

Many of you have asked for more information regarding the HVAC and solar rebate issue and specifically how the Legislature's hands are tied at this time regarding the rebates that the Governor promised on August 20. The attached memo discusses the situation and possible remedies available. The memo is also pasted below for mobile users.

Any questions, I'll be glad to discuss them with you.

Todd Reid

Staff Director

House Majority Office

www.HouseMajorityOffice.com

HVAC and Solar Rebates

September 23, 2010

In 2009 the state received \$126 million from the *American Recovery and Reinvestment Act (ARRA – also known as Stimulus)* to be used for energy projects. The Governor's Florida Energy & Climate Commission (FECC) asked for all of the money to be put into Fixed Capital Outlay (FCO) to be used primarily for long-term energy projects. Fixed capital appropriations are typically large and can exist for multiple years. The true costs for these projects can change over time; slight variances can result in significant unspent appropriations. For this reason, flexibility in FCO categories is limited to ensure that legislative intent is preserved.

On August 20, 2010, Governor Crist announced an HVAC rebate program committing to give Floridians who upgraded their HVAC units rebates of up to \$1500. The program began accepting applications on August 30, 2010. On August 31, 2010, the Governor's Office submitted a budget amendment to the Legislative Budget Commission (LBC) to amend the budget to allow the Governor's Office to use \$17.5 million of the FCO in their current budget to be used to pay for the HVAC rebate program.

Unfortunately for the Floridians who took the Governor at his word on these rebates, state law (s. 216.292(1)(a), F.S.) does not allow the transfer of FCO dollars by budget amendment for other purposes. The budget amendment sought by the Governor would transfer funds in a Fixed Capital Outlay appropriation category to a non-FCO operating category for rebates which have no relation to a fixed capital outlay project and, based on state statute, cannot be approved by the LBC.

This is not an issue of whether or not legislators want to refund Floridians for these rebates that the Governor prematurely promised them. The issue is that members of the LBC cannot disregard state law and allow the governor to hand out federal dollars to Floridians in the manner he has requested.

Unfortunately for thousands of Floridians, Governor Crist promised them money he did not have and is legally unable to access at this time. To use funds in such a manner must be approved by a vote of the full Legislature, not by a subset on the LBC or by declaration of the Governor. Such a decision can still be made by the Legislature, just not in the immediate timeframe promised by Governor Crist.

The Legislature will be returning to Tallahassee in November and may choose to enter into a Special Session to address this issue. The issue can also be addressed during the regular budget process, which will commence with the 2011 regular session.

In regards to the solar rebate, the Legislature has dedicated over \$25 million to the solar rebate program since 2006. Unfortunately, the program has been overspent and now carries an additional backlog of over \$50 million in rebate applications. The backlog of solar rebate applicants was in great part caused by the failure of the FECC to announce that funds were depleted, thus duping the citizens of Florida to believe they were eligible for a rebate that was no longer available. Not only did the FECC fail to adequately or timely notify the public

that the funds had run out, they failed to even post such notice on their website until months after the funds had been exhausted.

If the full Legislature so chooses, it can decide to use the \$13.9 million that the Governor has requested to help cut down the solar rebate backlog. These dollars will not create new jobs as the Governor has claimed because the work has already been performed, but will be used to pay back Floridians some of the money that the Governor and the FECC promised them. However, it will still leave a backlog of \$38 million.

###