



States' Biofuels Statutes

STATE OF FLORIDA

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#). These statutes are placed in reverse chronological order using the date of the most recent amendment to the statute. Many biofuels laws were enacted as amendments to previously passed laws.

Current through the 2013 Legislative Session of the Florida General Assembly.

288.1089. Innovation Incentive Program

(1) The Innovation Incentive Program is created within the Department of Economic Opportunity to ensure that sufficient resources are available to allow the state to respond expeditiously to extraordinary economic opportunities and to compete effectively for high-value research and development, innovation business, and alternative and renewal energy projects.

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

(a) "Alternative and renewable energy" means electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: ethanol, cellulosic ethanol, biobutanol, biodiesel, biomass, biogas, hydrogen fuel cells, ocean energy, hydrogen, solar, hydro, wind, or geothermal.

(b) "Average private sector wage" means the statewide average wage in the private sector or the average of all private sector wages in the county or in the standard metropolitan area in which the project is located as determined by the department.

(c) "Brownfield area" means an area designated as a brownfield area pursuant to s. 376.80.

(d) "Cumulative investment" means cumulative capital investment and all eligible capital costs, as defined in s. 220.191.

(e) "Enterprise zone" means an area designated as an enterprise zone pursuant to s. 290.0065.

(f) "Fiscal year" means the state fiscal year.

(g) "Industry wage" means the average annual wage paid to employees in a particular industry, as designated by the North American Industry Classification System (NAICS), and compiled by the Bureau

of Labor Statistics of the United States Department of Labor.

(h) “Innovation business” means a business expanding or locating in this state that is likely to serve as a catalyst for the growth of an existing or emerging technology cluster or will significantly impact the regional economy in which it is to expand or locate.

(i) “Jobs” means full-time equivalent positions, including, but not limited to, positions obtained from a temporary employment agency or employee leasing company or through a union agreement or coemployment under a professional employer organization agreement, that result directly from a project in this state. The term does not include temporary construction jobs.

(j) “Naming opportunities” means charitable donations from any person or entity in consideration for the right to have all or a portion of the facility named for or in the memory of any person, living or dead, or for any entity.

(k) “Net royalty revenues” means all royalty revenues less the cost of obtaining, maintaining, and enforcing related patent and intellectual property rights, both foreign and domestic.

(l) “Match” means funding from local sources, public or private, which will be paid to the applicant and which is equal to 100 percent of an award. Eligible match funding may include any tax abatement granted to the applicant under s. 196.1995 or the appraised market value of land, buildings, infrastructure, or equipment conveyed or provided at a discount to the applicant. Complete documentation of a match payment or other conveyance must be presented to and verified by the department prior to transfer of state funds to an applicant. An applicant may not provide, directly or indirectly, more than 5 percent of match funding in any fiscal year. The sources of such funding may not include, directly or indirectly, state funds appropriated from the General Revenue Fund or any state trust fund, excluding tax revenues shared with local governments pursuant to law.

(m) “Project” means the location to or expansion in this state by an innovation business, a research and development applicant, or an alternative and renewable energy applicant approved for an award pursuant to this section.

(n) “Research and development” means basic and applied research in the sciences or engineering, as well as the design, development, and testing of prototypes or processes of new or improved products. Research and development does not include market research, routine consumer product testing, sales research, research in the social sciences or psychology, nontechnological activities, or technical services.

(o) “Research and development facility” means a facility that is predominately engaged in research and development activities. For purposes of this paragraph, the term “predominantly” means at least 51 percent of the time.

(p) “Rural area” means a rural city or rural community as defined in s. 288.106.

(3) To be eligible for consideration for an innovation incentive award, an innovation business, a research and development entity, or an alternative and renewable energy company must submit a written application to the department before making a decision to locate new operations in this state or expand

an existing operation in this state. The application must include, but not be limited to:

(a) The applicant's federal employer identification number, reemployment assistance account number, and state sales tax registration number. If such numbers are not available at the time of application, they must be submitted to the department in writing before the disbursement of any payments under this section.

(b) The location in this state at which the project is located or is to be located.

(c) A description of the type of business activity, product, or research and development undertaken by the applicant, including six-digit North American Industry Classification System codes for all activities included in the project.

(d) The applicant's projected investment in the project.

(e) The total investment, from all sources, in the project.

(f) The number of net new full-time equivalent jobs in this state the applicant anticipates having created as of December 31 of each year in the project and the average annual wage of such jobs.

(g) The total number of full-time equivalent employees currently employed by the applicant in this state, if applicable.

(h) The anticipated commencement date of the project.

(i) A detailed explanation of why the innovation incentive is needed to induce the applicant to expand or locate in the state and whether an award would cause the applicant to locate or expand in this state.

(j) If applicable, an estimate of the proportion of the revenues resulting from the project that will be generated outside this state.

(4) To qualify for review by the department, the applicant must, at a minimum, establish the following to the satisfaction of the department:

(a) The jobs created by the project must pay an estimated annual average wage equaling at least 130 percent of the average private sector wage. The department may waive this average wage requirement at the request of Enterprise Florida, Inc., for a project located in a rural area, a brownfield area, or an enterprise zone, when the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action. A recommendation for waiver by Enterprise Florida, Inc., must include a specific justification for the waiver and be transmitted to the department in writing. If the department elects to waive the wage requirement, the waiver must be stated in writing and the reasons for granting the waiver must be explained.

(b) A research and development project must:

1. Serve as a catalyst for an emerging or evolving technology cluster.

2. Demonstrate a plan for significant higher education collaboration.
3. Provide the state, at a minimum, a cumulative break-even economic benefit within a 20-year period.
4. Be provided with a one-to-one match from the local community. The match requirement may be reduced or waived in rural areas of critical economic concern or reduced in rural areas, brownfield areas, and enterprise zones.

(c) An innovation business project in this state, other than a research and development project, must:

1. a. Result in the creation of at least 1,000 direct, new jobs at the business; or
- b. Result in the creation of at least 500 direct, new jobs if the project is located in a rural area, a brownfield area, or an enterprise zone.
2. Have an activity or product that is within an industry that is designated as a target industry business under s. 288.106 or a designated sector under s. 288.108.
3. a. Have a cumulative investment of at least \$500 million within a 5-year period; or
- b. Have a cumulative investment that exceeds \$250 million within a 10-year period if the project is located in a rural area, brownfield area, or an enterprise zone.
4. Be provided with a one-to-one match from the local community. The match requirement may be reduced or waived in rural areas of critical economic concern or reduced in rural areas, brownfield areas, and enterprise zones.

(d) For an alternative and renewable energy project in this state, the project must:

1. Demonstrate a plan for significant collaboration with an institution of higher education;
2. Provide the state, at a minimum, a cumulative break-even economic benefit within a 20-year period;
3. Include matching funds provided by the applicant or other available sources. The match requirement may be reduced or waived in rural areas of critical economic concern or reduced in rural areas, brownfield areas, and enterprise zones;
4. Be located in this state; and
5. Provide at least 35 direct, new jobs that pay an estimated annual average wage that equals at least 130 percent of the average private sector wage.

(5) The department shall review proposals pursuant to s. 288.061 for all three categories of innovation incentive awards. Before making a recommendation to the executive director, the department shall solicit comments and recommendations from the Department of Agriculture and Consumer Services.

For each project, the evaluation and recommendation to the department must include, but need not be limited to:

- (a) A description of the project, its required facilities, and the associated product, service, or research and development associated with the project.
- (b) The percentage of match provided for the project.
- (c) The number of full-time equivalent jobs that will be created by the project, the total estimated average annual wages of such jobs, and the types of business activities and jobs likely to be stimulated by the project.
- (d) The cumulative investment to be dedicated to the project within 5 years and the total investment expected in the project if more than 5 years.
- (e) The projected economic and fiscal impacts on the local and state economies relative to investment.
- (f) A statement of any special impacts the project is expected to stimulate in a particular business sector in the state or regional economy or in the state's universities and community colleges.
- (g) A statement of any anticipated or proposed relationships with state universities.
- (h) A statement of the role the incentive is expected to play in the decision of the applicant to locate or expand in this state.
- (i) A recommendation and explanation of the amount of the award needed to cause the applicant to expand or locate in this state.
- (j) A discussion of the efforts and commitments made by the local community in which the project is to be located to induce the applicant's location or expansion, taking into consideration local resources and abilities.
- (k) A recommendation for specific performance criteria the applicant would be expected to achieve in order to receive payments from the fund and penalties or sanctions for failure to meet or maintain performance conditions.
- (l) Additional evaluative criteria for a research and development facility project, including:
 - 1. A description of the extent to which the project has the potential to serve as catalyst for an emerging or evolving cluster.
 - 2. A description of the extent to which the project has or could have a long-term collaborative research and development relationship with one or more universities or community colleges in this state.
 - 3. A description of the existing or projected impact of the project on established clusters or targeted industry sectors.

4. A description of the project's contribution to the diversity and resiliency of the innovation economy of this state.

5. A description of the project's impact on special needs communities, including, but not limited to, rural areas, distressed urban areas, and enterprise zones.

(m) Additional evaluative criteria for alternative and renewable energy proposals, including:

1. The availability of matching funds or other in-kind contributions applied to the total project from an applicant. The Department of Agriculture and Consumer Services shall give greater preference to projects that provide such matching funds or other in-kind contributions.

2. The degree to which the project stimulates in-state capital investment and economic development in metropolitan and rural areas, including the creation of jobs and the future development of a commercial market for renewable energy technologies.

3. The extent to which the proposed project has been demonstrated to be technically feasible based on pilot project demonstrations, laboratory testing, scientific modeling, or engineering or chemical theory that supports the proposal.

4. The degree to which the project incorporates an innovative new technology or an innovative application of an existing technology.

5. The degree to which a project generates thermal, mechanical, or electrical energy by means of a renewable energy resource that has substantial long-term production potential.

6. The degree to which a project demonstrates efficient use of energy and material resources.

7. The degree to which the project fosters overall understanding and appreciation of renewable energy technologies.

8. The ability to administer a complete project.

9. Project duration and timeline for expenditures.

10. The geographic area in which the project is to be conducted in relation to other projects.

11. The degree of public visibility and interaction.

(6) The department may negotiate the proposed amount of an award for any applicant meeting the requirements of this section. In negotiating such award, the department shall consider the amount of the incentive needed to cause the applicant to locate or expand in this state in conjunction with other relevant applicant impact and cost information and analysis as described in this section. Particular emphasis shall be given to the potential for the project to stimulate additional private investment and high-quality employment opportunities in the area.

(7) Upon receipt of the evaluation and recommendation from the department, the Governor shall approve or deny an award. In recommending approval of an award, the department shall include proposed performance conditions that the applicant must meet in order to obtain incentive funds and any other conditions that must be met before the receipt of any incentive funds. The Governor shall consult with the President of the Senate and the Speaker of the House of Representatives before giving approval for an award. Upon review and approval of an award by the Legislative Budget Commission, the Executive Office of the Governor shall release the funds.

(8)(a) After the conditions set forth in subsection (7) have been met, the department shall issue a letter certifying the applicant as qualified for an award. The department and the award recipient shall enter into an agreement that sets forth the conditions for payment of the incentive funds. The agreement must include, at a minimum:

1. The total amount of funds awarded.
2. The performance conditions that must be met in order to obtain the award or portions of the award, including, but not limited to, net new employment in the state, average wage, and total cumulative investment.
3. Demonstration of a baseline of current service and a measure of enhanced capability.
4. The methodology for validating performance.
5. The schedule of payments.
6. Sanctions for failure to meet performance conditions, including any clawback provisions.

(b) Additionally, agreements signed on or after July 1, 2009, must include the following provisions:

1. Notwithstanding subsection (4), a requirement that the jobs created by the recipient of the incentive funds pay an annual average wage at least equal to the relevant industry's annual average wage or at least 130 percent of the average private sector wage, whichever is greater.
2. A reinvestment requirement. Each recipient of an award shall reinvest up to 15 percent of net royalty revenues, including revenues from spin-off companies and the revenues from the sale of stock it receives from the licensing or transfer of inventions, methods, processes, and other patentable discoveries conceived or reduced to practice using its facilities in Florida or its Florida-based employees, in whole or in part, and to which the recipient of the grant becomes entitled during the 20 years following the effective date of its agreement with the department. Each recipient of an award also shall reinvest up to 15 percent of the gross revenues it receives from naming opportunities associated with any facility it builds in this state. Reinvestment payments shall commence no later than 6 months after the recipient of the grant has received the final disbursement under the contract and shall continue until the maximum reinvestment, as specified in the contract, has been paid. Reinvestment payments shall be remitted to the department for deposit in the Biomedical Research Trust Fund for companies specializing in biomedicine or life sciences, or in the Economic Development Trust Fund for companies specializing in

fields other than biomedicine or the life sciences. If these trust funds no longer exist at the time of the reinvestment, the state's share of reinvestment shall be deposited in their successor trust funds as determined by law. Each recipient of an award shall annually submit a schedule of the shares of stock held by it as payment of the royalty required by this paragraph and report on any trades or activity concerning such stock. Each recipient's reinvestment obligations survive the expiration or termination of its agreement with the state.

3. Requirements for the establishment of internship programs or other learning opportunities for educators and secondary, postsecondary, graduate, and doctoral students.

4. A requirement that the recipient submit quarterly reports and annual reports related to activities and performance to the department, according to standardized reporting periods.

5. A requirement for an annual accounting to the department of the expenditure of funds disbursed under this section.

6. A process for amending the agreement.

(9) The department shall validate the performance of an innovation business, a research and development facility, or an alternative and renewable energy business that has received an award. At the conclusion of the innovation incentive award agreement, or its earlier termination, the department shall include in the annual incentives report required under s. 288.907 a detailed description of whether the recipient of the innovation incentive grant achieved its specified outcomes.

(10) Each recipient of an award shall comply with business ethics standards developed by Enterprise Florida, Inc., which are based on appropriate best industry practices. The standards shall address ethical duties of business enterprises, fiduciary responsibilities of management, and compliance with the laws of this state.

(11) The department shall include in the annual incentives report required under s. 288.907 a report summarizing the activities and accomplishments of the recipients of grants from the Innovation Incentive Program during the previous 12 months and an evaluation of whether the recipients are catalysts for additional direct and indirect economic development in Florida.

(12) The department may seek the assistance of the Office of Program Policy Analysis and Government Accountability, the Legislature's Office of Economic and Demographic Research, and other entities for the purpose of developing performance measures or techniques to quantify the synergistic economic development impacts that awardees of grants are having within their communities.

Credits: Added by Laws 2006, c. 2006-55, § 3, eff. July 1, 2006. Amended by Laws 2008, c. 2008-227, § 27, eff. July 1, 2008; Laws 2009, c. 2009-21, § 25, eff. July 7, 2009; Laws 2009, c. 2009-51, § 1, eff. July 1, 2009; Laws 2010, c. 2010-136, § 5, eff. July 1, 2010; Laws 2010, c. 2010-147, § 23, eff. May 28, 2010; Laws 2011, c. 2011-142, § 155, eff. July 1, 2011; Laws 2012, c. 2012-5, § 31, eff. May 8, 2012; Laws 2012, c. 2012-30, § 59, eff. July 1, 2012; Laws 2012, c. 2012-96, § 39, eff. April 6, 2012; Laws 2013, c. 2013-39, § 22, eff. May 17, 2013; Laws 2013, c. 2013-42, § 23, eff. May 20, 2013.