

- (b) A representative from the oil industry.
  - (c) A representative from an organized conservation group.
  - (d) A botanist.
  - (e) A hydrologist.
- (3) The committee shall administer this section pursuant to the laws of the state, and the rules and orders of the department which apply generally to oil and gas. If site-specific conditions require, the committee may recommend that additional procedures, safeguards, or conditions which are necessary to protect the integrity of the Big Cypress area be required as a condition to the issuance of a permit to drill and produce.

**History.**—s. 73, ch. 96-323; s. 91, ch. 2008-4.

## PART II

### PLANNING AND DEVELOPMENT

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#### **377.601 Legislative intent.**—

(1) The Legislature finds that the state’s energy security can be increased by lessening dependence on foreign oil; that the impacts of global climate change can be reduced through the reduction of greenhouse gas emissions; and that the implementation of alternative energy technologies can be a source of new jobs and employment opportunities for many Floridians. The Legislature further finds that the state is positioned at the front line against potential impacts of global climate change. Human and economic costs of those impacts can be averted by global actions and, where necessary, adapted to by a concerted effort to make Florida’s communities more resilient and less vulnerable to these impacts. In focusing the government’s policy and efforts to benefit and protect our state, its citizens, and its resources, the Legislature believes that a single government entity with a specific focus on energy and climate change is both desirable and advantageous. Further, the Legislature finds that energy infrastructure provides the foundation for secure and reliable access to the energy supplies and services on which Florida depends. Therefore, there is significant value to Florida consumers that comes from investment in Florida’s energy infrastructure that increases system reliability, enhances energy independence and diversification, stabilizes energy costs, and reduces greenhouse gas emissions.

(2) 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.

**History.**—s. 1, ch. 74-186; s. 1, ch. 77-333; s. 2, ch. 78-25; s. 44, ch. 2008-227.

**377.6015 Department of Agriculture and Consumer Services; powers and duties.**—

- (1) The department may:
  - (a) Employ staff and counsel as needed in the performance of its duties.
  - (b) Prosecute and defend legal actions in its own name.
  - (c) Form advisory groups consisting of members of the public to provide information on specific issues.
- (2) The department shall:
  - (a) Administer the Florida Renewable Energy and Energy-Efficient Technologies Grants Program pursuant to s. 377.804 to assure a robust grant portfolio.
  - (b) Develop policy for requiring grantees to provide royalty-sharing or licensing agreements with state government for commercialized products developed under a state grant.
  - (c) Administer the Florida Green Government Grants Act pursuant to s. 377.808 and set annual priorities for grants.
  - (d) Administer the information gathering and reporting functions pursuant to ss. 377.601-377.608.
  - (e) Administer the provisions of the Florida Energy and Climate Protection Act pursuant to ss. 377.801-377.804.
  - (f) Advocate for energy and climate change issues and provide educational outreach and technical assistance in cooperation with the state's academic institutions.
  - (g) Be a party in the proceedings to adopt goals and submit comments to the Public Service Commission pursuant to s. 366.82.
  - (h) Adopt rules pursuant to chapter 120 in order to implement all powers and duties described in this section.

**History.**—s. 46, ch. 2008-227; s. 54, ch. 2009-82; s. 10, ch. 2011-3; s. 505, ch. 2011-142; s. 3, ch. 2014-154; s. 33, ch. 2015-2.

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

- (1) "Department" means the Department of Agriculture and Consumer Services.
- (2) "Energy resources" includes, but shall not be limited to:
  - (a) Energy converted from solar radiation, wind, hydraulic potential, tidal movements, biomass, geothermal sources, and other energy resources the department determines to be important to the production or supply of energy.
  - (b) Propane, butane, motor gasoline, kerosene, home heating oil, diesel fuel, other middle distillates, aviation gasoline, kerosene-type jet fuel, naphtha-type jet fuel, residual fuels, crude oil, and other petroleum products and hydrocarbons as may be determined by the department to be of importance.
  - (c) All natural gas, including casinghead gas, all other hydrocarbons not defined as petroleum products in paragraph (b), and liquefied petroleum gas as defined in s. 527.01.

- (d) All types of coal and products derived from its conversion and used as fuel.
- (e) All types of nuclear energy, special nuclear material, and source material, as defined in former s. 290.07.
- (f) All electrical energy.

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

**History.**—s. 2, ch. 74-186; s. 122, ch. 77-104; s. 2, ch. 78-25; s. 123, ch. 79-190; s. 5, ch. 91-113; s. 12, ch. 2004-243; s. 47, ch. 2008-227; s. 506, ch. 2011-142.

### **377.603 Energy data collection; powers and duties of the department.—**

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

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

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

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

**History.**—s. 3, ch. 74-186; s. 122, ch. 77-104; s. 2, ch. 78-25; s. 124, ch. 79-190; s. 6, ch. 91-113; s. 13, ch. 2004-243; s. 49, ch. 2008-227; s. 507, ch. 2011-142.

**377.604 Required reports.—**Every person who produces, imports, exports, refines, transports, transmits, converts, stores, sells, or holds known reserves of any form of energy resources used as fuel shall report to the department, at the request of and in a manner prescribed by the department, on forms provided by the department. Such forms shall be designed in such a manner as to indicate:

(1) The identity of the person or persons making the report.

(2) The quantity of energy resources extracted, produced, imported, exported, refined, transported, transmitted, converted, stored, or sold except at retail.

(3) The quantity of energy resources known to be held in reserve in the state.

(4) The identity of each refinery from which petroleum products have normally been obtained and the type and quantity of products secured from that refinery for sale or resale in this state.

(5) Any other information which the department deems proper pursuant to the intent of ss. 377.601-377.608.

**History.**—s. 4, ch. 74-186; s. 2, ch. 78-25; s. 7, ch. 91-113; s. 50, ch. 2008-227; s. 508, ch. 2011-142.

**377.605 Use of existing information.—**The department may utilize to the fullest extent possible any existing energy information already prepared for state or federal agencies. Every state, county, and municipal agency shall cooperate with the department and shall submit any information on energy to the department upon request.

**History.**—s. 5, ch. 74-186; s. 2, ch. 78-25; s. 8, ch. 91-113; s. 51, ch. 2008-227; s. 509, ch. 2011-142.

**377.606 Records of the department; limits of confidentiality.—**The information or records of individual persons, as defined in this section, obtained by the department as a result of a report, investigation, or verification required by the department shall be open to the public, except such information the disclosure of which would be likely to cause substantial harm to the competitive position of the person providing such information and which is requested to be held confidential by the person providing such information. Such proprietary information is confidential and exempt from the provisions of s. 119.07(1). Information reported by entities other than the department in documents or reports open to public inspection shall under no circumstances be classified as confidential by the department. Divulgence of proprietary information as is requested to be held confidential, except upon order of a court of competent jurisdiction or except to an officer of the state entitled to receive the same in his or her official capacity, shall be a misdemeanor of

the second degree, punishable as provided in ss. 775.082 and 775.083. This section does not prohibit the publication or divulgence by other means of data so classified as to prevent identification of particular accounts or reports made to the department in compliance with s. 377.603 or to prohibit the disclosure of such information to properly qualified legislative committees. The department shall establish a system which permits reasonable access to information developed.

**History.**—ss. 6, 7, ch. 74-186; s. 1, ch. 77-174; s. 2, ch. 78-25; s. 10, ch. 89-117; s. 112, ch. 90-360; s. 9, ch. 91-113; s. 632, ch. 95-148; s. 179, ch. 96-406; s. 52, ch. 2008-227; s. 510, ch. 2011-142.

**377.607 Violations; penalties.**— Any person who willfully fails to submit information as required by ss. 377.601-377.608, or submits false information, is guilty of a misdemeanor of the first degree, punishable as provided in ss. 775.082 and 775.083.

**History.**—s. 9, ch. 74-186; s. 2, ch. 78-25; s. 52, ch. 91-221.

**377.608 Prosecution of cases by state attorney.**— The state attorney shall prosecute all cases certified to him or her for prosecution by the department immediately upon receipt of the evidence transmitted by the department, or as soon thereafter as practicable.

**History.**—s. 8, ch. 74-186; s. 122, ch. 77-104; s. 2, ch. 78-25; s. 125, ch. 79-190; s. 30, ch. 81-169; s. 10, ch. 91-113; s. 633, ch. 95-148; s. 53, ch. 2008-227; s. 511, ch. 2011-142.

**377.701 Petroleum allocation.**—

(1) The Division of Emergency Management shall assume the state's role in petroleum allocation and conservation, including the development of a fair and equitable petroleum plan. The Division of Emergency Management shall constitute the responsible state agency for performing the functions of any federal program delegated to the state, which relates to petroleum supply, demand, and allocation.

(2) The Division of Emergency Management shall, in addition to assuming the duties and responsibilities provided by subsection (1), perform the following:

(a) In projecting available supplies of petroleum, coordinate with the Department of Revenue to secure information necessary to assure the sufficiency and accuracy of data submitted by persons affected by any federal fuel allocation program.

(b) Require such periodic reports from public and private sources as may be necessary to the fulfillment of its responsibilities under this act. Such reports may include: petroleum use; all sales, including end-user sales, except retail gasoline and retail fuel oil sales; inventories; expected supplies and allocations; and petroleum conservation measures.

(c) In cooperation with the Department of Revenue and other relevant state agencies, provide for long-range studies regarding the usage of petroleum in the state in order to:

1. Comprehend the consumption of petroleum resources.
2. Predict future petroleum demands in relation to available resources.
3. Report the results of such studies to the Legislature.

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

(4) A state employee may not divulge or make known in any manner any proprietary information acquired under this act if the disclosure of such information would be likely to cause substantial harm to the competitive position of the person providing such information and if the person requests that such information be held confidential, except in accordance with a court order or in the publication of statistical information compiled by methods which do not disclose the identity of individual suppliers or companies. Such proprietary information is confidential and exempt from the provisions of s. 119.07(1). Nothing in this subsection shall be construed to prevent inspection of reports by the Attorney General, members of the Legislature, and interested state agencies; however, such agencies and their employees and members are bound by the requirements set forth in this subsection.

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

775.082 and 775.083.

**History.**—ss. 1, 2, ch. 74-189; s. 2, ch. 75-256; s. 126, ch. 79-190; s. 31, ch. 81-169; s. 11, ch. 89-117; s. 113, ch. 90-360; s. 11, ch. 91-113; s. 180, ch. 96-406; s. 14, ch. 2004-243; s. 54, ch. 2008-227; s. 512, ch. 2011-142.

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

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

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

(a) The Division of Emergency Management is responsible for the development of an energy emergency contingency plan to respond to serious shortages of primary and secondary energy sources. Upon a finding by the Governor, implementation of any emergency program shall be upon order of the Governor that a particular kind or type of fuel is, or that the occurrence of an event which is reasonably expected within 30 days will make the fuel, in short supply. The Division of Emergency Management shall then respond by instituting the appropriate measures of the contingency plan to meet the given emergency or energy shortage. The Governor may utilize the provisions of s. 252.36(5) to carry out any emergency actions required by a serious shortage of energy sources.

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

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

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

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

1. An analysis of the relationship of state economic growth and development to energy supply and demand, including the constraints to economic growth resulting from energy supply constraints.

2. Plans for the development of renewable energy resources and reduction in dependence on depletable energy resources, particularly oil and natural gas, and an analysis of the extent to which renewable energy sources are being utilized in the state.

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

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

(f) The department shall submit an annual report to the Governor and the Legislature reflecting its activities and making recommendations for policies for improvement of the state's response to energy supply and demand and its effect on the health, safety, and welfare of the residents of this state. The report must include a report from the Florida Public Service Commission on electricity and natural gas and information on energy conservation programs conducted and underway in the past year and include recommendations for energy efficiency and conservation programs for the state, including:

1. Formulation of specific recommendations for improvement in the efficiency of energy utilization in governmental, residential, commercial, industrial, and transportation sectors.
2. Collection and dissemination of information relating to energy efficiency and conservation.
3. Development and conduct of educational and training programs relating to energy efficiency and conservation.
4. An analysis of the ways in which state agencies are seeking to implement s. 377.601(2), the state energy policy, and recommendations for better fulfilling this policy.

(g) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this act.

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

1. Establishing goals and strategies for increasing the use of renewable energy in this state.
2. Aiding and promoting the commercialization of renewable energy resources, in cooperation with the Florida Energy Systems Consortium, the Florida Solar Energy Center, Enterprise Florida, Inc., and any other federal, state, or local governmental agency that may seek to promote research, development, and the demonstration of renewable energy equipment and technology.
3. Identifying barriers to greater use of renewable energy resources in this state, and developing specific recommendations for overcoming identified barriers, with findings and recommendations to be submitted annually in the report to the Governor and Legislature required under paragraph (f).
4. In cooperation with the Department of Environmental Protection, the Department of Transportation, the Department of Economic Opportunity, Enterprise Florida, Inc., the Florida Energy Systems Consortium, the Florida Solar Energy Center, and the Florida Solar Energy Industries Association, investigating opportunities, pursuant to the national Energy Policy Act of 1992, the Housing and Community Development Act of 1992, and any subsequent federal legislation, for renewable energy resources, electric vehicles, and other renewable energy manufacturing, distribution, installation, and financing efforts that enhance this state's position as the leader in renewable energy research, development, and use.
5. Undertaking other initiatives to advance the development and use of renewable energy resources in this state.

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

(i) The department shall promote energy efficiency and conservation in all energy use sectors throughout the state and be the state agency primarily responsible for this function. The Department of Management Services, in consultation with the department, shall coordinate the energy conservation programs of all state agencies and review and comment on the energy conservation programs of all state agencies.

(j) The department shall serve as the state clearinghouse for indexing and gathering all information related to energy programs in state universities, in private universities, in federal, state, and local government agencies, and in private industry and shall prepare and distribute such information in any manner necessary to inform and advise the citizens of the state of such programs and activities. This shall include developing and maintaining a current index and profile of all research activities, which shall be identified by energy area and may include a summary of the project, the amount and sources of funding, anticipated completion dates, or, in case of completed research, conclusions, recommendations, and applicability to state government and private sector functions. The department shall coordinate, promote, and respond to efforts by all sectors of the economy to seek financial support for energy activities. The department shall provide information to consumers regarding the anticipated energy-use and energy-saving characteristics of products and services in coordination with any federal, state, or local governmental agencies as may provide such information to consumers.

(k) The department shall coordinate energy-related programs of state government, including, but not limited to, the programs provided in this section. To this end, the department shall:

1. Provide assistance to other state agencies, counties, municipalities, and regional planning agencies to further and promote their energy planning activities.

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

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

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

(l) The department shall develop, coordinate, and promote a comprehensive research plan for state programs. Such plan shall be consistent with state energy policy and shall be updated on a biennial basis.

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

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

1. For the renewable energy technologies investment tax credit authorized in s. 220.192:
  - a. The name of each taxpayer receiving an allocation under this section;
  - b. The amount of the credits allocated for that fiscal year for each taxpayer; and
  - c. The type of technology and a description of each investment for which each taxpayer receives an allocation.
2. For the renewable energy production credit authorized in s. 220.193:
  - a. The name of each taxpayer receiving an allocation under this section;
  - b. The amount of credits allocated for that fiscal year for each taxpayer;
  - c. The type and amount of renewable energy produced and sold, whether the facility producing that energy is a new or expanded facility, and the approximate date on which production began; and
  - d. The aggregate amount of credits allocated for all taxpayers claiming credits under this section for the fiscal year.

(3) The Department of Environmental Protection is responsible for the administration of the Coastal Energy Impact Program provided for and described in Pub. L. No. 94-370, 16 U.S.C. s. 1456a.

**History.**—s. 3, ch. 75-256; s. 1, ch. 77-174; s. 1, ch. 78-25; s. 127, ch. 79-190; s. 1, ch. 80-167; s. 33, ch. 81-167; s. 32, ch. 81-169; s. 33, ch. 83-55; s. 12, ch. 91-113; s. 299, ch. 92-279; s. 55, ch. 92-326; s. 1, ch. 93-249; s. 24, ch. 94-321; s. 314, ch. 94-356; s. 39, ch. 95-196; s. 7, ch. 95-328; s. 89, ch. 98-200; s. 183, ch. 99-13; s. 13, ch. 2001-62; s. 15, ch. 2004-243; s. 3, ch. 2006-100; s. 55, ch. 2008-227; s. 513, ch. 2011-142; s. 58, ch. 2012-96; s. 12, ch. 2012-117; s. 4, ch. 2014-154; s. 13, ch. 2017-4.

**377.704 Appropriation of funds from settlement of petroleum overcharge litigation.**— There are and will be funds available to this state due to settlements of litigation brought by the United States Department of Energy against oil companies and refineries. It is the intent of the Legislature that funds received as a result of federal statute or administrative or regulatory actions requiring the disbursement to states of refund moneys for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls on such crude oil and refined petroleum products were in effect, whether by themselves or in conjunction with other moneys

appropriated by the Legislature, may not be expended unless appropriated in the General Appropriations Act or other subsequent specific appropriation by law.

**History.**—s. 1, ch. 84-104.

**377.705 Solar Energy Center; development of solar energy standards.—**

- (1) **SHORT TITLE.**—This act shall be known and may be cited as the Solar Energy Standards Act of 1976.
- (2) **LEGISLATIVE INTENT.**—The Legislature intends to ensure that solar energy systems manufactured or sold within the state are effective and represent a high level of quality of materials, workmanship, and design.
- (3) **DEFINITIONS.**—As used in this section, the term:
  - (a) “Center” means the Florida Solar Energy Center of the Board of Governors.
  - (b) “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.
- (4) **FLORIDA SOLAR ENERGY CENTER TO SET STANDARDS, REQUIRE DISCLOSURE, SET TESTING FEES.—**
  - (a) The center shall develop and adopt standards for solar energy systems manufactured or sold in this state based on the best currently available information and shall consult with scientists, engineers, or persons in research centers who are engaged in the construction of, experimentation with, and research of solar energy systems to properly identify the most reliable designs and types of solar energy systems.
  - (b) The center shall establish criteria for testing performance of solar energy systems and shall maintain the necessary capability for testing or evaluating performance of solar energy systems. The center may accept results of tests on solar energy systems made by other organizations, companies, or persons if such tests are conducted according to the criteria established by the center and if the testing entity does not have a vested interest in the manufacture, distribution, or sale of solar energy systems.
  - (c) The center shall be entitled to receive a testing fee sufficient to cover the costs of such testing. All testing fees shall be transmitted by the center to the Chief Financial Officer to be deposited in the Solar Energy Center Testing Trust Fund, which is created in the State Treasury, and disbursed for the payment of expenses incurred in testing solar energy systems.
  - (d) All solar energy systems manufactured or sold in the state must meet the standards established by the center and shall display accepted results of approved performance tests in a manner prescribed by the center, unless otherwise certified by an engineer licensed pursuant to chapter 471 using the standards contained in the most recent version of the Florida Building Code.

**History.**—ss. 1, 2, 3, 4, ch. 76-246; s. 1, ch. 78-309; s. 400, ch. 2003-261; s. 45, ch. 2007-217; s. 56, ch. 2008-227; s. 1, ch. 2017-149.

**377.709 Funding by electric utilities of local governmental solid waste facilities that generate electricity.—**

- (1) **LEGISLATIVE INTENT.**—The Legislature declares that it is critical to encourage energy conservation in order to protect the health, prosperity, and general welfare of this state and its citizens. The Legislature also declares that the disposal of solid refuse is an important governmental obligation and that, if the disposal is not accomplished in a proper manner, such refuse poses a definite threat to the public health and welfare. The Legislature further declares that the combustion of refuse by solid waste facilities to supplement the electricity supply not only represents an effective conservation effort but also represents an environmentally preferred alternative to conventional solid waste disposal in this state. Therefore, the Legislature directs the Florida Public Service Commission to establish a funding program to encourage the development by local governments of solid waste facilities that use solid waste as a primary source of fuel for the production of electricity.
- (2) **DEFINITIONS.**—As used in this section, the term:
  - (a) “Commission” means the Florida Public Service Commission.
  - (b) “Cost-effective” means that the cost of electrical capacity and energy produced by a solid waste facility financed and constructed pursuant to this section and delivered to an electric utility is no greater than the cost to that

utility of producing an equivalent amount of capacity and energy had the alternative facility not been constructed and operated.

(c) “Electric utility” means any electric utility over which the commission has ratesetting authority.

(d) “Electrical component” means the turbine, generator, and associated transmission facilities of a solid waste facility.

(e) “Local government” means any municipality, county, consolidated government, or special district, authority, or commission, or any combination thereof.

(f) “Solid waste facility” means a facility owned or operated by, or on behalf of, a local government for the purpose of disposing of solid waste, as defined in s. 403.703, by any process that produces heat and incorporates, as a part of the facility, the means of converting heat to electrical energy in amounts greater than actually required for the operation of the facility.

(3) ADVANCE FUNDING PROGRAM.—

(a) Upon the petition of a local government, the commission shall have the authority, subject to the provisions of this section, to require an electric utility to enter into a contract with the local government to provide advanced funding to such government for the construction of the electrical component of a solid waste facility.

(b) A contract may not be entered into without the prior approval of the contract by the commission. The commission may approve or disapprove a contract, or it may modify a contract with the concurrence of the parties to the contract. When reviewing a contract, the commission shall consider those items it deems appropriate, including, but not limited to, the cost-effectiveness of the unit and the financial ability of the electric utility to provide the funding. If an electric utility and a local government cannot agree to the terms of a contract, or if it is shown that an electric utility has refused to negotiate a contract with a local government, the commission may prescribe the terms of the contract subject to the provisions of this section. The commission, however, shall not approve a contract which is violative of any of the following provisions:

1. If the commission determines that advanced-capacity payments to the local government during the period of construction are appropriate, such payments must be the lesser of:

a. The net present value of avoided-capacity cost for the electric utility calculated over the period of time during which the local government contracts to provide electrical capacity to the utility. The avoided-capacity cost is that cost established by the commission pursuant to s. 366.05(9) and in effect by commission rule at the time the order approving the contract is issued; or

b. An amount which is not more than the amount of the design costs of the electrical component of the solid waste facility as determined by the commission to be reasonable and prudent at the time of its order, or such portion thereof that is proportionate to the electrical capacity made available by contract to the electric utility.

2. If the commission determines that energy payments to the local government are appropriate, such payments may not be greater than the lesser of:

a. The hourly incremental energy rates of the electric utility as provided for in its approved tariffs over the period of the contract; or

b. The energy costs associated with the avoided-capacity costs of the electric utility as determined by the commission.

3. The electric utility must currently be providing electrical energy at retail within the geographic area of the local government or within the geographic area of one or more of the participating local governments.

4. The amount of financing, including all carrying costs, plus reasonable and prudent administrative costs incurred by the electric utility, must be recovered from the ratepayers of the electric utility pursuant to the provisions of the Florida Energy Efficiency and Conservation Act. An electric utility may not be required to pay to the local government any funding in excess of that collected from its ratepayers.

5. Funding of the electrical component of the solid waste facility must be cost-effective to the ratepayer and must not cause or contribute to the uneconomic duplication of electric facilities.

(4) ADVANCED-CAPACITY PAYMENTS AND REFUNDS.—The amounts required of an electric utility as advanced-capacity payments shall be paid to the local government unit during the construction of the project as established by the contract and approved by the order. Such payments are subject to being refunded in full or

proportionately to the electric utility if the electrical component of the solid waste facility fails, for any reason, to operate at a 70-percent-capacity factor based on a 12-month rolling average. Any refund shall be calculated and paid annually. If during the life of the contract a solid waste facility is abandoned, closed down, or rendered illegal by applicable law, ordinance, or regulation, the full amount of any unrefunded advanced-capacity payments is subject to being refunded to the electric utility. Any refund by a local government of advanced-capacity payments to an electric utility shall be refunded by the electric utility to its customers as a credit shown on the customers' bills as soon as is practicable after the receipt of the refunded portions. The obligation to make a refund is binding on the local government and its successors in interest. In the case of a combination of local governments, if such combination is dissolved or otherwise ceases to function, the refund is a legal and binding obligation of the individual local governments which participated in the formation of the combination, in proportion to their interests.

(5) **ELECTRIC ENERGY PRICING PROGRAM.**—

(a) The commission shall establish rules relating to the purchase of capacity or energy by electric utilities as defined in this section from solid waste management facilities. In setting these rates solid waste management facilities may be exempted from any risk-related consideration which the commission may use in determining the avoided-capacity cost applicable to other cogenerators, small power producers, or solid waste facilities that are not operated by, or on behalf of, a local government. Such exemptions are intended to foster the development of solid waste management facilities that generate electricity and provide incentives for the development of environmentally sound methods of disposing of solid wastes without imposing undue risk or cost to electric consumers in this state. The commission shall authorize levelized payments for purchase of capacity or energy from a local government solid waste management facility. Payments provided pursuant to this subsection are subject to the terms and conditions set out in subsection (4) for advanced-capacity payments, and such payments are recoverable from ratepayers of the electric utility as provided in subparagraph (3)(b)4.

(b) It is the intent of the Legislature to encourage parties to review contracts in effect as of October 1, 1988, to incorporate the applicable provisions of this section, subject to approval of the commission.

(6) **EXEMPTIONS.**—A new solid waste facility, as defined in this section, not greater than 75MW, or a solid waste facility expansion of not greater than 50MW, shall be exempt from the need determination process outlined in s. 403.519.

(7) **RULES.**—The commission shall adopt all rules necessary to implement this section.

**History.**—s. 1, ch. 84-198; s. 54, ch. 88-130; s. 20, ch. 94-321; s. 22, ch. 97-100; s. 72, ch. 2010-5; s. 6, ch. 2017-167.

**377.71 Definitions; Southern States Energy Compact.**—As used in this act, unless the context requires otherwise:

(1) "Compact" means the Southern States Energy Compact;

(2) "Board" means the Southern States Energy Board.

**History.**—s. 1, ch. 61-227; s. 2, ch. 79-348.

**Note.**—Former s. 290.30.

**377.711 Florida party to Southern States Energy Compact.**—The Southern States Energy Compact is enacted into law and entered into by the state as a party, and is of full force and effect between the state and any other states joining therein in accordance with the terms of the compact, which compact is substantially as follows:

(1) **POLICY AND PURPOSE.**—The party states recognize that the proper employment and conservation of energy and employment of energy-related facilities, materials, and products, within the context of a responsible regard for the environment, can assist substantially in the industrialization of the South and the development of a balanced economy for the region. They also recognize that optimum benefit from an acquisition of energy resources and facilities requires systematic encouragement, guidance, and assistance from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis; it is the purpose of this compact to provide the instruments and framework for such a cooperative effort to improve the economy of the South and contribute to the individual and community well-being of the people of this region.

(2) **BOARD.**—

(a) There is hereby created an agency of the party states to be known as the Southern States Energy Board (hereinafter called the board). The board shall be composed of three members from each party state, one of whom shall be appointed or designated in each state to represent the governor, the state senate, and the state house of representatives, respectively. Each member shall be designated or appointed in accordance with the law of the state which he or she represents and shall serve and be subject to removal in accordance with such law. Any member of the board may provide for the discharge of the member's duties and the performance of his or her functions thereon (either for the duration of his or her membership or for any less period of time) by a deputy or assistant, if the laws of the member's state make specific provision therefor. The Federal Government may be represented without vote if provision is made by federal law for such representation.

(b) Each party state shall be entitled to one vote on the board, to be determined by majority vote of each member or member's representative from the party state present and voting on any question. No action of the board shall be binding unless taken at a meeting at which a majority of all party states are represented and unless a majority of the total number of votes are cast in favor thereof.

(c) The board shall have a seal.

(d) The board shall elect annually, from among its members, a chair, a vice chair, and a treasurer. The board shall appoint an executive director who shall serve at its pleasure and who shall also act as secretary, and who, together with the treasurer, shall be bonded in such amounts as the board may require.

(e) The executive director, with approval of the board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the board's functions irrespective of the civil service, personnel, or other merit system laws of any of the party states.

(f) The board may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the board shall be eligible for social security coverage in respect of old age and survivors' insurance, provided that the board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm, or corporation.

(h) The board may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same.

(i) The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold, and convey real and personal property and any interest therein.

(j) The board shall adopt bylaws, rules, and regulations for the conduct of its business and shall have the power to amend and rescind these bylaws, rules, and regulations. The board shall publish its bylaws, rules, and regulations in convenient form and shall also file a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(k) The board annually shall make to the governor of each party state a report covering the activities of the board for the preceding year and embodying such recommendations as may have been adopted by the board, which report shall be transmitted to the legislature of said state. The board may issue such additional reports as it may deem desirable.

(3) FINANCES.—

(a) The board shall submit to the executive head or designated officer or officers of each state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. One-half of the total amount of each budget of estimated expenditures shall be apportioned among the party states in equal shares; one-quarter of each such budget shall be

apportioned among the party states in accordance with the ratio of their populations to the total population of the entire group of party states based on the latest official decennial census; and one-quarter of each such budget shall be apportioned among the party states on the basis of the relative average per capita income of the inhabitants in each of the party states based on the latest computations published by the federal census-taking agency. Subject to appropriation by their respective legislatures, the board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the board.

(c) The board may meet any of its obligations in whole or in part with funds available to it under paragraph (2)(h), provided that the board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under paragraph (2)(h), the board shall not incur any obligation prior to the allotment of funds by the party jurisdiction adequate to meet the same.

(d) The board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the board shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual report of the board.

(e) The accounts of the board shall be open at any reasonable time for inspection.

(4) **ADVISORY COMMITTEES.**—The board may establish such advisory and technical committees as it may deem necessary, membership on which will include, but not be limited to, private citizens; expert and lay personnel; representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, and voluntary health agencies; and officials of local, state, and federal government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

(5) **POWERS.**—The board shall have the power to:

(a) Ascertain and analyze on a continuing basis the position of the South with respect to energy, energy-related industries, and environmental concerns.

(b) Encourage the development, conservation, and responsible use of energy and energy-related facilities, installations, and products as part of a balanced economy and a healthy environment.

(c) Collect, correlate, and disseminate information relating to civilian uses of energy and energy-related materials and products.

(d) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

1. Energy, environment, and application of energy, environmental, and related concerns to industry, medicine, or education or the promotion or regulation thereof.

2. The formulation or administration of measures designed to promote safety in any matter related to the development, use, or disposal of energy and energy-related materials, products, installations, or wastes.

(e) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations of energy product, material, or equipment use and disposal and of proper techniques or processes for the application of energy resources to the civilian economy or general welfare.

(f) Undertake such nonregulatory functions with respect to sources of radiation as may promote the economic development and general welfare of the region.

(g) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to energy and environmental fields.

<sup>1</sup>(h) Recommend such changes in, or amendments or additions to, the laws, codes, rules, regulations, administrative procedures and practices, or ordinances of the party states in any of the fields of its interest and competence as in its judgment may be appropriate. Any such recommendation shall be made, in the case of Florida, through the Department of Agriculture and Consumer Services.

(i) Prepare, publish, and distribute (with or without charge) such reports, bulletins, newsletters, or other material as it deems appropriate.

(j) Cooperate with the United States Department of Energy or any agency successor thereto, any other officer or agency of the United States, any other governmental unit or agency or officer thereof, and any private persons or agencies in any of the fields of its interest.

(k) Act as licensee of the United States Government or any party state with respect to the conduct of any research activity requiring such license and operate such research facility or undertake any program pursuant thereto.

(l) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of energy and environmental incidents in the area comprising the party states, coordinate the nuclear, environmental, and other energy-related incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states, and facilitate the rendering of aid by the party states to each other in coping with energy and environmental incidents. The board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with energy and environmental incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic areas covered by this compact.

(6) SUPPLEMENTARY AGREEMENTS. —

(a) To the extent that the board has not undertaken an activity or project which would be within its power under the provisions of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes, its duration and the procedure for termination thereof or withdrawal therefrom, the method of financing and allocating the costs of the activity or project, and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this subsection shall become effective prior to its submission to and approval by the board. The board shall give such approval unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the board.

(b) Unless all of the party states participate in a supplementary agreement, any costs thereof shall be borne separately by the states party thereto. However, the board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this subsection shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(7) OTHER LAWS AND REGULATIONS. — Nothing in this compact shall be construed to:

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order, or ordinance of a party state or subdivision thereof now or hereafter made, enacted, or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the United States Department of Energy or any agency successor thereto or any other federal department, agency, or officer pursuant to and in conformity with any valid and operative Act of Congress.

(c) Alter the relations between the respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the board to exercise any regulatory authority or to own or operate any nuclear reactor for the generation of electric energy; nor shall the board own or operate any facility or installation for industrial or commercial purposes.

(8) ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL. —

(a) Any or all of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, the Commonwealth of Puerto Rico, and the United States Virgin Islands shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law, except that it shall not become initially effective until enacted into law by seven states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until the governor of the withdrawing state shall have sent formal notice in writing

to the governor of each other party state informing said governors of the action of the legislature in repealing the compact and declaring an intention to withdraw.

(9) SEVERABILITY AND CONSTRUCTION.—The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable, and if any phrase, clause, sentence, or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

**History.**—s. 2, ch. 61-227; ss. 17, 35, ch. 69-106; s. 1, ch. 79-348; s. 634, ch. 95-148; s. 514, ch. 2011-142; s. 19, ch. 2011-213.

<sup>1</sup>**Note.**—As amended by s. 514, ch. 2011-142. For a description of multiple acts in the same session affecting a statutory provision, *see* preface to the *Florida Statutes*, “Statutory Construction.” Paragraph (5)(h) was also amended by s. 19, ch. 2011-213, and that version reads:

(h) Recommend such changes in, or amendments or additions to, the laws, codes, rules, regulations, administrative procedures and practices, or ordinances of the party states in any of the fields of its interest and competence as in its judgment may be appropriate. Any such recommendation shall be made through the appropriate state agency with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances that may justify variations to meet local conditions.

**Note.**—Former s. 290.31.

### **377.712 Florida participation.—**

(1)(a) The Governor shall appoint one member of the Southern States Energy Board. The member or the Governor may designate another person as the deputy or assistant to such member.

(b) The Commissioner of Agriculture may appoint one member of the Southern States Energy Board. The member or the commissioner may designate another person as the assistant or deputy to such member.

(c) The President of the Senate shall appoint one member of the Southern States Energy Board. The member or the president may designate another person as the assistant or deputy to such member.

(d) The Speaker of the House of Representatives shall appoint one member of the Southern States Energy Board. The member or the speaker may designate another person as the assistant or deputy to such member.

(2) Any supplementary agreement entered into under s. 377.711(6) requiring the expenditure of funds may not become effective as to Florida until the required funds are appropriated by the Legislature.

(3) Departments, agencies, and officers of this state, and its subdivisions are authorized to cooperate with the board in the furtherance of its activities pursuant to the compact, provided such proposed activities have been made known to, and have the approval of, the Governor or the member appointed by the Governor.

**History.**—s. 3, ch. 61-227; s. 5, ch. 63-474; s. 22, ch. 65-420; ss. 17, 35, ch. 69-106; s. 2, ch. 78-373; s. 3, ch. 79-348; s. 65, ch. 95-143; s. 635, ch. 95-148; s. 70, ch. 99-8; s. 20, ch. 2011-213; s. 5, ch. 2014-154.

**Note.**—Former s. 290.32.

## **PART III**

### **RENEWABLE ENERGY AND GREEN GOVERNMENT PROGRAMS**

377.801 Short title.

377.802 Purpose.

377.803 Definitions.

377.804 Renewable Energy and Energy-Efficient Technologies Grants Program.

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