INTRODUCTION

In answer to its statutory charge, the FEC in December submitted 85 recommendations to the Legislature. Those recommendations were developed through an intensive public involvement process. Presentations were made to legislative committees in both houses to explain the FEC's recommendations and its process. Senator Saunders sponsored the Senate's comprehensive energy package (SB 1544) with Representative Mayfield sponsoring the House's energy initiative (HB 7135). Both bills went through an extensive amendatory process in their respective committees of reference. Many of the FEC's recommendations were in both bills though some not necessarily in the exact form recommended. At one point in the process, the Senate President publicly announced that an agreement had been reached to take the House bill on this issue.

Two days before the end of Session, the upper chamber substituted the House bill for the Senate bill and favorably voted out the House version. The bill will now be signed by the legislative officers and sent to the Governor. That process could take a few days or a few weeks. The effective date of the bill is July 1, 2008.

Below is a summary of the major provisions of the bill.

GOVERNANCE

The FEC is repealed and replaced by the Florida Energy and Climate Commission (FECC). The new commission is comprised of nine members, 7 appointed by the Governor and one each appointed by the Commissioner of Agriculture and the Chief Financial Officer. The PSC Nominating Council is to recommend 3 persons for each seat from which the appointing authority will select his or her appointees. Members are to serve 3 year terms with the Governor selecting the chair of the commission from the nine members appointed. Each appointment is subject to Senate confirmation. A variety of state agency representatives may participate in commission activities as ex-officio, non-voting members.

Major responsibilities of the commission include:

- Administering the Florida Renewable Energy and Energy Efficient Technologies Grant Program (s. 377.804),
- Developing a policy for providing royalty sharing or licensing agreements for commercialized products developed under a state grant,
- Administering the Florida Green Government Grants Act (s. 377.808)
- Representing Florida in the Southern States Energy Compact (s. 377.71),
- Administering the Florida Energy and Climate Protection Act (s. 377.801),
- Advocating for energy and climate change issues,
- Providing education outreach and technical assistance in cooperation with the state's academic institutions, and
- Assessing annually the efficiency of Florida's Energy and Climate Change Action Plan and providing specific recommendations to the Governor and the Legislature each year to improve the results.

All of the records, property, unexpended appropriations and personnel of the FEC are transferred to the Executive Office of the Governor. The Governor's Office is also authorized to establish four full-time equivalent positions, presumably for the current staff of the FEC, to staff the new commission. (Sec. 45 & 46)

ACADEMIC CONSORTIUM

The Florida Energy Systems Consortium is created to promote collaboration among experts in the State University System for the purpose of sharing energy related expertise and assisting in the development of a strategic energy plan for the state. Through collaborative research and development across the university system and the industry, the goal of the consortium is to become a world leader in energy research, education, technology, and energy systems analysis.

The consortium consists of all the state universities and is to be administered by a director, located at the University of Florida and appointed by the President of the University of Florida. The director reports to the Florida Energy and Climate Commission. The oversight board, comprised of the Vice President for Research of the universities or other appropriate representatives, is responsible for the technical performance and financial management of the consortium.

The consortium's responsibilities include:

- Coordinating increased collaborative research among the universities and the energy industry,
- Assisting in the development of a Florida based energy technology industry that will expedite commercialization of innovative energy technologies,
- Providing a state resource for objective energy systems analysis,
- Developing education and outreach programs to prepare a qualified energy workforce and informed public, and
- Soliciting and leveraging funds for the purpose of conducting education, research and development in the area of sustainable energy.

The consortium's steering committee is responsible for establishing and ensuring the success of the consortium's mission based on its statutory responsibilities described above. The steering committee's membership is established by statute and includes the Florida Energy and Climate Commission.

By November 1 of each year, the consortium is to submit an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Florida Energy and Climate Commission regarding its activities, including the development of alternative energy technologies. (Sec. 112)

FLORIDA CLIMATE PROTECTION ACT

A major component of this legislation is the attempt to reduce the amount of greenhouse gas emissions in the state. This follows on the heels of the Governor's Executive Order 07-127 which directed the DEP to develop rules which ultimately will reduce, by 2050, the GHG emissions to a level not to exceed 20% of the emissions for the year 1990.

The Florida Climate Protection Act requires all electric utilities (major emitters) to use the Climate Registry for registering and reporting their emissions. The DEP is to consult with the PSC, the Florida Energy and Climate Commission, and the State Action Team in developing rules for a cap and trade regulatory program to reduce greenhouse gas emissions. The DEP can not adopt such rules until after January 1, 2010 and the rules will not become effective until ratified by the Legislature.

A lengthy, non-exclusive list of what the cap and trade regulatory program is to include is provided in the legislation. Integral to the program is a statewide limit, or cap, on emissions, methods for allocating the cap among the emitters, a process for issuing emissions allowances, and a cost containment mechanism.

In evaluating proposed features of a cap and trade system, a comprehensive list of factors to be considered is identified. Several of the more significant factors include; the overall cost effectiveness, minimizing the administrative burden, the impact on electricity prices, the benefits to the state's economy, and the conditions under which Florida's program should be linked with the programs of other states and countries. (Sec. 65)

RECYCLING

By the year 2020, the long term goal for the recycling efforts of the state and local governmental entities, private companies and organizations, and the general public is to reduce the amount of recyclable solid waste disposed of in waste management facilities, landfills, or incineration facilities by a statewide average of at least 75%. DEP is required by January 1, 2010, to develop a comprehensive recycling program designed to meet this percentage and submit the program to the Legislature. The program may not be implemented until it is approved by the Legislature. The program is to be developed with public input. A non-exclusive list of program components is statutorily provided. (Sec. 95)

RENEWABLE PORTFOLIO STANDARDS

The bill directs the PSC to adopt a rule for a renewable portfolio standard (RPS) requiring each provider, which includes an investor-owned utility, but not a municipal electric utility or a rural electric cooperative, to supply renewable energy to its customers, either directly by procuring, or indirectly by providing for the purchase of Renewable Energy Credits (RECs). In developing the rule, the PSC is to consult with the DEP and the Florida Energy and Climate Commission and must evaluate the current and forecasted levelized cost in cents per kilowatt hour and current and forecasted installed capacity in kilowatts for each renewable energy generation method through 2020. The rule must provide for the following:

- Methods of managing the cost of compliance with the portfolio standard whether through direct supply, procurement of renewable power, or through the purchase of RECs.
- Appropriate compliance measures and the conditions under which noncompliance can be excused due to a determination by the commission that the supply of renewable energy or RECs was not adequate to satisfy the demand for such

energy, or that the cost of securing renewable energy or RECs was cost prohibitive.
- An appropriate period of time for which renewable energy credits may be used for purposes of compliance with the RPS.
- The monitoring of compliance with and enforcement of the requirements of this section.
- A means of ensuring that energy credited toward compliance with the provisions of the RPS not be credited toward any other purpose.
- Development of procedures to track and account for RECs, including ownership of RECs that are derived from a customer-owned renewable energy facility as a result of any action by a customer of an electric power supplier that is independent of a program sponsored by that supplier.
- 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.

The PSC is to present the draft rule for legislative consideration by February 1, 2009, and the rule may not be implemented until ratified by the Legislature. The bill requires - beginning on April 1 of the year following the final adoption of the PSC rule – each provider to submit a report to the PSC describing the steps that were taken during 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 will indicate whether the provider was in compliance with the RPS during the previous year and how it will comply with the RPS in the upcoming year. Until ratification of the rule by the Legislature, the PSC is required to provide for full cost recovery under appropriate cost recovery clauses of all reasonable and prudent costs incurred by a provider for a project to place up to a total of 110 MW in new renewable energy capacity. (Sec. 42)

RENEWABLE FUEL STANDARD ACT

The rational supporting this act is that it is vital to the state's economy to establish a market and the necessary infrastructure for renewable fuels by requiring that all gasoline fuel offered for sale in the state include a percentage of agriculturally derived denatured ethanol. To that end, beginning December 31, 2010 all gasoline sold or offered for sale in the state shall contain 9 to 10% by volume of agriculturally derived ethanol fuel. The bill provides for certain exemptions and a report is required to be submitted to the Department of Revenue by providers as to the amount of gasoline fuel sold meeting and not meeting this standard. (Sec. 103)

RENEWABLE ENERGY TAX INITIATIVES

Several provisions of this legislation address existing tax provisions relating to renewable energy. In general, these provisions are expanded or clarified so that they can be used in to increase the production and use of renewable energy. Those provisions are summarized below:

- *Property Tax Exemption.* The property tax exemption for a renewable energy device is extended until January 1, 2009. The calculation for the amount of the exemption has been limited to include the original cost of the device and the cost of installation. (Sec. 7)

- *Sales and Use Tax Exemption.* The sales tax exemption provision on equipment, machinery and other materials used for renewable energy technologies is clarified so that the eligible items are limited to one refund. A purchaser of such an item who receives a refund must notify a subsequent purchaser that the item is no longer eligible for a refund. (Section 9)
- *Investment Tax Credit.* A definition of the term "corporation" is added to the statutes to expand the types of business entities that may receive the renewable energy technologies investment tax credit. The credit may also be transferred to underlying partners, members, owners, or to any tax payer by written agreement. (Section 11)
- *Production Tax Credits.* The renewable energy technologies production tax credit is expanded so that the credit may be earned both for electricity sold and eletriclity used by the producer when the producer would have otherwise been required to purchase elertricity. (Sec. 12)

RENEWABLE STUDY

The Florida Energy and Climate Commission shall conduct a study to evaluate and recommend the life cycle greenhouse gas emissions associated with all renewable fuels. In addition, the commission is to evaluate and recommend a requirement that all renewable fuels introduced into commerce in the state, as a result of the renewable fuel standard, shall reduce the life cycle greenhouse emissions by an average percentage. The commission shall submit a report to the Legislature with specific recommendations by December 31, 2010. (Sec. 107)

FLORIDA BUILDING CODE

The bill provides that the Florida Building Commission establish a schedule to increase energy performance of buildings subject to the Florida Energy Efficiency Code for Building Construction and implement the following goals through the triennial code adoption process:

- Increase the energy performance of new buildings in the 2010 edition of the Florida Energy Efficiency Code for Building Construction by at least 20 percent;
- Increase the energy efficiency requirements of the 2013 edition of the Florida Energy Efficiency Code for Building Construction by at least 30 percent;
- Increase the energy efficiency requirements of the 2016 edition of the Florida Energy Efficiency Code for Building Construction by at least 40 percent; and
- Increase the energy efficiency requirements of the 2019 edition of the Florida Energy Efficiency Code for Building Construction by at least 50 percent.

The bill adds the most current version of the International Energy Conservation Code (IECC) to the codes to be selected when forming the foundation code of the updated Florida Building Code. The bill further provides that the IECC is required to be modified by the commission to maintain the overall efficiencies of the Florida Energy Code for Building Construction. (Sec. 108 – 109)

GREEN/SUSTAINABLE BUILDINGS

The bill provides that facilities constructed and financed by the state attain Leadership in Energy and Environmental Design (LEED) rating system, the Green Building Initiative's Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized, high performance green building rating system as approved by the Department of Management Services (DMS) for all buildings currently owned and operated by the department. The bill provides that the renovation of existing state buildings meet the LEED rating system, the Green Building Initiative's Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized, high performance green building rating system as approved by the DMS for all buildings currently owned and operated by the department.

The bill also mandates that all county, municipal, school districts, community colleges, the State University System, the State Court System, and water management district buildings be constructed to meet the LEED rating system, the Green Building Initiative's Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized, high-performance green building rating system as approved by the Department of Management Services. This provision applies to those buildings whose architectural plans are started after July 1, 2008. (Sec. 17 – 22)

CONDOMINIUM RESTRICTIONS

A condominium owner may not be denied permission to install solar collectors or other energy devices by deed restrictions, covenants or similar binding agreement within the boundaries of a condominium unit. (Sec. 3)

COMPREHENSIVE PLANNING

The bill provides that it is a policy under the State Comprehensive Plan to "encourage the development of low carbon emitting electric power plants." The bill amends the goals provided in s. 187.201(11), F.S., related to energy, to require Florida to reduce atmospheric carbon dioxide by promoting an increased use of renewable energy resources and low carbon emitting electric power plants. The bill also amends the policies, related to energy, to provide that it is a policy under the State Comprehensive Plan to promote low carbon emitting electric power plants. Finally, the bill provides that it is a policy under the State Comprehensive Plan to "provide for the siting of low carbon emitting electric power plants, including nuclear power plants, to meet the state's determined need for electric power generation." (Sec. 4 – 5)

CLIMATE FRIENDLY BUSINESS ENVIRONMENT

The Department of Management Services is to develop the "Florida Climate-Friendly Preferred Products List" which is to identify products available for purchase under state contracts that offer clear energy efficiency or environmental benefits over competing products. When purchasing products, state agencies shall first consult this list and procure products from this list if the price is comparable.

Effective July 1, 2008, state agencies shall contract for meeting and conference space only with hotels or conference facilities that have received the "Green Lodging"

designation from DEP. An exemption is provided when a state agency determines that no viable alternative exists.

When procuring or leasing new motor vehicles, such vehicles must be selected biased on the greatest fuel efficiency for a given class. Exceptions are provided for special use vehicles. Additionally, all state agencies are to use ethanol and biodiesel blend fuels when available. (Sec. 23)

ENERGY EFFICIENCY AND CONSERVATION

The bill defines the term "demand-side renewable energy system" as thermal or electric energy using Florida renewable energy resources and primarily intended offset all or part of the customer's electricity requirements (not to exceed 2 megawatts). When establishing goals pursuant to the Florida Energy Efficiency and Conservation Act, the PSC is required to evaluate the full technical potential of all available demand-side and supply-side conservation and efficiency measures. The bill provides that in developing these goals, the PSC is required to take into consideration the following:

- The costs and benefits to customers participating in the measure. (Participants test)
- The costs and benefits to the general body of ratepayers as a whole, including both utility incentives and participant contributions. (similar to a Total Resource Cost test or TRC test but including the costs of incentives)
- The need for incentives to utilities to promote energy efficiency and renewable energy systems.
- The costs imposed by state and federal regulations on the emissions of greenhouse gases.

The bill also provides that the PSC may authorize financial rewards for those utilities over which it has rate-setting authority which exceed their goals and financial penalties for those utilities which fail to meet their goals, including but not limited to the sharing of generation, transmission, and distribution cost savings associated with conservation, energy efficiency, and demand-side renewable energy system additions. The PSC is authorized to allow IOUs an additional return on equity of up to 50 basis points for exceeding 20 percent of their load growth through energy efficiency and conservation measures. (Sec. 38 – 39)

USE OF STATE LANDS

The bill provides that the authority to grant easements for rights-of-way over, across, and upon uplands, the title to which is vested in the board of trustees for the construction and operation of electric transmission and distribution facilities, may be delegated to the Secretary of the DEP where the following criteria are met:

- Easements shall not prevent the use of the state-owned uplands adjacent to the easement area for the purposes for which such lands were acquired, and shall not unreasonably diminish the ecological, conservation or recreational values of the state-owned uplands adjacent to the easement area.
- There is no practical and prudent alternative to locating the linear facility and related appurtenances on state-owned upland.

- Appropriate steps are taken to minimize the impacts to state-owned uplands.
- Except for easements granted as a part of a land exchange initiated by a governmental entity to accomplish a recreational or conservation benefit or other public purpose, in exchange for such easements, the grantee shall pay an amount equal to the market value of the interest acquired.

In addition, for the initial grant of such easements only, the grantee shall provide additional compensation by vesting in the board of trustees fee simple title to other available uplands that are 1.5 times the size of the easement acquired by the grantee. The grantor shall approve the property to be acquired on its behalf based on the geographic location in relation to the land proposed to be under easement and a determination that economic, ecological and recreational value is at least equivalent to the value of the lands under the proposed easement. Priority for replacement uplands shall be given to parcels identified as in-holdings and additions to public lands and lands on a Florida Forever land acquisition list. However, if suitable replacement uplands cannot be identified, the grantee shall provide additional compensation for the initial grant of such easements only by paying to the department an amount equal to 2 times the current market value of the state-owned land or the highest and best use value at the time of purchase, whichever is greater. When determining the use of such funds, priority shall be given to parcels identified as in-holdings and additions to public lands and lands on a Florida Forever land acquisition list. (Sec. 14)

POWERPLANT/TRANSMISSION LINE SITING

The bill implements numerous revisions to the Powerplant Siting Act (PPSA) and the Transmission Line Siting Act (TLSA). Significantly, the bill revises the definition of "cost" for purposes of cost recovery to include expenses relating to any new, enlarged, or relocated electrical transmission lines or facilities that are necessary to serve nuclear or integrated gasification combined cycle power plants. The bill creates a definition for an "alternative corridor" to mean an area that is proposed by the applicant or a third party within which all or part of an associated electrical transmission line right-of-way is to be located and that is different from the preferred transmission line corridor proposed by the applicant. The width of the alternate corridor proposed for certification for an associated electrical transmission line may be the width of the proposed right-of-way or a wider boundary not to exceed a width of one mile. The bill also specifies that the PPSA does not apply to power plants of less than 75 megawatts (MWs) in "gross" capacity, and this is including all "associated facilities," not just substations. The bill also increases the exemption from the PPSA for expansions of generation capacity for an existing exothermic reaction cogeneration electrical generating facility from 35 MW to 75 MW. The bill further provides that for nuclear power plants, an electric utility may obtain separate licenses and permits for the construction of a facility necessary to construct a power plant without first having to obtain certification. (Sec. 43, Sec. 67-85)

In terms of transmission line siting, the bill revises a number of provisions relating to public notice and application proceedings. For example, the bill clarifies that agency completeness statements are due 30 days after the application is filed, rather than after it is distributed. The bill also clarifies that the deadline for the issuance of the determination

of completeness by DEP is 37 days after the filing of the application rather than seven days after the filing of agency completeness statements. The bill stipulates that there must be a public hearing component held in conjunction with the main hearing, in addition to those that may be optionally requested by a local government. In addition, the bill corrects a problem in the ability to provide notice of a local hearing, by changing the timing of the notification request. (Sec. 86-93)

INTERCONNECTION AND NET METERING

The bill requires investor-owned utilities to develop a standardized interconnection agreement and net metering program for customer-owned renewable generation on or before January 1, 2009. It also authorizes the PSC to establish requirements and adopt rules to administer the provision. Further, the bill directs municipal electric utilities and rural electric cooperatives that sell electricity at retail to develop a standardized interconnection agreement and net metering program for customer-owned renewable generation, and directs each governing authority to establish requirements relating to such. The bill requires each municipal electric utility and rural electric cooperative that sells electricity at retail to file a report with the PSC, by April 1 of each year, detailing customer participation in the program, including the number and total capacity of interconnected generating systems and the total energy net metered in the previous year. (Sec. 41)

PUBLIC SERVICE COMMISSION OVERSIGHT

The bill amends numerous provisions relating to the oversight of the Public Service Commission. It renames the Committee on Public Service Commission Oversight as the Committee on Public Counsel Oversight. It removes the Oversight Committee's authority and responsibility to recommend applicants to the Governor for appointment to the PSC. The committee's only function would be the oversight of the Public Counsel. The bill also removes various provisions of s. 350.031, F.S., relating to the Oversight Committee within the commissioner selection process. The bill extensively revises the membership of the PSC Nominating Council. As a result, the selection process will revert back to the pre-2005 process, whereby the Nominating Council will screen applicants and make recommendations to the Governor. (Sec. 34 – 37)

MOTOR VEHICLE EMISSION STANDARDS

If the DEP proposes to adopt the California motor vehicle emission standards, such standards may not be implemented until ratified by the Legislature. (Sec. 115)

DECOUPLING

The PSC is to analyze utility revenue decoupling and provide a report to the Legislature by January 1, 2009. (Sec. 114)