develop and promote the effective use of energy in the
state, 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 2. 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 anhydrous denatured alcohol produced by the conversion of carbohydrates 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 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. The application shall be
developed by the Florida Energy and Climate Commission, 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 shall review the application and shall notify the applicant of any deficiencies. Upon receipt of a completed application, the Florida Energy and Climate Commission 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 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.

e. 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.
The Florida Energy and Climate Commission 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 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, 2016.

Section 3. Subsections (1), (2), (4), and (5) of section 220.192, Florida Statutes, are amended to read:

220.192 Renewable energy technologies investment tax credit.—

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

(c) "Eligible costs" means:

1. Seventy-five percent of all capital costs, operation and maintenance costs, and research and development costs incurred between July 1, 2006, and June 30, 2016, 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, 2016, 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.

4. Fifty percent of all capital costs incurred between
July 1, 2010, and June 30, 2016, in connection with an
investment in solar energy systems in the state, up to a limit
of $2.5 million per system and up to a limit of $7.5 million per
state fiscal year for all taxpayers. To be eligible, such
system must comply with state interconnection standards as
provided by the Public Service Commission. The eligible costs
shall be reapportioned equally over 5 years.

(f) "Solar energy systems" means equipment which provides
for the collection and use of incident solar energy for water
heating, space heating or cooling, or other applications which
normally require or would require a conventional source of
energy such as petroleum products, natural gas, or electricity
and which performs primarily with solar energy. In such other
systems in which solar energy is used in a supplemental way,
only those components which collect and transfer solar energy shall be included in this definition.

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

(2) TAX CREDIT.—

(a) For tax years beginning on or after January 1, 2007, a credit against the tax imposed by this chapter shall be granted in an amount equal to the eligible costs defined in ss. 220.192(1)(c)1.-3. Such credits may be used in tax years beginning January 1, 2007, and ending December 31, 2016, after which the credit shall expire. If the credit is not fully used in any one tax year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward and used in tax years beginning January 1, 2007, and ending December 31, 2012, after which the credit carryover expires and may not be used. A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group. Any eligible cost for which a credit is claimed and which is deducted or otherwise reduces federal taxable income shall be added back in computing adjusted federal income under s. 220.13.

(b) For tax years beginning on or after January 1, 2010, a credit against the tax imposed by this chapter shall be granted in an amount equal to the eligible costs defined in s. 220.192(1)(c)4. Such credits may be used in tax years beginning January 1, 2010, and ending December 31, 2016, after which the
credit shall expire. If the credit is not fully used in any one tax year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward and used in tax years beginning January 1, 2010, and ending December 31, 2021, after which the credit carryover expires and may not be used. A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group. Any eligible cost for which a credit is claimed and which is deducted or otherwise reduces federal taxable income shall be added back in computing adjusted federal income under s. 220.13.

(4) TAXPAYER APPLICATION PROCESS.—To claim a credit under this section, each taxpayer must apply to the Florida Energy and Climate Commission Department of Environmental Protection for an allocation of each type of annual credit by the date established by the Florida Energy and Climate Commission Department of Environmental Protection. The application form may be established by the Florida Energy and Climate Commission Department of Environmental Protection and shall include an affidavit from each taxpayer certifying that all information contained in the application, including all records of eligible costs claimed as the basis for the tax credit, are true and correct. Approval of the credits under this section shall be accomplished on a first-come, first-served basis, based upon the date complete applications are received by the Florida Energy and Climate Commission Department of Environmental Protection. A taxpayer shall submit only one complete application based upon
eligible costs incurred within a particular state fiscal year. Incomplete placeholder applications will not be accepted and will not secure a place in the first-come, first-served application line. If a taxpayer does not receive a tax credit allocation due to the exhaustion of the annual tax credit authorizations, then such taxpayer may reapply in the following year for those eligible costs and will have priority over other applicants for the allocation of credits.

(5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF CREDITS.—

(a) In addition to its existing audit and investigation authority, the Department of Revenue may perform any additional financial and technical audits and investigations, including examining the accounts, books, and records of the tax credit applicant, that are necessary to verify the eligible costs included in the tax credit return and to ensure compliance with this section. The Florida Energy and Climate Commission Department of Environmental Protection shall provide technical assistance when requested by the Department of Revenue on any technical audits or examinations performed pursuant to this section.

(b) It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines, as a result of either an audit or examination or from information received from the Florida Energy and Climate Commission Department of Environmental Protection, that a taxpayer received tax credits pursuant to this section to which the taxpayer was not entitled. The taxpayer is responsible for returning
forfeited tax credits to the Department of Revenue, and such funds shall be paid into the General Revenue Fund of the state.

(c) The Florida Energy and Climate Commission Department of Environmental Protection may revoke or modify any written decision granting eligibility for tax credits under this section if it is discovered that the tax credit applicant submitted any false statement, representation, or certification in any application, record, report, plan, or other document filed in an attempt to receive tax credits under this section. The Florida Energy and Climate Commission Department of Environmental Protection shall immediately notify the Department of Revenue of any revoked or modified orders affecting previously granted tax credits. Additionally, the taxpayer must notify the Department of Revenue of any change in its tax credit claimed.

(d) The taxpayer shall file with the Department of Revenue an amended return or such other report as the Department of Revenue prescribes by rule and shall pay any required tax and interest within 60 days after the taxpayer receives notification from the Florida Energy and Climate Commission Department of Environmental Protection that previously approved tax credits have been revoked or modified. If the revocation or modification order is contested, the taxpayer shall file an amended return or other report as provided in this paragraph within 60 days after a final order is issued following proceedings.

(e) A notice of deficiency may be issued by the Department of Revenue at any time within 3 years after the taxpayer receives formal notification from the Florida Energy and Climate Commission Department of Environmental Protection that
previously approved tax credits have been revoked or modified.

If a taxpayer fails to notify the Department of Revenue of any changes to its tax credit claimed, a notice of deficiency may be issued at any time.

Section 4. Paragraphs (b) and (g) of subsection (3) of section 220.193, Florida Statutes, are amended to read:

220.193 Florida renewable energy production credit.—

(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.

(b) The credit may be claimed for electricity produced and sold on or after January 1, 2007. Beginning in 2008 and continuing until 2011, each taxpayer claiming a credit under this section must first apply to the department by February 1 of each year for an allocation of available credit.

The department, in consultation with the commission, shall develop an application form. The application form shall, at a minimum, require a sworn affidavit from each taxpayer certifying the increase in production and sales that form the basis of the application and certifying that all information contained in the application is true and correct.

(g) Notwithstanding any other provision of this section, credits for the production and sale of electricity from a new or expanded facility as provided in subsection (3) shall be limited to the amount of tax that would be due on a year-to-year basis under subsection (2) if the production and sale were not allowed as a credit.
expanded Florida renewable energy facility may be earned between January 1, 2007, and June 30, 2016. The combined total amount of tax credits which may be granted for all taxpayers under this section is limited to $5 million per state fiscal year.

Section 5. Subsection (1) of section 366.02, Florida Statutes, is amended to read:

366.02 Definitions.—As used in this chapter:

(1) "Public utility" means every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state; but the term "public utility" does not include either a cooperative now or hereafter organized and existing under the Rural Electric Cooperative Law of the state; a municipality or any agency thereof; any dependent or independent special natural gas district; any natural gas transmission pipeline company making only sales or transportation delivery of natural gas at wholesale and to direct industrial consumers; any entity selling or arranging for sales of natural gas which neither owns nor operates natural gas transmission or distribution facilities within the state; or a person supplying liquefied petroleum gas, in either liquid or gaseous form, irrespective of the method of distribution or delivery, or owning or operating facilities beyond the outlet of a meter through which natural gas is supplied for compression and delivery into motor vehicle fuel tanks or other transportation containers, unless such person also supplies...
electricity or manufactured or natural gas. In addition, the term “public utility” does not include a developer of a solar energy generation facility located on the premises of a host consumer, other than a multi-family residential building, for purposes of sale to the host consumer for consumption only on the premises, limited to contiguous property owned or leased by the consumer, provided that the solar energy generation facility has a gross power rating of no greater than 2 megawatts.

Section 6. Section 366.90, Florida Statutes, is created to read:

366.90 Renewable energy for electricity production.—To further the energy policy goals established in s. 377.601, the Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state, for purposes of electricity production, through the mechanisms established in ss. 366.91 and 366.92. Renewable energy resources have the potential to help diversify fuel types for electricity production, minimize the volatility of fuel costs, encourage investment within the state, and improve environmental conditions.

Section 7. Section 366.91, Florida Statutes, is amended to read:

366.91 Renewable energy.—

(1) The Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the
volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.

(1)(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 coproducts from livestock and poultry operations, waste or byproducts from food processing, recycling byproducts, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas.

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

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

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

(3)(a) On or before July 1, 2010 January 1, 2006, each
public utility must continuously offer to and shall purchase contract to producers of renewable energy at full avoided cost, as defined in s. 366.91(6), upon request of a renewable energy producer that meets one or both of the operating requirements set forth in s. 366.91(5). The commission may establish by rule requirements relating to the purchase of renewable energy capacity and energy by public utilities from renewable energy producers and may adopt rules to administer this section. The contract shall contain payment provisions for energy and capacity which are based upon the utility's full avoided costs, as defined in s. 366.051; however, capacity payments are not required if, due to the operational characteristics of the renewable energy generator or the anticipated peak and off-peak availability and capacity factor of the utility's avoided unit, the producer is unlikely to provide any capacity value to the utility or the electric grid during the contract term. Each contract must provide a contract term of at least 10 years.

Prudent and reasonable costs associated with the purchase of a renewable energy contract shall be recoverable from the ratepayers of the purchasing contracting utility, without differentiation among customer classes, through the appropriate cost-recovery clause mechanism administered by the commission.

(b) Effective July 1, 2010, a renewable energy producer that meets one or both of the operation requirements set forth in s. 366.91(5) shall be entitled to sell electric energy to a public utility at full avoided cost as set forth in s. 366.91(6).

(4) On or before January 1, 2006, each municipal electric
utility and rural electric cooperative whose annual sales, as of July 1, 1993, to retail customers were greater than 2,000 gigawatt hours must continuously offer a purchase contract to producers of renewable energy containing payment provisions for energy and capacity which are based upon the utility's or cooperative's full avoided costs, as determined by the governing body of the municipal utility or cooperative; however, capacity payments are not required if, due to the operational characteristics of the renewable energy generator or the anticipated peak and off-peak availability and capacity factor of the utility's avoided unit, the producer is unlikely to provide any capacity value to the utility or the electric grid during the contract term. Each contract must provide a contract term of at least 10 years.

(5) (a) A renewable energy producer that generates and delivers to the grid a fixed amount of electrical capacity at a rate of production such that the amount of energy produced per 1 megawatt of fixed capacity is 7,000 megawatt hours or more per year shall be entitled to sell such fixed amount of capacity and energy to any public utility at full avoided costs.

(b) A renewable energy producer that generates electric energy using waste heat from sulfuric acid manufacturing operations, such that the amount of electric energy produced at the site per 1 megawatt of system generating capacity is 5,500 megawatt hours or more per year and that exports less than 50 percent of the total electric energy produced to the grid, shall be entitled to sell any excess energy, up to an amount equal to the energy used to serve its own requirements, to any public utility.
utility at full avoided cost.

(6) The Legislature finds that, based on analysis of past, current, and future projections of retail electric rates, there is a high degree of correlation between retail electric rates of Florida public utilities and avoided cost. Specifically, the Legislature finds that 80 percent of the weighted average of firm service retail electric rates of each public utility, including all adjustment, recovery, and similar add-on charges, directly correlates with each utility’s full avoided cost for acquiring energy from renewable energy producers that meet the operating requirements of s. 366.91(5), and is an administratively efficient, transparent, prudent, and preferred methodology for calculating full avoided cost. Therefore, the full avoided cost to which such renewable energy producers are entitled is and shall be the mathematical product of 0.80 and the weighted average of firm service retail electric rates in cents per kilowatt hour, including all adjustment, recovery, and similar add-on charges, of the purchasing utility.

(7) 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.

(8) 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.

(9) Under the provisions of subsections (7) and (8), 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.

(10) A contracting producer of renewable energy producer must pay the actual costs of its interconnection with...
the transmission grid or distribution system.

(11) Action by the commission pursuant to or associated with implementing this section shall not be deemed or construed to be an action relating to rates or service of utilities providing electric service.

Section 8. 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.

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

(a) "Florida renewable energy resources" means 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), that is produced in Florida.

(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.
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
ergy credits that are derived from a customer-owned renewable
ergy 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.

(2) (4) In order to demonstrate the feasibility and
viability of clean energy systems, Subject to the conditions set
forth in this subsection, the commission shall provide for full
cost recovery under the environmental cost-recovery clause of
all reasonable and prudent costs incurred by a provider to
produce or purchase renewable energy for purposes of supplying
electrical energy to its retail customers. 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.

(a) Providers may petition the commission, through the years 2010, 2011, 2012, and 2013, for recovery of costs to produce or purchase up to a total of 735 megawatts of renewable energy statewide, subject to the cost cap in paragraph (c). If a provider does not seek approval to produce or purchase the total amount of renewable energy capacity designated for a specific period under this paragraph, the remaining capacity designated for that time period shall be carried forward to the succeeding period but not beyond the end of calendar year 2013. Providers may petition the commission:

1. Through 2011, for recovery of costs to produce or purchase up to a total of 300 megawatts of renewable energy statewide and an additional 15 megawatts of rooftop or pole-mounted solar energy applications;

2. In 2012, for recovery of costs to produce or purchase up to an additional 200 megawatts of renewable energy statewide.
and an additional 10 megawatts of rooftop or pole-mounted solar energy applications; and

3. In 2013, for recovery of costs to produce or purchase up to an additional 200 megawatts of renewable energy statewide and an additional 10 megawatts of rooftop or pole-mounted solar energy applications.

(b) A provider shall have sole discretion to determine the type and technology of the renewable energy resource that it intends to use. A provider shall also have sole discretion to determine whether to construct new renewable energy generating facilities, convert existing fossil fuel generating facilities to renewable energy generating facilities, or contract for the purchase of renewable energy from third-party generating facilities in Florida.

(c) For the production or purchase of renewable energy under this subsection, a provider shall be permitted to recover costs up to and in excess of its full avoided cost, as defined in s. 366.51 and approved by the commission, provided that recovery of costs in excess of the providers’ full avoided cost shall not exceed, at any time, 2 percent of the provider’s total revenues from retail sales of electricity for calendar year 2009. For purposes of cost recovery under this subsection, costs shall be computed using a methodology that, for a renewable energy generating facility, averages the revenue requirements of the facility over its economic life and, for a renewable energy purchase, averages the revenue requirements of the purchase over the life of the contract.

(d) Cost recovery under this subsection shall be limited
to new construction or conversion projects for which
classification commenced after the effective date of this act
and to purchases made after the effective date of this act. All
renewable energy projects for which costs have been approved by
the commission for recovery through the environmental cost
recovery clause prior to the effective date of this act shall
not be subject to or included in the calculation of the cost

cap.

(e) The costs incurred by a provider to produce or
purchase renewable energy under this subsection shall be deemed
to be prudent for purposes of cost recovery if the provider has
used reasonable and customary industry practices in the design,
procurement, and construction of the project in a cost-effective
manner for the type of renewable energy resource and appropriate
to the location of the facility.

(f) Subject to the cost cap in paragraph (c), the
commission shall allow a provider to recover the costs
associated with the production or purchase of renewable energy
under this subsection as follows:

1. For new renewable energy generating facilities, the
commission shall allow recovery of reasonable and prudent costs
including, but not limited to, the siting, licensing,
engineering, design, permitting, construction, operation, and
maintenance of such facilities, including any applicable taxes
and a return based on the provider's last authorized rate of
return.

2. For conversion of existing fossil fuel generating
facilities to renewable energy generating facilities, the
commission shall allow recovery of reasonable and prudent conversion costs, including the costs of retirement of the fossil fuel plant that exceed any amounts accrued by the provider for such purposes through rates previously set by the commission.

3. For purchase of renewable energy from third-party generating facilities in Florida, the commission shall allow recovery of reasonable and prudent costs associated with the purchase.

(g) In a proceeding to recover costs incurred under this subsection, a provider shall provide the commission all cost information, hourly energy production information, and other information deemed relevant by the commission with respect to each project.

(h) When a provider purchases renewable energy under this subsection at a cost in excess of its full avoided cost, the seller shall surrender to the provider all renewable attributes of the renewable energy purchased.

(i) Revenues derived from any renewable energy credit, carbon credit, or other mechanism that attributes value to the production of renewable energy, either existing or hereafter devised, received by a provider by virtue of the production or purchase of renewable energy for which cost recovery is approved under this subsection, shall be shared with the provider’s ratepayers such that the ratepayers are credited no less than 75 percent of such revenues.

(j) A renewable energy generating facility constructed or converted from an existing fossil fuel generating facility
pursuant to this subsection shall be exempt from the
requirements of s. 403.519, and the commission shall not be
required to submit a report for such projects under s.
403.507(4)(a).

(3) Each provider shall, in its 10-year site plan
submitted to the commission pursuant to s. 186.801, provide the
following information:

(a) The amount of renewable energy resources the provider
produces or purchases;

(b) The amount of renewable energy resources the provider
plans to produce or purchase over the 10-year planning horizon
and the means by which such production or purchases will be
achieved; and

(c) A statement indicating how the production and purchase
of renewable energy resources impact the provider’s present and
future capacity and energy needs.

(4)(a) A developer of solar energy generation may locate a
solar energy generation facility on the premises of a host
consumer, other than a multi-family residential building, for
purposes of sale to the consumer for consumption only on the
premises, provided that the solar energy generation facility has
a gross power rating of no greater than 2 megawatts. For
purposes of this subsection, the host consumer’s premises shall
be limited to contiguous property owned or leased by the
consumer, without regard to interruptions in contiguity caused
by easements, public thoroughfares, transportation rights-of-
way, or utility rights-of-way.

(b) The commission shall adopt rules to implement this
subsection. In adopting such rules, the commission shall establish, at a minimum:

1. Requirements related to interconnection and metering;
2. A mechanism for setting rates for any service provided to the consumer by the utility if such service is required by the consumer, which rates shall ensure that the utility’s general body of ratepayers does not subsidize any redundant utility generating capacity necessary to serve the consumer; and
3. Requirements for notice to the commission of the size and location of each renewable energy generation facility planned under this subsection, the identity and historical and projected load characteristics of each host consumer, and any other information deemed necessary by the commission to satisfy its obligations under s. 364.04(5).

(c) Beginning January 1, 2011, and no less often than every six months thereafter, the commission shall provide a report to the legislature of activity under this subsection, which shall address the impacts of such activity on the electric power grid of the state, individual utility systems, and each utility’s general body of ratepayers, and shall include recommendations concerning implementation of this program.

(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 and no action taken pursuant to this section shall be construed to impede or impair terms and conditions of existing contracts or serve as a basis for renegotiating or re-pricing existing contracts.

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

Section 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or applications, and to this end the provisions of this act are declared severable.

Section 10. Subsection (14) of section 403.503, Florida Statutes, is amended to read:

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

(14) "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 or any solar electrical generating facility of any sized 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 be owned by the applicant that are physically connected to the site; all associated facilities that are indirectly connected to the site by other proposed associated facilities that will be owned by the
applicant; and associated transmission lines that will be owned by the applicant which connect the electrical power plant to an existing transmission network or rights-of-way to which the applicant intends to connect. At the applicant's option, this term may include any offsite associated facilities that will not be owned by the applicant; offsite associated facilities that are owned by the applicant but that are not directly connected to the 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.

Section 11. Section 288.9602, Florida Statutes, is amended to read:

288.9602 Findings and declarations of necessity.—The Legislature finds and declares that:

(1) There is a need to enhance economic activity in the cities and counties of the state by attracting manufacturing, development, redevelopment of brownfield areas, business enterprise management, and other activities conducive to economic promotion in order to provide a stronger, more balanced, and stable economy in the cities and counties of the state.

(2) A significant portion of businesses located in the cities and counties of the state or desiring to locate in the cities and counties of the state encounter difficulty in
obtaining financing on terms competitive with those available to businesses located in other states and nations or are unable to obtain such financing at all.

(3) The difficulty in obtaining such financing impairs the expansion of economic activity and the creation of jobs and income in communities throughout the state.

(4) The businesses most often affected by these financing difficulties are small businesses critical to the economic development of the cities and counties of Florida.

(5) The economic well-being of the people in, and the commercial and industrial resources of, the cities and counties of the state would be enhanced by the provision of financing to businesses on terms competitive with those available in the most developed financial markets worldwide.

(6) In order to improve the prosperity and welfare of the cities and counties of this state and its inhabitants, to improve and promote the financing of projects related to the economic development of the cities and counties of this state, including redevelopment of brownfield areas, and to increase the purchasing power and opportunities for gainful employment of citizens of the cities and counties of this state, it is necessary and in the public interest to facilitate the financing of such projects as provided for in this act and to do so without regard to the boundaries between counties, municipalities, special districts, and other local governmental bodies or agencies in order to more effectively and efficiently serve the interests of the greatest number of people in the widest area practicable.
(7) In order to promote and stimulate development and advance the business prosperity and economic welfare of the cities and counties of this state and its inhabitants; to encourage and assist new business and industry in this state through loans, investments, or other business transactions; to rehabilitate and assist existing businesses; to stimulate and assist in the expansion of all kinds of for profit and not for profit business activity; and to create maximum opportunities for employment, encouragement of thrift, and improvement of the standard of living of the citizens of Florida, it is necessary and in the public interest to facilitate the cooperation and action between organizations, public and private, in the promotion, development, and conduct of all kinds of for profit and not for profit business activity in the state.

(8) In order to efficiently and effectively achieve the purposes of this act, it is necessary and in the public interest to create a special development finance authority to cooperate and act in conjunction with public agencies of this state and local governments of this state, through interlocal agreements pursuant to the Florida Interlocal Cooperation Act of 1969, in the promotion and advancement of projects related to economic development, including redevelopment of brownfield areas, throughout the state.

(9) The purposes to be achieved by the special development finance authority through such projects and such financings of business and industry in compliance with the criteria and the requirements of this act are predominantly the public purposes stated in this section, and such purposes implement the
governmental purposes under the State Constitution of providing for the health, safety, and welfare of the people, including implementing the purpose of s. 10(c), Art. VII of the State Constitution and simultaneously provide new and innovative means for the investment of public trust funds in accordance with s. 10(a), Art. VII of the State Constitution of the State.

Section 12. Section 288.9603, Florida Statutes, is amended to read:

288.9603 Definitions.—
2. "Amortization payments" means periodic payments, such as monthly, semiannually, or annually, of interest on premiums, if any, and installments of principal of revenue bonds as required by an indenture of the corporation.
3. "Applicant" means the individual, firm, or corporation, whether for profit or nonprofit, charged with developing the project under the terms of the indenture of the corporation.
4. "Cash equivalents" shall include letters of credit issued by investment grade rated financial institutions or their subsidiaries; direct obligations of the government of the United States of America, or any agency thereof, or obligations unconditionally guaranteed by the United States of America; certificates of deposit issued by investment grade rated financial institutions or their subsidiaries; and investments in commercial paper which, at the time of acquisition by the
corporation is accorded the highest rating by Standard & Poor's Corporation, Moody's Investors Services, Inc., or any other nationally recognized credit rating agency of similar standing, provided that in each such case such investments shall be convertible to cash as may be reasonably necessary for application of such moneys as and when the same are to be applied in accordance with the provisions of this act.

(5) "Corporation" means the Florida Development Finance Corporation.

(6) "Debt service" shall mean for any bonds issued by the corporation and or for any bonds or other form of indebtedness for which a guaranty has been issued pursuant to ss. 288.9606, 288.9607, and 288.9608, for any period for which such determination is to be made, the aggregate amount of all interest charges due or which shall become due on or with respect to such bonds or indebtedness during the period for which such determination is being made, plus the aggregate amount of scheduled principal payments due or which shall become due on or with respect to such bonds or indebtedness during the period for which such determination is being made. Scheduled principal payments may include only principal payments that are scheduled as part of the terms of the original bond or indebtedness issue and that result in the reduction of the outstanding principal balance of the bonds or indebtedness.

(7) "Economic development specialist" means a resident of the state who is professionally employed in the discipline of economic development or industrial development.

(8) "Financial institution" means any banking corporation
or trust company, savings and loan association, insurance
company or related corporation, partnership, foundation, or
other institution engaged primarily in lending or investing
funds in this state.

(9) "Maximum debt service" shall mean, for any period of 6
months or 1 year, as the case may be, during the life of any
bonds issued by the corporation and for which a guaranty has
been issued pursuant to ss. 288.9606, 288.9607, and 288.9608 and
for which such determination is being made, the maximum amount
of the debt service which is due or will become due during such
period of time on or with respect to such bonds. For the
purposes of calculating the amount of the maximum debt service
with respect to any bonds which bear interest at a variable
rate, the corporation shall utilize a fixed rate which it in its
reasonable discretion determines to be appropriate.

(10) "Partnership" means Enterprise Florida, Inc.

(11) "Guaranty agreement" means an agreement by and
between the corporation and an applicant a public agency
pursuant to the provisions of s. 288.9607.

(12) "Guaranty agreement fund" means the Energy,
Technology and Economic Development Revenue Bond
Guaranty Reserve Account Fund established by the corporation pursuant to
s. 288.9608.

(13) "Interlocal agreement" means an agreement by and
between the Florida Development Finance Corporation and a public
agency of this state, pursuant to the provisions of s. 163.01.

(14) "Public agency" means a political subdivision,
agency, or officer of this state or of any state of the United
States, including, but not limited to, state, government, county, city, school district, single and multipurpose special district, single and multipurpose public authority, metropolitan or consolidated government, an independently elected county officer, any agency of the United States Government, and any similar entity of any other state of the United States.

Section 13. Section 288.9604, Florida Statutes, is amended to read:

288.9604 Creation of the authority.—

(1) Upon a finding of necessity by a city or county of this state, selected pursuant to subsection (2), there is created a public body corporate and politic known as the "Florida Development Finance Corporation." The corporation shall be constituted as a public instrumentality of local government, and the exercise by the corporation of the powers conferred by this act shall be deemed and held to be the performance of an essential public function. The corporation has the power to function within the corporate limits of any public agency with which it has entered into an interlocal agreement for any of the purposes of this act.

(2) A city or county of Florida shall be selected by a search committee of Enterprise Florida, Inc. This city or county shall be authorized to activate the corporation. The search committee shall be composed of two commercial banking representatives, the Senate member of the partnership, the House of Representatives member of the partnership, and a member who is an industry or economic development professional.

(3) Upon activation of the corporation, the Governor,
subject to confirmation by the Senate, shall appoint the board
of directors of the corporation, who shall be five in number.
The terms of office for the directors shall be for 4 years from
the date of their appointment. A vacancy occurring during a term
shall be filled for the unexpired term. A director shall be
eligible for reappointment. At least three of the directors of
the corporation shall be bankers who have been selected by the
Governor from a list of bankers who were nominated by Enterprise
Florida, Inc., and one of the directors shall be an economic
development specialist. The chairperson of the Florida Black
Business Investment Board shall be an ex officio member of the
board of the corporation.

(3)(4)(a) A director shall receive no compensation for his
or her services, but is entitled to the necessary expenses,
including travel expenses, incurred in the discharge of his or
her duties. Each director shall hold office until his or her
successor has been appointed.

(b) The powers of the corporation shall be exercised by
the directors thereof. A majority of the directors constitutes a
quorum for the purposes of conducting business and exercising
the powers of the corporation and for all other purposes. Action
may be taken by the corporation upon a vote of a majority of the
directors present, unless in any case the bylaws require a
larger number. Any person may be appointed as director if he or
she resides, or is engaged in business, which means owning a
business, practicing a profession, or performing a service for
compensation or serving as an officer or director of a
corporation or other business entity so engaged, within the
state.

(c) The directors of the corporation shall annually elect one of their members as chair and one as vice chair. The corporation may employ a president, technical experts, and such other agents and employees, permanent and temporary, as it requires and determine their qualifications, duties, and compensation. For such legal services as it requires, the corporation may employ or retain its own counsel and legal staff. The corporation shall file with the governing body of each public agency with which it has entered into an interlocal agreement and with the Governor, the Speaker of the House of Representatives, the President of the Senate, the Minority Leaders of the Senate and House of Representatives, and the Auditor General, on or before 90 days after the close of the fiscal year of the corporation, a report of its activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expenses as of the end of such fiscal year.

(4)(5) The board may remove a director for inefficiency, neglect of duty, or misconduct in office only after a hearing and only if he or she has been given a copy of the charges at least 10 days prior to such hearing and has had an opportunity to be heard in person or by counsel. The removal of a director shall create a vacancy on the board which shall be filled pursuant to subsection (3).

Section 14. Section 288.9605, Florida Statutes, is amended to read:
Corporation powers.—

(1) The powers of the corporation created by s. 288.9604 shall include all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act.

(2) The corporation is authorized and empowered to:

(a) Have perpetual succession as a body politic and corporate and adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal and alter the same at its pleasure.

(c) Maintain an office at such place or places as it may designate.

(d) Sue and be sued in its own name and plead and be impleaded.

(e) Enter into interlocal agreements pursuant to s. 163.01(7) with public agencies of this state for the exercise of any power, privilege, or authority consistent with the purposes of this act.

(f) Issue, from time to time, revenue bonds, notes or other evidences of indebtedness, including, but not limited to, taxable bonds and bonds the interest on which is exempt from federal income taxation, for the purpose of financing and refinancing any capital projects which promote economic development within the State thereby benefitting the citizens for the State, including but not limited to those capital projects described in s. 159.27, for applicants and exercise all powers in connection with the authorization, issuance, and sale of bonds, subject to the provisions of s. 288.9606.
(g) Issue bond anticipation notes in connection with the authorization, issuance, and sale of such bonds, pursuant to the provisions of s. 288.9606.

(h) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers under the act.

(i) Disseminate information about itself and its activities.

(j) Acquire, by purchase, lease, option, gift, grant, bequest, devise, or otherwise, real property, together with any improvements thereon, or personal property for its administrative purposes or in furtherance of the purposes of this act, together with any improvements thereon.

(k) Hold, improve, clear, or prepare for development any such property.

(l) Mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real or personal property.

(m) Insure or provide for insurance of any real or personal property or operations of the corporation or any private enterprise against any risks or hazards, including the power to pay premiums on any such insurance.

(n) Establish and fund a guaranty fund in furtherance of the purposes of this act.

(o) Invest funds held in reserve or sinking funds or any such funds not required for immediate disbursement in property or securities in such manner as the board shall determine, subject to the authorizing resolution on any bonds issued, and to terms established in the investment agreement pursuant to ss.
288.9606, 288.9607, and 288.9608, and redeem such bonds as have been issued pursuant to s. 288.9606 at the redemption price established therein or purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be canceled.

(p) Borrow money and apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the Federal Government or the state, county, or other public agency or from any sources, public or private, for the purposes of this act and give such security as may be required and enter into and carry out contracts or agreements in connection therewith; and include in any contract for financial assistance with the Federal Government or the state, county, or other public agency for, or with respect to, any purposes under this act and related activities such conditions imposed pursuant to federal laws as the county or municipality or other public agency deems reasonable and appropriate which are not inconsistent with the provisions of this act.

(q) Make or have all surveys and plans necessary for the carrying out of the purposes of this act, contract with any person, public or private, in making and carrying out such plans, and adopt, approve, modify, and amend such plans.

(r) Develop, test, and report methods and techniques and carry out demonstrations and other activities for the promotion of any of the purposes of this act.

(s) Apply for, accept, and utilize grants from the Federal Government or the state, county, or other public agency available for any of the purposes of this act.
(t) Make expenditures necessary to carry out the purposes of this act.

(u) Exercise all or any part or combination of powers granted in this act, or any powers in furtherance of this act which a local agency may exercise under the Florida Industrial Development Financing Act, ss. 159.25-159.431.

(v) Enter into investment agreements with the Florida Black Business Investment Board concerning the issuance of bonds and other forms of indebtedness and capital for the purposes of ss. 288.707-288.714.

(w) Determine the situations and circumstances for participation in partnerships by agreement with local governments, financial institutions, and others associated with the redevelopment of brownfield areas pursuant to the Brownfields Redevelopment Act for a limited state guaranty of revenue bonds, loan guarantees, or loan loss reserves.

Section 15. Section 288.9606, Florida Statutes, is amended to read:

288.9606 Issue of revenue bonds.—

1. When authorized by a public agency pursuant to s. 163.01(7), the corporation has power in its corporate capacity, in its discretion, to issue revenue bonds or other evidences of indebtedness which a public agency has the power to issue, from time to time to finance the undertaking of any purpose of this act and ss. 288.707-288.714, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans or preliminary loans, and has the power to issue refunding bonds for the payment or retirement of such bonds.
of bonds previously issued. Bonds issued pursuant to this section shall bear the name "Florida Development Finance Corporation Revenue Bonds." The security for such bonds may be based upon such revenues as are legally available. In anticipation of the sale of such revenue bonds, the corporation may issue bond anticipation notes and may renew such notes from time to time, but the maximum maturity of any such note, including renewals thereof, may not exceed 5 years from the date of issuance of the original note. Such notes shall be paid from any revenues of the corporation available therefor and not otherwise pledged or from the proceeds of sale of the revenue bonds in anticipation of which they were issued. Any bond, note, or other form of indebtedness issued pursuant to this act shall mature no later than the end of the 30th fiscal year after the fiscal year in which the bond, note, or other form of indebtedness was issued.

(2) Bonds issued under this section do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. Bonds issued under the provisions of this act are declared to be for an essential public and governmental purpose. Bonds issued under this act, the interest on which is exempt from income taxes of the United States, together with interest thereon and income therefrom, are exempted from all taxes, except those taxes imposed by chapter 220, on interest, income, or profits on debt obligations owned by corporations.
(3) Bonds issued under this section shall be authorized by a public agency of this state pursuant to the terms of an interlocal agreement; may be issued in one or more series; and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest rate or rates, be in such denomination or denominations, be in such form either with or without coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payments at such place or places, be subject to such terms of redemption, with or without premium, be secured in such manner, and have such other characteristics as may be provided by the corporation interlocal agreement issued pursuant thereto. Bonds issued under this section may be sold in such manner, either at public or private sale, and for such price as the corporation may determine will effectuate the purpose of this act.

(4) In case a director whose signature appears on any bonds or coupons issued under this act ceases to be a director before the delivery of such bonds, such signature is, nevertheless, valid and sufficient for all purposes, the same as if such director had remained in office until such delivery.

(5) In any suit, action, or proceeding involving the validity or enforceability of any bond issued under this act, or the security therefor, any such bond reciting in substance that it has been issued by the corporation in connection with any purpose of the act shall be conclusively deemed to have been issued for such purpose, and such purpose shall be conclusively deemed to have been carried out in accordance with the act. The
complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published only in Leon County, and the complaint and order of the circuit court shall be served only on the State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county where the public agencies which were initially a party to the interlocal agreement are located. Notice of such proceedings shall be published in the manner and the time required by s. 75.06, in Leon County and in each county where the public agencies which were initially a party to the interlocal agreement are located. Obligations of the corporation pursuant to a loan agreement as described in this subsection may be validated as provided in chapter 75. The validation of at least the first bonds approved by the corporation shall be appealed to the Florida Supreme Court. The complaint in the validation proceeding shall specifically address the constitutionality of using the investment of the earnings accrued and collected upon the investment of the minimum balance funds required to be maintained in the State Transportation Trust Fund to guarantee such bonds. If such proceeding results in an adverse ruling and such bonds and guaranty are found to be unconstitutional, invalid, or unenforceable, then the corporation shall no longer be authorized to use the investment of the earnings accrued and collected upon the investment of the minimum balance of the State Transportation Trust Fund to guarantee any bonds.

(6) The proceeds of any bonds of the corporation may not be used, in any manner, to acquire any building or facility that
will be, during the pendency of the financing, used by, occupied
by, leased to, or paid for by any state, county, or municipal
agency or entity.

Section 16. Section 288.9607, Florida Statutes, is amended
to read:

288.9607 Guaranty of bond issues.—

(1) The corporation is hereby authorized to approve or
deny, by a majority vote of the membership of the directors, a
guaranty of debt service payments for bonds or other
indebtedness used to finance any capital project which promotes
economic development within the state, including but not limited
to those capital projects for which revenue bonds have been or
will be the guaranty of any revenue bonds issued pursuant to
this act, provided that any such guaranty shall not exceed five
percent of the total aggregate principal amount of bonds or
other indebtedness relating to any one capital project. The
guaranty may also be of the obligations of the corporation with
respect to any letter of credit, bond insurance, or other form
of credit enhancement provided by any person with respect to any
revenue bonds issued by the corporation pursuant to this act.

(2) Any applicant requesting a guaranty of the bonds issued by the corporation
under this act must submit a guaranty application, in a form
acceptable to the corporation, together with supporting
documentation to the corporation as provided in this section.

(3) All applicants which have entered into a guaranty
agreement with the corporation shall pay a guaranty premium on
such terms and at such rates as the corporation shall determine
prior to the issuance of the guaranty bonds. The corporation may adopt such guaranty premium structures as it deems appropriate, including, without limitation, guaranty premiums which are payable one time upon the issuance of the guaranty bonds or annual premiums payable upon the outstanding principal balance of bonds or other indebtedness which is guaranteed from time to time. The premium payment may be collected by the corporation from any the lessee of the project involved, from the applicant, or from any other payee of any the loan agreement involved.

(4) All applications for a guaranty must acknowledge that as a condition to the issuance of the guaranty, the corporation may require that the financing must be secured by a mortgage or security interest on the property acquired which will have such priority over other liens on such property as may be required by the corporation, and that the financing must be guaranteed by such person or persons with such ownership interest in the applicant as may be required by the corporation.

(5) Personal financial records, trade secrets, or proprietary information of applicants delivered to or obtained by the corporation shall be confidential and exempt from the provisions of s. 119.07(1).

(6) If the application for a guaranty is approved by the corporation, the corporation and the applicant shall enter into a guaranty agreement. In accordance with the provisions of the guaranty agreement, the corporation guarantees to use the funds on deposit in its Energy, Technology and Economic Development Guaranty Fund Revenue Bond Guaranty Reserve Account to meet debt service amortization payments on the bonds or indebtedness as
they become due, in the event and to the extent that the
applicant is unable to meet such payments in accordance with the
terms of the bond indenture when called to do so by the trustee
of the bondholders, or to make similar payments to reimburse any
person which has provided credit enhancement for the bonds and
which has advanced funds to meet such debt service amortization
payments as they become due, provided that such guaranty of the
corporation shall be limited to five percent of the total
aggregate principal amount of bonds or other indebtedness
relating to any one capital project. If the applicant defaults
on debt service bond amortization payments, the corporation may
use funds on deposit in the Energy, Technology and Economic
Development Guaranty Fund Revenue Bond Guaranty Reserve Account
to pay insurance, maintenance, and other costs which may be
required for the preservation of any capital project or other
collateral security for any bond or indebtedness issued to
finance a capital project for which debt service payments have
been guaranteed by the corporation, issued by the corporation,
or to otherwise protect the reserve account from loss, or to
minimize losses to the reserve account, in each case in such
manner as may be deemed necessary and advisable by the
corporation.

(7)(a) The corporation is authorized to enter into an
investment agreement with the Department of Transportation and
the State Board of Administration concerning the investment of
the earnings accrued and collected upon the investment of the
minimum balance of funds required to be maintained in the State
Transportation Trust Fund pursuant to s. 339.135(6)(b). Such
investment shall be limited as follows:

1. Not more than $4 million of the investment earnings earned on the investment of the minimum balance of the State Transportation Trust Fund in a fiscal year shall be at risk at any time on one or more bonds or series of bonds issued by the corporation.

2. The investment earnings shall not be used to guarantee any bonds issued after June 30, 1998, and in no event shall the investment earnings be used to guarantee any bond issued for a maturity longer than 15 years.

3. The corporation shall pay a reasonable fee, set by the State Board of Administration, in return for the investment of such funds. The fee shall not be less than the comparable rate for similar investments in terms of size and risk.

4. The proceeds of bonds, or portions thereof, issued by the corporation for which a guaranty has been or will be issued pursuant to s. 288.9606, s. 288.9608, or this section used to make loans to any one person, including any related interests, as defined in s. 658.48, of such person, shall not exceed 20 percent of the principal of all such outstanding bonds of the corporation issued prior to the first composite bond issue of the corporation, or December 31, 1995, whichever comes first, and shall not exceed 15 percent of the principal of all such outstanding bonds of the corporation issued thereafter, in each case determined as of the date of issuance of the bonds for which such determination is being made and taking into account the principal amount of such bonds to be issued. The provisions of this subparagraph shall not apply when the total amount of
all such outstanding bonds issued by the corporation is less
than $10 million. For the purpose of calculating the limits
imposed by the provisions of this subparagraph, the first $10
million of bonds issued by the corporation shall be taken into
account.

5. The corporation shall establish a debt service reserve
account which contains not less than 6 months' debt service
reserves from the proceeds of the sale of any bonds, or portions
thereof, guaranteed by the corporation.

6. The corporation shall establish an account known as the
Revenue Bond Guaranty Reserve Account, the Guaranty Fund. The
corporation shall deposit a sum of money or other cash
equivalents into this fund and maintain a balance of money or
cash equivalents in this fund, from sources other than the
investment of earnings accrued and collected upon the investment
of the minimum balance of funds required to be maintained in the
State Transportation Trust Fund, not less than a sum equal to 1
year of maximum debt service on all outstanding bonds, or
portions thereof, of the corporation for which a guaranty has
been issued pursuant to ss. 288.9606, 288.9607, and 288.9608. In
the event the corporation fails to maintain the balance required
pursuant to this subparagraph for any reason other than a
default on a bond issue of the corporation guaranteed pursuant
to this section or because of the use by the corporation of any
such funds to pay insurance, maintenance, or other costs which
may be required for the preservation of any project or other
collateral security for any bond issued by the corporation, or
to otherwise protect the Revenue Bond Guaranty Reserve Account
from loss while the applicant is in default on amortization payments, or to minimize losses to the reserve account in each case in such manner as may be deemed necessary or advisable by the corporation, the corporation shall immediately notify the Department of Transportation of such deficiency. Any supplemental funding authorized by an investment agreement entered into with the Department of Transportation and the State Board of Administration concerning the use of investment earnings of the minimum balance of funds is void unless such deficiency of funds is cured by the corporation within 90 days after the corporation has notified the Department of Transportation of such deficiency.

(b) Unless specifically prohibited in the General Appropriations Act, the earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund may continue to be used pursuant to paragraph (a).

(c) The guaranty shall not be a general obligation of the corporation or of the state, but shall be a special obligation, which constitutes the investment of a public trust fund. In no event shall the guaranty constitute an indebtedness of the corporation, the State of Florida, or any political subdivision thereof within the meaning of any constitutional or statutory limitation. Each guaranty agreement shall have plainly stated on the face thereof that it has been entered into under the provisions of this act and that it does not constitute an indebtedness of the corporation, the state, or any political subdivision thereof within any constitutional or statutory
limitation, and that neither the full faith and credit of the State of Florida nor any of its revenues is pledged to meet any of the obligations of the corporation under such guaranty agreement. Each such agreement shall state that the obligation of the corporation under the guaranty shall be limited to the funds available in the Energy, Technology and Economic Development Guaranty Fund Revenue Bond Guaranty Reserve Account as authorized by this section.

The corporation shall include, as part of the annual report prepared pursuant to s. 288.9610, a detailed report concerning the use of guaranteed bond proceeds for loans guaranteed or issued pursuant to any agreement with the Florida Black Business Investment Board, including the percentage of such loans guaranteed or issued and the total volume of such loans guaranteed or issued.

(8) In the event the corporation does not approve the application for a guaranty, the applicant shall be notified in writing of the corporation's determination that the application not be approved.

(9) The membership of the corporation is authorized and directed to conduct such investigation as it may deem necessary for promulgation of regulations to govern the operation of the guaranty program authorized by this section. The regulations may include such other additional provisions, restrictions, and conditions as the corporation, after its investigation referred to in this subsection, shall determine to be proper to achieve the most effective utilization of the guaranty program. This may
include, without limitation, a detailing of the remedies that must be exhausted by the bondholders, or a trustee acting on their behalf, or other credit provided prior to calling upon the corporation to perform under its guaranty agreement and the subrogation of other rights of the corporation with reference to the capital project and its operation or the financing in the event the corporation makes payment pursuant to the applicable guaranty agreement. The regulations promulgated by the corporation to govern the operation of the guaranty program may contain specific provisions with respect to the rights of the corporation to enter, take over, and manage all financed properties upon default. These regulations shall be submitted by set forth the respective rights of the corporation to the Governor’s Energy Office for approval and the bondholders in regard thereto.

(10) The guaranty program described in this section may be used by the corporation in conjunction with any federal guaranty programs described in Section 406 of the American Recovery and Reinvestment Act of 2009, as may be supplemented and amended from time to time. All policies and procedures or regulations of the guaranty program promulgated by the corporation, to the extend such guaranty program of the corporation will be used in conjunction with a federal guaranty program described in Section 406 of the American Recovery and Reinvestment Act of 2009, shall be consistent with Section 406 of the American Recovery and Reinvestment Act of 2009, as may be supplemented and amended from time to time.
Section 17. Section 288.9608, Florida Statutes, is amended to read:

288.9608 Creation and funding of the Energy, Technology and Economic Development Guaranty Fund guaranty account.—

(1) The corporation shall establish a debt service reserve account which contains not less than 6 months' debt service reserves from the proceeds of the sale of any bonds guaranteed by the corporation. Funds in such debt service reserve account shall be used prior to funds in the Revenue Bond Guaranty Reserve Account established in subsection (2). The corporation shall make best efforts to liquidate collateralized property and draw upon personal guarantees, and shall utilize the Revenue Bond Guaranty Reserve Account prior to use of supplemental funding for the Guaranty Reserve Account under the provisions of subsection (3).

(2) (a) The corporation shall establish an account known as the Energy, Technology and Economic Development Guaranty Fund Revenue Bond Guaranty Reserve Account. The corporation is authorized to deposit monies a sum of money or other cash equivalents into this fund and maintain a balance in this fund, from general revenue funds of the State as may be authorized for such purpose, or any other designated funding sources not inconsistent with state law sources other than the State Transportation Trust Fund, not less than a sum equal to 1 year of maximum debt service on all outstanding bonds, or portions thereof, of the corporation for which a guaranty has been issued pursuant to ss. 288.9606, 288.9607, and 288.9608.

(2) (b) If the corporation determines that the moneys in...
the Guaranty agreement fund are not sufficient to meet the obligations of the Guaranty agreement fund, the corporation is authorized to use the necessary amount of any available moneys that it may have which are not needed for, then or in the foreseeable future, or committed to other authorized functions and purposes of the corporation. Any such moneys so used may be reimbursed out of the Guaranty agreement fund if and when there are moneys therein available for the purpose.

(3)(c) The determination of when additional moneys will be needed for the Guaranty agreement fund, the amounts that will be needed, and the availability or unavailability of other moneys shall be made solely by the corporation in the exercise of its discretion. However, supplemental funding for the Guaranty Fund as described in subsection (3) shall be made in accordance with the investment agreement of the corporation and the Department of Transportation and the State Board of Administration.

(3)(a) If the corporation determines that the funds in the Guaranty Fund will not be sufficient to meet the present or reasonably projected obligations of the Guaranty Fund, due to a default on a loan made by the corporation from the proceeds of a bond issued by the corporation which is guaranteed pursuant to s. 288.9607(7), no later than 90 days before amortization payments are due on such bonds, the corporation shall notify the Secretary of Transportation and the State Board of Administration of the amount of funds required to meet, as and when due, all amortization payments for which the Guaranty Fund is obligated. The Secretary of Transportation shall immediately
notify the Speaker of the House of Representatives, the President of the Senate, and the chairs of the Senate and House Committees on Appropriations of the amount of funds required, and the projected impact on each affected year of the adopted work program of the Department of Transportation.

(b) Within 30 days of the receipt of notification from the corporation, the Department of Transportation shall submit a budget amendment request to the Executive Office of the Governor pursuant to chapter 216, to increase budget authority to carry out the purposes of this section. Upon approval of said amendment, the department shall proceed to amend the adopted work program, if necessary, in accordance with the amendment. Within 60 days of the receipt of notification, and subject to approval of the budget authority, the Secretary of Transportation shall transfer, subject to the amount available from the source described in paragraph (c), the amount of funds requested by the corporation required to meet, as and when due, all amortization payments for which the Guaranty Fund is obligated. Any moneys so transferred shall be reimbursed to the Department of Transportation, with interest at the rate earned on investment by the State Treasury, from the funds available in the Guaranty Fund or as otherwise available to the corporation.

(c) Pursuant to s. 288.9607(7), the Secretary of Transportation and the State Board of Administration may make available for transfer to the Guaranty Fund, earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund. However, the earnings accrued and collected upon the

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CODING: Words stricken are deletions; words underlined are additions.
investment of the minimum balance of funds required to be
maintained in the State Transportation Trust Fund which shall be
subject to transfer shall be limited to those earnings accrued
and collected on the investment of the minimum balance of funds
required to be maintained in the State Transportation Trust Fund
for the fiscal year in which the notification is received by the
secretary and fiscal years thereafter.

(4) If the corporation receives supplemental funding for
the Guaranty Fund under the provisions of this section, then any
proceeds received by the corporation with respect to a loan in
default, including proceeds from the sale of collateral for such
loan, enforcement of personal guarantees or other pledges to the
corporation to secure such loan, shall first be applied to the
obligation of the corporation to repay the Department of
Transportation pursuant to this section. Until such repayment is
complete, no new bonds may be guaranteed pursuant to this
section.

(5) Prior to the use of the guaranty provided in this
section, and on an annual basis, the corporation must certify in
writing to the State Board of Administration and the Secretary
of Transportation that it has fully implemented the requirements
of this section and s. 288.9607 and the regulations of the
corporation.

Section 18. Section 288.9609, Florida Statutes, is amended
to read:

288.9609 Bonds as legal investments.—All banks, trust
companies, bankers, savings banks and institutions, building and
loan associations, savings and loan associations, investment
companies, and other persons carrying on a banking and
investment business; all insurance companies, insurance
associations, and other persons carrying on an insurance
business; and all executors, administrators, curators, trustees,
and other fiduciaries may legally invest any sinking funds,
moneys, or other funds belonging to them or within their control
in any bonds or other obligations issued by the corporation
pursuant to an interlocal agreement with a public agency of this
state. Such bonds and obligations shall be authorized security
for all public deposits. It is the purpose of this section to
authorize all persons, political subdivisions, and officers,
public and private, to use any funds owned or controlled by them
for the purchase of any such bonds or other obligations. Nothing
contained in this section with regard to legal investments shall
be construed as relieving any person of any duty of exercising
reasonable care in selecting securities.

Section 19. Section 288.9610, Florida Statutes, is amended
to read:

288.9610 Annual reports of Florida Development Finance
Corporation.—By December 1 of each year, the Florida Development
Finance Corporation shall submit to the Governor, the President
of the Senate, the Speaker of the House of Representatives, the
Senate Minority Leader, and the House Minority Leader, and the
city or county activating the Florida Development Finance
Corporation a complete and detailed report setting forth:

(1) The evaluation required in s. 11.45(3)(j).

(2) The operations and accomplishments of the Florida
Development Finance Corporation, including the number of
businesses assisted by the corporation.

(3) Its assets and liabilities at the end of its most recent fiscal year, including a description of all of its outstanding revenue bonds.

Section 20. This act shall take effect July 1, 2010.