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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: WD | . | |
| 04/07/2010 | . | |
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The Committee on Commerce (Crist) recommended the following:

Senate Amendment (with title amendment)

Between lines 34 and 35
insert:

Section 1. Paragraph (a) of subsection (19) of section
373.414, Florida Statutes, is amended to read:

373.414 Additional criteria for activities in surface
waters and wetlands.—

(19) (a) Financial responsibility for mitigation for
wetlands and other surface waters required by a permit issued
pursuant to this part for activities associated with the
extraction of limestone and phosphate are subject to approval by
the department as part of permit application review. Financial



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14 responsibility for permitted activities which will occur over a
15 period of 3 years or less of mining operations must be provided
16 to the department prior to the commencement of mining operations
17 and shall be in an amount equal to 110 percent of the estimated
18 mitigation costs for wetlands and other surface waters affected
19 under the permit. For permitted activities which will occur over
20 a period of more than 3 years of mining operations, the initial
21 financial responsibility demonstration shall be in an amount
22 equal to 110 percent of the estimated mitigation costs for
23 wetlands and other surface waters affected in the first 3 years
24 of operation under the permit; and, for each year thereafter,
25 the financial responsibility demonstration shall be updated,
26 including to provide an amount equal to 110 percent of the
27 estimated mitigation costs for the next year of operations under
28 the permit for which financial responsibility has not already
29 been demonstrated and to release portions of the financial
30 responsibility mechanisms in accordance with applicable rules.

31 Section 2. Subsection (2) of section 378.901, Florida
32 Statutes, is amended to read:

33 378.901 Life-of-the-mine permit.—

34 (2) As an alternative to, and in lieu of, separate
35 applications for permits required by part IV of chapter 373 and
36 part IV of this chapter, any each operator who mines, extracts,
37 or proposes to mine or extract heavy minerals, limestone, or
38 fuller's earth clay may apply to the bureau for a life-of-the-
39 mine permit. This section does not limit or restrict the
40 authority of a local government to approve, approve with
41 conditions, deny, or impose a permit duration different from the
42 duration of a permit issued pursuant to this section.



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43 Section 3. Section 403.44, Florida Statutes, is amended to
44 read:

45 403.44 Florida Climate Protection Act.—

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

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

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

56 (b) "Cap and trade" or "emissions trading" means an
57 administrative approach used to control pollution by providing a
58 limit on total allowable emissions, providing for allowances to
59 emit pollutants, and providing for the transfer of the
60 allowances among pollutant sources as a means of compliance with
61 emission limits.

62 (c) "Greenhouse gas" or "GHG" means carbon dioxide,
63 methane, nitrous oxide, and fluorinated gases such as
64 hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

65 (d) "Leakage" means the offset of emission abatement that
66 is achieved in one location subject to emission control
67 regulation by increased emissions in unregulated locations.

68 (e) "Major emitter" means an electric utility regulated
69 under this chapter.

70 ~~(3) A major emitter shall be required to use The Climate~~
71 ~~Registry for purposes of emission registration and reporting.~~



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72 ~~(4) The department shall establish the methodologies,~~
73 ~~reporting periods, and reporting systems that shall be used when~~
74 ~~major emitters report to The Climate Registry. The department~~
75 ~~may require the use of quality assured data from continuous~~
76 ~~emissions monitoring systems.~~

77 (3)~~(5)~~ The department may adopt rules for a cap-and-trade
78 regulatory program to reduce greenhouse gas emissions from major
79 emitters. When developing the rules, the department shall
80 consult with the Florida Energy and Climate Commission and the
81 Florida Public Service Commission and may consult with the
82 Governor's Action Team for Energy and Climate Change. The
83 department shall not adopt rules until after January 1, 2010.
84 The rules shall not become effective until ratified by the
85 Legislature.

86 (4)~~(6)~~ The rules of the cap-and-trade regulatory program
87 shall include, but are not limited to:

88 (a) A statewide limit or cap on the amount of greenhouse
89 gases emitted by major emitters.

90 (b) Methods, requirements, and conditions for allocating
91 the cap among major emitters.

92 (c) Methods, requirements, and conditions for emissions
93 allowances and the process for issuing emissions allowances.

94 (d) The relationship between allowances and the specific
95 amounts of greenhouse gas emissions they represent.

96 (e) The length of allowance periods and the time over which
97 entities must account for emissions and surrender allowances
98 equal to emissions.

99 (f) The timeline of allowances from the initiation of the
100 program through to 2050.



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101 (g) A process for the trade of allowances between major
102 emitters, including a registry, tracking, or accounting system
103 for such trades.

104 (h) Cost containment mechanisms to reduce price and cost
105 risks associated with the electric generation market in this
106 state. Cost containment mechanisms to be considered for
107 inclusion in the rules include, but are not limited to:

108 1. Allowing major emitters to borrow allowances from future
109 time periods to meet their greenhouse gas emission limits.

110 2. Allowing major emitters to bank greenhouse gas emission
111 reductions in the current year to be used to meet emission
112 limits in future years.

113 3. Allowing major emitters to purchase emissions offsets
114 from other entities that produce verifiable reductions in
115 unregulated greenhouse gas emissions or that produce verifiable
116 reductions in greenhouse gas emissions through voluntary
117 practices that capture and store greenhouse gases that otherwise
118 would be released into the atmosphere. In considering this cost
119 containment mechanism, the department shall identify sectors and
120 activities outside of the capped sectors, including other state,
121 federal, or international activities, and the conditions under
122 which reductions there can be credited against emissions of
123 capped entities in place of allowances issued by the department.
124 The department shall also consider potential methods and their
125 effectiveness to avoid double-incentivizing such activities.

126 4. Providing a safety valve mechanism to ensure that the
127 market prices for allowances or offsets do not surpass a
128 predetermined level compatible with the affordability of
129 electric utility rates and the well-being of the state's



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130 economy. In considering this cost containment mechanism, the
131 department shall evaluate different price levels for the safety
132 valve and methods to change the price level over time to reflect
133 changing state, federal, and international markets, regulatory
134 environments, and technological advancements.

135
136 In considering cost containment mechanisms for inclusion in the
137 rules, the department shall evaluate the anticipated overall
138 effect of each mechanism on the abatement of greenhouse gas
139 emissions and on electricity ratepayers and the benefits and
140 costs of each to the state's economy, and shall also consider
141 the interrelationships between the mechanisms under
142 consideration.

143 (i) A process to allow the department to exercise its
144 authority to discourage leakage of GHG emissions to neighboring
145 states attributable to the implementation of this program.

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

148 ~~(5)-(7)~~ In recommending and evaluating proposed features of
149 the cap-and-trade system, the following factors shall be
150 considered:

151 (a) The overall cost-effectiveness of the cap-and-trade
152 system in combination with other policies and measures in
153 meeting statewide targets.

154 (b) Minimizing the administrative burden to the state of
155 implementing, monitoring, and enforcing the program.

156 (c) Minimizing the administrative burden on entities
157 covered under the cap.

158 (d) The impacts on electricity prices for consumers.



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159 (e) The specific benefits to the state's economy for early
160 adoption of a cap-and-trade system for greenhouse gases in the
161 context of federal climate change legislation and the
162 development of new international compacts.

163 (f) The specific benefits to the state's economy associated
164 with the creation and sale of emissions offsets from economic
165 sectors outside of the emissions cap.

166 (g) The potential effects on leakage if economic activity
167 relocates out of the state.

168 (h) The effectiveness of the combination of measures in
169 meeting identified targets.

170 (i) The implications for near-term periods of long-term
171 targets specified in the overall policy.

172 (j) The overall costs and benefits of a cap-and-trade
173 system to the state economy.

174 (k) How to moderate impacts on low-income consumers that
175 result from energy price increases.

176 (l) Consistency of the program with other state and
177 possible federal efforts.

178 (m) The feasibility and cost-effectiveness of extending the
179 program scope as broadly as possible among emitting activities
180 and sinks in Florida.

181 (n) Evaluation of the conditions under which Florida should
182 consider linking its trading system to the systems of other
183 states or other countries and how that might be affected by the
184 potential inclusion in the rule of a safety valve.

185 (6)~~(8)~~ Recognizing that the international, national, and
186 neighboring state policies and the science of climate change
187 will evolve, prior to submitting the proposed rules to the



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188 Legislature for consideration, the department shall submit the
189 proposed rules to the Florida Energy and Climate Commission,
190 which shall review the proposed rules and submit a report to the
191 Governor, the President of the Senate, the Speaker of the House
192 of Representatives, and the department. The report shall
193 address:

194 (a) The overall cost-effectiveness of the proposed cap-and-
195 trade system in combination with other policies and measures in
196 meeting statewide targets.

197 (b) The administrative burden to the state of implementing,
198 monitoring, and enforcing the program.

199 (c) The administrative burden on entities covered under the
200 cap.

201 (d) The impacts on electricity prices for consumers.

202 (e) The specific benefits to the state's economy for early
203 adoption of a cap-and-trade system for greenhouse gases in the
204 context of federal climate change legislation and the
205 development of new international compacts.

206 (f) The specific benefits to the state's economy associated
207 with the creation and sale of emissions offsets from economic
208 sectors outside of the emissions cap.

209 (g) The potential effects on leakage if economic activity
210 relocates out of the state.

211 (h) The effectiveness of the combination of measures in
212 meeting identified targets.

213 (i) The economic implications for near-term periods of
214 short-term and long-term targets specified in the overall
215 policy.

216 (j) The overall costs and benefits of a cap-and-trade



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217 system to the economy of the state.

218 (k) The impacts on low-income consumers that result from
219 energy price increases.

220 (l) The consistency of the program with other state and
221 possible federal efforts.

222 (m) The evaluation of the conditions under which the state
223 should consider linking its trading system to the systems of
224 other states or other countries and how that might be affected
225 by the potential inclusion in the rule of a safety valve.

226 (n) The timing and changes in the external environment,
227 such as proposals by other states or implementation of a federal
228 program that would spur reevaluation of the Florida program.

229 (o) The conditions and options for eliminating the Florida
230 program if a federal program were to supplant it.

231 (p) The need for a regular reevaluation of the progress of
232 other emitting regions of the country and of the world, and
233 whether other regions are abating emissions in a commensurate
234 manner.

235 (q) The desirability of and possibilities of broadening the
236 scope of the state's cap-and-trade system at a later date to
237 include more emitting activities as well as sinks in Florida,
238 the conditions that would need to be met to do so, and how the
239 program would encourage these conditions to be met, including
240 developing monitoring and measuring techniques for land use
241 emissions and sinks, regulating sources upstream, and other
242 considerations.

243
244 ===== T I T L E A M E N D M E N T =====

245 And the title is amended as follows:



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246 Delete line 2
247 and insert:
248 An act relating to permitting; amending s. 373.414,
249 F.S.; providing that financial responsibility for
250 mitigation for wetlands and other surface waters
251 required by a permit for activities associated with
252 the extraction of limestone are subject to approval by
253 the Department of Environmental Protection as part of
254 permit application review; amending s. 378.901, F.S.;
255 authorizing mine operators proposing to mine or
256 extract heavy minerals, limestone, or fuller's earth
257 clay to apply for a life-of-the-mine permit;
258 clarifying the authority of local governments to
259 approve, approve with conditions, deny, or impose
260 certain permit durations; amending s. 403.44, F.S.;
261 deleting a provision requiring that a major emitter of
262 greenhouse gas use The Climate Registry for purposes
263 of emission registration and reporting; deleting a
264 requirement that the Department of Environmental
265 Protection take certain actions related to such
266 reporting requirement; amending s. 403.973,