Committee on Utilities & Telecommunications

Wednesday, April 5, 2006
3:30 p.m. - 5:30 p.m.
404 HOB

Allan G. Bense
Speaker

Ken Littlefield
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Utilities & Telecommunications Committee

Start Date and Time:	Wednesday, April 05, 2006 03:30 pm
End Date and Time:	Wednesday, April 05, 2006 05:30 pm
Location:	404 HOB
Duration:	2.00 hrs

Consideration of the following bill(s):

HB 1191 Telecommunication Rates by Legg
HB 1259 Siting of Electric Transmission Lines by Coley
HB 1473 Energy by Hasner

NOTICE FINALIZED on 04/03/2006 15:58 by Stewart.Vallie

The Florida House of Representatives

Commerce Council

Utilities & Telecommunications Committee

Allan G. Bense
Speaker

Kenneth W. "Ken" Littlefield
Chair

HOUSE COMMITTEE ON UTILITIES & TELECOMMUNICATIONS
APRIL 5, 2006
3:30-5:30 PM
404 HOB

1. HB 1199 Telecommunications Rates by Representative Legg

   Amendment #1 by Rep. Littlefield
   This is a strike-all amendment. Deletes provisions allowing incumbent telecommunications companies (ILECs) to elect to have basic service treated as nonbasic. Requires ILEC to request from the Public Service Commission to have its service quality requirements the same as competitive parties. Allows ILEC to petition PSC once parity is reached for lesser regulation of its retail services. Allows ILECs to change its nonbasic prices on one day's notice to the PSC.

2. HB 1259 Siting of Electrical Transmission Lines by Representative Coley

3. HB 1473 Energy by Representative Hasner

   Amendment # 1 by Rep. Hasner
   This is a strike-all amendment. It replaces the Energy Efficient Appliance Rebate Program with an Energy Efficient Products Sales Tax Holiday. It changes the incentives in the Solar Energy System Rebate Program. It adds the Secretary of Agriculture to the Florida Energy Council. It makes other technical and clarifying changes throughout the bill.

   Amendment # 2 (Amendment to Amendment #1) by Rep. Hasner
   Includes solar thermal pool heaters in the Solar Energy System Incentive Program.

   Amendment #3 (Amendment to Amendment #1) by Rep. Hasner
   Creates the Solar Thermal Pool Heater Incentives.

   Amendment #4 (Amendment to Amendment #1) by Rep. Hasner
   Designates Energy Efficient Week

313 House Office Building, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850) 487-1383

Amendment #5 (Amendment to Amendment #1) by Rep. Hasner
Provides that condominiums or apartment buildings are eligible for a $100,000 rebate for the installation of solar photovoltaic systems.

Amendment #6 (Amendment to Amendment # 1) by Rep. Hasner
Includes more issues for the Florida Energy Council to advise the state on.

Amendment #7 (Amendment to Amendment #1) by Rep. Hasner
Adds to the stakeholder that the Florida Energy Council may include.

Amendment #8 (Amendment to Amendment #1) by Rep. Hasner
Clarifies the priority of requests for solar energy rebates.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1191 Telecommunication Rates
SPONSOR(S): Legg and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 142

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Utilities & Telecommunications Committee		Cater	Holt
2) Local Government Council			
3) Finance & Tax Committee			
4) Commerce Council			
5)			

SUMMARY ANALYSIS

HB 1191 repeals sections 364.059 and 364.164 and subsections (6), (7), and (8) of section 364.051, F.S. These sections were major provisions of the Tele-competition Innovation and Infrastructure Enhancement Act of 2003 (the Act). In addition, the bill proposes a stay on any local service rate increase and intrastate access fee reduction that were implemented by action of the Public Service Commission (PSC or Commission) pursuant to s. 364.164, F.S. If any rate change pursuant to that section is pending appellate review, it is null and void as if never granted by the Commission. Further, any local service rate increase and any corresponding intrastate switched network access fee reduction pursuant to s. 364.164, F.S., implemented after appellate review, is suspended as of the effective date of the Act. Finally, following the effective date of the Act, a local exchange telecommunications company must charge local service rates and intrastate switched network access fees at the rate in effect on December 1, 2003.

The bill does not contain a provision for refunds of monies paid while these rate changes were in effect. In addition, pursuant to other statutes, basic local exchange service rates have increase since December 1, 2003.

This act shall take effect May 15, 2006, or upon becoming law, whichever is later.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-The bill repeals statutes relating to telecommunications rates. Any rate adjustment pursuant to the repealed statutes would be rendered moot, and rates would go back to rates in effect on December 1, 2003.

B. EFFECT OF PROPOSED CHANGES:

Background

On May 23, 2003, the Governor signed into law the Tele-competition Innovation and Infrastructure Enhancement Act of 2003.[1] Key provisions of the bill were outlined in section 364.164, F.S., which provided, in part, that each local exchange telecommunications carrier (LEC), after July 1, 2003, may petition the PSC to reduce its intrastate switched network access rate in a revenue neutral manner, provided that it met the criteria outlined in subsection (1)(a-d). The balance of the section prescribes the methodology for implementing the rate changes, including the creation of a revenue category mechanism for ensuring revenue neutrality through offsetting decreases in access rates with increases in basic local exchange service rates.

A significant provision of s. 364.164, F.S., appears in ss. (8). This subsection contains the so-called "VoIP[2] trigger" provision. This subsection provides that the access charge rate reduction schedule and the offsetting basic local service rate increases associated with the section are immediately operative as though a petition pursuant to the section were approved by the Commission if either the PSC or the Federal Communications Commission (FCC) were to find that switched network access charges were not applicable to providers of VoIP services or their equivalent.

Subsection (6) of 364.051, F.S., provides that a LEC with greater than one million lines in service that has reduced its switched network access charges to parity, as defined in s. 364.164(5), may, at the election of the company, have its basic local services be subject to the same regulatory treatment as its nonbasic services. The subsection also provides that upon approval by the PSC, the company's service quality standards may be reduced, in whole or in part, to a level no greater than that imposed on competitive local exchange telecommunications companies (CLECs). The subsection further provides that the PSC may impose no greater service quality standards on CLECs than those in effect as of December 1, 2003.

Subsection (7) of 364.051, F.S., provides for a LEC that has made an election pursuant to subsection (6) to subsequently petition the PSC for regulatory treatment of retail services at a level no greater than that applicable to CLECs. The LEC shall: (a) show that granting the petition is in the public interest; and (b) reduce its intrastate switched network access rates to its local reciprocal interconnection rate upon the granting of the petition. The PSC must act within 9 months of receiving the petition.

Subsection (8) of 364.051, F.S., extends the provisions of ss. (6) and (7) to any LEC with one million or fewer access lines in service that has reduced its intrastate switched network access rates to a level equal to the company's interstate switched network access in effect on December 1, 2003.

Section 364.059, F.S., provides that upon a LEC electing, pursuant to 364.051(6), F.S., to have its basic local telecommunications services treated the same as nonbasic services, there shall be a mechanism for seeking a stay of any anticompetitive allegation relating to a LEC's basic local service

[1] Ch. 2003-32, L.O.F.
[2] Voice-over-Internet-Protocol

rate reduction. The section provides that the PSC must issue an order resolving the allegation within 45 days after a petition is filed. Subsection (2) further provides that the PSC, no sooner the January 1, 2005, must establish a benchmark, such as a price or cost floor, for determining whether a stay pursuant to subsection (1) is warranted.

In September 2003, BellSouth, Sprint and Verizon filed petitions pursuant to s. 364.164, F.S., and the Commission subsequently approved them.[3] However, the PSC orders for each of the respective companies were appealed to the state Supreme Court, and on July 7, 2005, the Court upheld the PSC orders.[4] Among other things, the Court:

- Reaffirmed that the PSC's orders, and its interpretation of the statutes and legislative policies it is charged with enforcing, are entitled to great deference;
- Concluded that both economic and empirical evidence supported the Commission's finding that granting the petitions will create competition to the benefit of residential consumers as required by section 364.164(1)(a);
- Concluded that the PSC had interpreted the term "benefit" consistent with the plain meaning of the term and the announced intent of the legislation;
- Concluded that there was competent, substantial theoretical and empirical evidence to support the determination that granting the petitions will induce enhanced market entry as required by section 364.164(1)(b);
- Concluded that the Commission "acted within the bounds of its authority and discretion" in determining that granting the petitions is consistent with the requirement to ensure that basic local service is available at reasonable and affordable prices under section 364.01(4)(a); and
- Rejected (in a footnote) the argument that the Commission erred in failing to reconsider its decision in light of the federal court decision in USTA II.[5]

BellSouth, Sprint, and Verizon may now, on 45 days notice implement the rate changes authorized by the orders. During September 2005, BellSouth, Verizon, and Sprint filed their access charge reductions/local rate increases in the form of tariffs. If the filings are consistent with the order issued in these cases, staff will handle the tariffs administratively as allowed in the order. The first round of rate changes went into effect on November 1, 2005.[6]

It should be noted that basic local exchange telecommunications service rates have been increased by BellSouth, Sprint, and Verizon under the provision of ss. 364.051(3), F.S., since December 1, 2003. This provision was in existence prior to the 2003 Act and permits LECs that have elected price cap regulation to annually increase basic local service rates. In accordance with ss. 365.051(3), F.S., companies are permitted to increase basic local service rates by an amount not to exceed the change in inflation minus 1% as measured by the Gross Domestic Product Fixed 1987 Weights Price Index. BellSouth, Sprint and Verizon have each implemented increases pursuant to this section during the stay of the access charge reduction changes under s. 364.164, F.S.

Effect of Change

The bill repeals ss. 364.059, 364.164, and 364.051(6),(7), and (8), F.S. In addition, any local service rate increase and corresponding intrastate access fee that was reduced by the PSC under s. 364.164,

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[3] PSC Order No. PSC 03-1469-FOF-TL, issued December 24, 2003.
[4] *Christ v. Jaber*, 908 So.2d 426 (Fla. 2005).
[5] *United States Telecom Association v. Federal Communications Commission*, 359 F.3d 554 (D.C. Cir. 2004), *cert. denied.*
[6] PSC Order No. PSC-05-1053-FOF-TL, issued October 31, 2005.

F.S. is no longer valid. The local exchange telecommunications must again charge the local service rates and intrastate access fees at the rates in effect on December 1, 2003.

The orders issued in the BellSouth, Sprint and Verizon petition cases were upheld pursuant to Supreme Court review, on July 7, 2005. The bill would restore any rate changes resulting from the approval of the petitions to December 1, 2003 levels. The bill does not provide for refunds for any local rate increases implemented as a result of the petitions.

As noted previously, each of the affected companies has increased rates pursuant to ss. 364.051(3), F.S., during the stay of rate changes associated with s. 364.164, F.S. The bill would require those rate changes previously authorized in accordance with s. 364.051(3), F.S., to be returned to December 1, 2003 levels. Since the proposed bill is silent as to increases of this nature and silent in regard to whether refunds would be required, it can only be assumed that reductions should be made without refunds. In conjunction with those rate changes, some customers received decreases in their basic local service rates, as well as, increased calling scopes. Presumably, those changes would also be required to be returned to their December 1, 2003 status. Depending on the legislative intent, there may be reason to leave these rate changes unaffected.

Several proceedings resulting from current law will be rendered moot by passage of the bill. Those proceedings include the determination of whether LEC service quality standards should ultimately be relaxed (ss. 364.051(6), F.S.), and whether LEC retail regulation should be relaxed.

C. SECTION DIRECTORY:

Section 1 Repeals ss. 364.059, 364.164, and 364.051(6), (7), and (8), F.S., relating to telecommunications rates.

Section 2 Voids local service rate increase and intrastate access fee reduction granted under the former s. 364.164, F.S.

Section 3 This act shall take effect May 15, 2006, or upon becoming a law, whichever occurs later.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may reduce the overall telephone (local and long-distance) bills for some customers.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to telecommunication rates; repealing ss.
3 364.059, 364.164, and 364.051(6), (7), and (8), F.S.,
4 relating to price regulation and competitive market
5 enhancements of local exchange telecommunication
6 companies; providing that any local telecommunications
7 service rate that was increased and any corresponding
8 telecommunications intrastate access fee that was reduced
9 by action of the Florida Public Service Commission but
10 that has not yet been implemented is null and void;
11 providing that if a local telecommunications service rate
12 was increased and a corresponding telecommunications
13 intrastate access fee was reduced, those rates and fees
14 are suspended as of a specified date, and thereafter a
15 local exchange telecommunications company must charge
16 local service rates and intrastate access fees at the
17 rates in effect on December 1, 2003; providing an
18 effective date.
19
20 Be It Enacted by the Legislature of the State of Florida:
21
22 Section 1. Sections 364.059 and 364.164, and subsections
23 (6), (7), and (8) of s. 364.051, Florida Statutes, are repealed.
24 Section 2. (1) Any local service rate that was increased
25 and any corresponding intrastate access fee that was reduced by
26 action of the Florida Public Service Commission under former s.
27 364.164, Florida Statutes, but that has not yet been implemented
28 because the rate increase has been stayed pending appellate

29 review, is null and void as if never granted by the commission.
30 (2) Any local service rate that was increased and any
31 corresponding intrastate access fee that was reduced by action
32 of the commission under former s. 364.164, Florida Statutes, and
33 that has been implemented after appellate review, is suspended
34 as of the effective date of this act. Thereafter, a local
35 exchange telecommunications company must charge local service
36 rates and intrastate access fees at the rate in effect on
37 December 1, 2003.
38 Section 3. This act shall take effect May 15, 2006, or
39 upon becoming a law, whichever occurs later.

HB 1259 - Berfield

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1259 Siting of Electric Transmission Lines
SPONSOR(S): Coley
TIED BILLS: **IDEN./SIM. BILLS:** SB 2164

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Utilities & Telecommunications Committee		Cater	Holt
2) Environmental Regulation Committee			
3) Agriculture & Environment Appropriations Committee			
4) Commerce Council			
5)			

SUMMARY ANALYSIS

The Transmission Line Siting Act (TLSA) is a highly procedural, centralized, coordinated permitting process. The process encompasses permitting and other authorizations, including the proprietary interest of all state, regional, and local agencies having jurisdiction for electric transmission lines. Transmission lines subject to the TLSA currently are those lines which are 230 kilovolts or greater, 15 miles or more in length, and cross a county line. The process includes a mandatory hearing by an administrative law judge, a determination of need by the Public Service Commission (PSC), with ultimate approval/denial authority vested in the Siting Board (Governor and Cabinet). The Department of Environmental Protection (DEP) coordinates the entire process.

The proposed revisions to the TLSA are intended to make the process more efficient, more open to the public, and enhance the focus on energy reliability in the state. Under current provisions, a typical application takes approximately 14 months to complete, and an optimal application is completed in about 10-1/2 months. In optimal situations, the bill reduces the processing time by roughly five months.

The key provisions include:

- Changes the popular name from "Transmission Line Siting Act" to "Florida Electric Transmission Line Siting Act"
- Combines separate "sufficiency" and "completeness" determinations into a single "completeness" review.
- Expands the definition of "electric utility" to include entities created and approved pursuant to Order 2000 issued by t he Federal Energy Regulatory Commission (FERC),
- Allows the parties to stipulate that there are no disputed issues of fact and eliminate the need for a certification hearing.
- Authorizes DEP to issue final orders in an emergency and in a non-controversial case that requires no hearing.
- Changes the TLSA exemption for transmission lines built on established transmission line rights-of-way (ROWs) from those ROWs established prior to October 1, 1983, to those ROWs established for at least five years.
- Moves up the date for issuance of the PSC determination of need to the same date for agency reports, rather than by date of certification hearing.
- Adds the Florida Department of Transportation (DOT) as a statutory party to the certification hearing.
- Requires applicant to pay expenses and costs associated with conducting hearings and preparation of the transcript.
- Allows Regional Planning Councils (RPCs) to hold informational public hearings when a local government in its region does not conduct one.
- Authorizes post-certification amendments to the application.
- Clarifies that the PSC is the sole forum for determination of need.
- Changes the allocation of the application fee.
- Clarifies existing DEP rules concerning postcertification review.
- Amends the fee section to take into the account changes in the hearing processes.

There appears to be a minimal fiscal impact to state and local government.

This act takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-The bill streamlines the process for siting electric transmission lines. The bill subsumes the sufficiency review into the completeness review. It also authorizes DEP to issue final orders in an emergency and in a non-controversial case that requires no hearing. The bill also codifies current practices being used in siting transmission lines.

Maintain Public Security- The bill provides legislative intent that electric transmission lines are critical infrastructure facilities. In creating a streamline process, it a positive effect is anticipated on the reliability of the electric power system, environment, land use, and the general population welfare.

B. EFFECT OF PROPOSED CHANGES:

Background

Enacted in 1980, the Transmission Line Siting Act (TLSA) is a highly procedural, centralized, coordinated permitting process that is coordinated by the DEP. The process encompasses permitting and other authorizations, including the proprietary interest of all state, regional, and local agencies having jurisdiction for electric transmission lines as well as intermediary substations. No construction of any transmission line may be undertaken without first obtaining a certification under the TLSA; however, certain transmission lines are exempt from the act. Transmission lines subject to the TLSA are those which are 230 kilovolts (kV) or greater, 15 miles or more in length and cross a county line. Applicants under the TLSA may also request that corridors of up to a mile wide be approved, rather than designating a specific right-of-way corridor. Specific locations of rights-of-way are addressed in the post-certification process.

There are exemptions to transmission lines being certified pursuant the TLSA. Those exemptions include: a transmission line certified pursuant to the Florida Electrical Power Plant Siting Act[1]; a lower voltage distribution line located solely within one county; transmission line development in which all construction is limited to established rights-of-way[2]; transmission line rights-of-way, transmission lines established in rights-of-way created before or after October 1, 1983.[3] Further, a utility is required to notify DEP in writing of its intent to construct a transmission pursuant to the exemption criteria listed in section 403.524, F.S., prior to the start of construction,

The TLSA process includes a determination of need by the PSC, a mandatory "certification" hearing by an administrative law judge (ALJ), with ultimate approval/denial authority vested in Governor and Cabinet acting as the Siting Board. The DEP coordinates the process. An ALJ is involved from the beginning, and the process is handled as litigation and requires the exchange of most documents as legal filings. Persons wishing to become formally involved in the process, for the most part, must become parties to the proceeding. Opportunities exist for public comment.

The number of individuals and agencies that may be affected by a certification project can be very large. A minimal project, assuming the corridor applied for is one mile wide and 15 miles in length, could cover 15 square miles; however, much longer projects are the norm. The TLSA includes a process where parties may propose alternate corridors other than those proposed by the applicant. Subsequently, more

[1] The Florida Electrical Power Plant Siting Act at ss. 403-501-403.518, F.S., provides that an "electrical power plant" includes ". . .associated transmission lines which connect the electrical power plant to an existing transmission network or rights-of-way to which the applicant intends to connect. . ."

[2] Established rights-of-way include rights-of-way for roads, highways, railroads, gas, water, oil, electricity, or sewage and any other public purpose rights-of-way.

[3] s. 403.524.F.S.

individuals may become affected and will have the right to become parties to the proceeding. Additionally, the scope of the review required by agencies may significantly increase.

Currently, a certification hearing is a mandatory administrative hearing feature of the TLSA. This hearing is held whether or not there are any controversial issues or intervenors in the case. This procedure requires the expenditure of significant resources by the applicants and the state. Also, the TLSA has several provisions that add time to the process, including a bifurcated completeness and sufficiency review of the application.

In Order 2000 issued by FERC, among other things related to Regional Transmission Organizations (RTOs), Independent System Operators (ISOs), or their counterparts, it provided provide for the consolidation of utility management of transmission systems into large networks. However, the TLSA does not appear to allow applications submitted by RTOs, ISOs, or their counterparts.

Florida Energy Plan

On November 10, 2005, Governor Bush issued an Executive Order requiring the DEP to develop a comprehensive energy plan.[4] On December 14, 2005, DEP hosted the Florida Energy Forum where various parties were able to provide input on the energy plan focus. As a result of the forum, the DEP issued Florida's Energy Plan on January 17, 2005. The Energy Plan recommended changes to the TLSA to expedite the review process, improve efficiency and enhance reliability, while protecting the environment and maintaining public participation. These changes include:

- Simplifying and streamlining completeness and sufficiency procedures
- Reducing mandatory hearings
- Revising time limits
- Clarifying who may be an applicant
- Clarifying comprehensive planning and zoning issues

The purpose of these changes is to improve the efficiency of the TSLA and clarify provisions that will expedite transmission line licensing and ensure faster development of more reliable electric transmission infrastructure.

Proposed Changes

The bill amends the "Transmission Line Siting Act" contained in ss. 403.52 through 403.5365, F.S. In addition to amending various other sections, the bill makes grammatical and conforming changes.

Popular Name

The bill amends s. 403.52, F.S. to change the popular name from "Transmission Line Siting Act" to "Florida Electric Transmission Line Siting Act." This change clarifies that the act applies only to electric transmission lines and not to transmission pipelines for natural gas, gasoline, oil, or other substances.

Legislative Intent

The bill amends the legislative intent contained in s. 403.521, F.S. to clarify that the act establishes a licensing process rather than a means for issuance of an individual permit. It adds "operation" of the electric transmission line to the list of subjects the certification process covers. The bill also designates transmission lines as critical infrastructure facilities, and adds language to specify that the legislature is concerned with energy system reliability.

Definitions

[4] Executive Order No. 05-241

Several definitions at s. 403.522, F.S., are amended, added or deleted to conform to the provisions of the act.

(5) "Application" means the documents required by the department to be filed to initiate and support a certification review and evaluation, including the initial document filing, amendments, and responses to requests from the department for additional data and information proceeding. An electric utility may file a comprehensive application encompassing all or a part of one or more proposed transmission lines.

(7) "Certification" means the approval by the board of the license for a corridor proper for certification pursuant to subsection (10) and the construction, operation, and maintenance of transmission lines within the ~~such~~ corridor with the ~~such~~ changes or conditions as the siting board deems appropriate. Certification shall be evidenced by a written order of the board.

(9) "Completeness" means that the application has addressed all applicable sections of the prescribed application format that those sections are sufficient in comprehensiveness of data or in quality of information provided to allow the department to determine whether the application provides the reviewing agencies adequate information to prepare the reports required by s. 403.526. (Note: this change now incorporates the sufficiency review.)

(10) "Corridor" means the proposed area within which a transmission line right-of-way, including maintenance and access roads, is to be located. The width of the corridor proposed for certification by an applicant or other party, at the option of the applicant, may be the width of the transmission line right-of-way, or a wider boundary, not to exceed a width of 1 mile. The area within the corridor in which a right-of-way may be located may be further restricted by a condition of certification. After all property interests required for the transmission line right-of-way and maintenance and access roads have been acquired by the applicant, the boundaries of the area certified shall narrow to only that land within the boundaries of the transmission line right-of-way. The corridors proper for certification shall be those addressed in the application, in amendments to the application filed under pursuant to s. 403.5275, and in notices of acceptance of proposed alternate corridors filed by an applicant and the department pursuant to s. 403.5271 for which the required ~~sufficient~~ information for the preparation of agency supplemental reports was filed.

(12) "Electric utility" means cities and towns, counties, public utility districts, regulated electric companies, electric cooperatives, regional transmission organizations, operators of independent transmission systems, or other transmission organizations approved by the Federal Energy Regulatory Commission or the commission for the operation of transmission facilities, and joint operating agencies, or combinations thereof, engaged in, or authorized to engage in, the business of generating, transmitting, or distributing electric energy. (Note: The current language only allows cities, towns, counties, public utility districts, regulated electric companies, and electric cooperatives to transmit electric energy and to apply for a need determination. Florida does not currently have an independent transmission provider or a regional transmission organization; however, this language would expand the eligible providers to include such transmission companies in the future.)

(14) "Licensee" means an applicant that has obtained a certification order for the subject project.

(16) "Maintenance and access roads" mean roads constructed within the transmission line right-of-way. Nothing in this act prohibits an applicant from constructing a road to support construction, operation, or maintenance of the transmission line that lies outside the transmission line right-of-way.

~~(20) "Sufficiency" means that the application is not only complete but that all sections are adequate in the comprehensiveness of data and in the quality of information provided to allow the department to determine whether the application provides the reviewing agencies adequate information to prepare the reports authorized by s. 403.526.~~

(22)(21) "Transmission line" or "electric transmission line" means structures, maintenance and access roads, and all other facilities that need to be constructed, operated, or maintained for the purpose of conveying electric power ~~any electrical transmission line~~ extending from, but not including, an existing or proposed substation or power plant to, but not including, an existing or proposed transmission network or rights-of-way or substation to which the applicant intends to connect which defines the end of the proposed project and which is designed to operate at 230 kilovolts or more. ~~The starting point and ending point of a transmission line must be specifically defined by the applicant and~~

~~must be verified by the commission in its determination of need. A transmission line includes structures and maintenance and access roads that need to be constructed for the project to become operational.~~ The transmission line may include, at the applicant's option, any proposed terminal or intermediate substations or substation expansions necessary to serve the transmission line.

(23)(22) "Transmission line right-of-way" means land necessary for the construction, operation, and maintenance of a transmission line. The typical width of the right-of-way shall be identified in the application. The right-of-way shall be located within the certified corridor and shall be identified by the applicant ~~subsequent to certification~~ in documents filed with the department before ~~prior~~ to construction.

Department of Environmental Protection-Powers and Duties

The bill expands and codifies certain other powers and duties of DEP at s. 403.523, F.S., to include:

- To adopt procedural rules to administer this act.
- To provide that post certification reviews are to be processed on an expedited and priority basis.
- To prescribe the means for monitoring the effects arising from the location of the transmission line corridor operation.
- To issue final orders after receipt of an ALJ's order relinquishing jurisdiction pursuant to s. 403.527(6).
- To act as clerk for the Siting Board
- To administer and manages the terms of the certification order for the life of the facility.
- To issue emergency orders when conditions require a short turn-around time.

Applicability and Certification

The bill amends s. 403.524, F.S., relating to the applicability and certification to include exemptions. Changes to this section are to clarity the facilities that are exempt under the act. Of the four basic types of exemptions, one is based on transmission lines located on established rights-of-ways (ROWs), and the meaning of "established" is based on a past date (October 1, 1983). The bill deletes the date. Additionally, the revisions provide that ROWs for transmission lines would have to have been created five years prior to construction of a new line in order for it to be deemed "established." ROWs for other types of state or local projects (roads, gas pipelines, water pipelines, etc.) may have been created at any time. This change is to prevent applicants from establishing transmission line rights of ways simply to create an exemption for a proposed line. Additionally, if an established right-of-way is relocated to accommodate a public project, the date of establishment of the original right-of-way continues to apply for purposes of qualifying for the exemption.

The bill also clarifies the exemption language for lines not subject to the act (those less than 15 miles in length or which did not cross a county line). Other technical revisions were made to incorporate revisions to the definitions section and to streamline applicant notification of the intent to construct.

Administrative Law Judge-Appointment Powers and Duties

Section 403.525, F.S, provides for the appointment of an ALJ to conduct the hearings required by the act. This section is amended to include a technical correction that relocates existing ALJ powers and duties from other sections in the TLSA to this section. The provision that is added to this section reads that:

> (2) The administrative law judge has all powers and duties granted to administrative law judges under chapter 120 and by the laws and rules of the department.

Application Schedules

The bill amends s. 403.5251, F.S., to change the date of process initiation to the date the application is filed with the DEP and distributed to the other agencies. This amendment results in a time savings as agencies get to review an application earlier in the process. The bill also clarifies that transmission line

starting and ending points must be included in the application. The bill deletes from this section provision related to completeness. Completeness issues are now relocated to a separate section. It also amends and clarifies the application filing schedule and notice provisions. Additionally, the bill provides for electronic application filing which can save time and funds for the state and applicant.

Determination of Completeness

Numerous technical corrections are made to s, 503.5252, F.S., to consolidate the sufficiency review (whether adequate information to review the application) with the completeness review (did the application contain the required chapters). This change is to streamline steps and expedite the review process. Agencies currently file completeness comments with DEP 30 days after the filing of the application, and DEP issues its initial completeness determination 7 days (day 45). If the application is initially determined incomplete, the applicant has 14 days to file additional information to make the application complete. DEP then has an additional 21 days to issue a second determination of completeness of the application. If the application is again determined incomplete, the time clocks stop at that point. Numerous existing provisions relating to hearings on completeness and other options for the applicant are relocated to this section to further enhance a streamlined process.

Preliminary Statement of Issues, reports, project analyses, and studies

The bill amends s. 403.526, F.S. to change the filing date for preliminary statements of issues from 60 days after distribution of the application, to 50 days after filing. It clarifies that agency reports are due 90 days after filing of the application. This is 18 days after the second determination of completeness if the application was initially incomplete, compared to 15 days from a second sufficiency determination in the existing law. It also clarifies that the Department of Community Affairs shall include issues related to emergency management in their report.

Section 403.526, F.S. is also amended to include the Department of Transportation (DOT) to the list of agencies that must file reports. The addition of DOT incorporates it into the list of parties to a proceeding, and it makes DOT eligible for reimbursement from the application fee.

The bill requires other agencies, at DEP's request, to perform studies and prepare reports on subjects within their jurisdiction which may be affected by the proposed transmission line.

The bill requires receipt of an affirmative finding of need by the PSC as condition for further processing of an application. While the need determination currently is a condition precedent to conducting a certification hearing, the bill clarifies that requirement. Also, the PSC has authority to include comments with respect to any other subject under its jurisdiction, such as fuel diversity or the need for secondary transmission lines for hurricane backup.

The bill also amends the date of the issuance of DEP's project analysis from 135 days after distribution of the application to 115 days after the application is filed. DEP will now issue its report 25 days after receipt of agency reports. Other existing sections relating to agency reports are also incorporated into this section.

Certification Hearing, Parties and Participants

Section 403.52, F.S., is substantially reworded. The bill changes the date for the holding of the certification hearing from 185 days after application filing, to 145 days after the application is filed. The DEP analysis will have been issued 30 days prior to the certification hearing. The bill retains existing provisions related to the conduct of the hearing, parties, and intervention. It also keeps existing provisions related to public participation and public hearings, though relevant dates are changed to conform to changes in the dates of the overall process.

A key substantive change to s. 403.52, F.S., is the addition of a mechanism for the cancellation of the otherwise mandatory certification hearing. The ALJ, upon request, can order cancellation of the hearing for a non-controversial project upon stipulation by all parties. The ALJ would relinquish jurisdiction, and the department would prepare the final order. Using this new option the process would be shortened by several months, and would save money for the applicant and the agencies.

The bill also makes numerous technical changes to this section. These changes include grouping related activities that are currently spread throughout the TLSA, events are chronologically sequenced, DOT is added to the list of parties to a proceeding, process deadliness are revised to conform with other deadline changes. The language regarding public notice currently contained in this section has been relocated to a new notice section pertaining to the entire process, as opposed to just the hearing proceeding.

Alternate Corridors

The alternative corridor provision of the law, which does not occur in the Power Plant Siting Act, allows parties to the TLSA proceeding to propose corridors which are alternate in location to the one proposed by the applicant.[5] These alternative corridors must be reviewed by the agencies and may be the one (or variation thereof) which is ultimately certified.

The bill makes numerous technical changes to s. 403.5271, F.S., predominately correcting glitches in the existing law, clarifying procedures, and conforming process deadlines. Under this revision, alternate corridor proposals must now be made no later than 45 days before the certification hearing, rather than 50 days prior. The bill also changes deadlines for the processing of alternate corridor proposals by the agencies to conform to other time frame changes in the Act.

In addition to addressing the primary corridor route, if any alternative corridors are proposed the bill provides the party proposing the alternative corridor has the burden to prove that the alternate corridor can be certified at the certification hearing. This act does not require an applicant or agency that is not proposing the alternate corridor to submit data in support of the alternate corridor. Further, the bill requires parties proposing an alternative corridor to provide all necessary data to the agencies listed in section 403.526(2), F.S. Similar to the primary route, all reviewing agencies must then notify the DEP if the data is incomplete. If the alternative route data is complete, then the reviewing agencies must under new section 403.5271 (f) and (g), F.S., file supplemental reports with the applicant and the DEP addressing the alternative corridor no later than 24 days after it is submitted or determined complete. The supplemental reports must include all the same information as required for the primary submission.

Informational Public Meetings

The bill clarifies provisions related to the conduct of public hearings by local governments. Regional planning councils have been added as agencies that may conduct early public meetings about the project, thereby expanding opportunities for public interaction in the process. Existing statutory language limits this authority to local governments. Technical corrections are included to conform to process deadlines and provide for notice

Amendment to the Application

Technical corrections are made to s. 403.5275, F.S., to clarify that this section only applies to amendments filed prior to certification. Amendments made after certification are handled separately.

Alteration of Time Limits

[5] The corridor is an area in which the final right-of-way may be located.

Section 403.528, F.S., is amended to provide that an ALJ may for good cause alter any time limitation upon stipulation between the DEP and the applicant unless objected to by any party within five days after notice. This provision makes the filing of applications for projects that are larger than normal good cause of the alteration of deadlines in the procedures and agencies may seek additional time if necessary under such circumstances.

Final Disposition of Application

The bill adds a new provision to s. 403.529, F.S., allowing DEP to issue the final order on certification if the ALJ has cancelled the certification hearing. This will allow a time savings of several months in the overall process, and is procedurally sound when there are no controversial issues in a case.

The bill also changes the deadline for the Siting Board hearing from 30 days to 60 days after the ALJ issues the recommended order. According to DEP, this edit is a non-controversial recognition of real processing time frames that occur in every case, and does not affect the actual date that final orders are actually issued.

Effect of Certification

This section is amended to make technical and grammatical corrections conforming to changes in various sections. This section also clarifies that the certification is only in lieu of state or local permits, which would not include federal permits.

Filing of Notice of Certified Corridor Route

Section 403.5312, F.S., requires that within 60 days after the certification of a directly associated transmission line under the Florida Electric Power Plant Siting Act[6] or a transmission line under the Transmission Line Siting Act[7] the applicant is required to provide notice of the certified route to the DEP and the clerk of the circuit court in each county through which the corridor will pass. This section is amended to make technical changes improving notification to the DEP.

Modification of Certification

Section 403.5315, F.S., is amended to make minor edits to clarify and streamline former unclear provisions related to modification of certifications.

Additions are also made to this section to provide if objections are raised or DEP denies the proposed modification, the licensee may request a hearing with DEP, which is to be handled pursuant to ch. 120. If a request for hearing is referred to DOAH, it shall be disposed of in the same manner as an application, but with the ALJ establishing time periods commensurate with the significance of the modification requested.

Postcertification Activities

Section 403.5317, F.S., is created, relating to postcertificaiton activities. This new section is essentially a technical addition clarifying the difference between actions required for amendments submitted by the applicant during the application review and amendments submitted after certification. It also includes a provision regarding the review of postcertification submittals. These changes codify and clarify existing DEP rules, and provide regulatory certainty for licensees.

Public Notices; Requirements

[6] ss. 403.501-503.518, F.S.
[7] ss. 403.52-403.5365, F.S.

Section 403.5363, F.S., is created, relating to public notice requirements. This section relocates the bulk of the notice provisions from various places in the act into this section. It deletes language regarding a "reminder notice" less than 10 days prior to the certification hearing currently contained in s. 403.527, F.S. According to DEP the reason for this is that the timing of the notice did not fit with the new possibility of cancellation of a hearing, and experience indicated that this newspaper notice was often overlooked.

The bill adds requirements for notices of alternate corridors are to be paid for by the proponent of the alternate route.

Disposition of Fees

Under the TLSA, the applicant is responsible for paying application fees. The fees are designed to cover various reviews by the large number of agencies that may be involved in the process. The last time DEP addressed primary application fee was in 1993.

Currently, the application fee is $100,000, plus $750 per mile for each mile of transmission line right-of-way proposed to be located within an existing electrical transmission line right-of-way or within any existing right-of-way for any road, highway, railroad, or other aboveground linear facility, or $1,000 per mile for each mile of transmission line corridor proposed to be located outside existing right-of-way.[8]

Sixty percent of the fee is allocated to DEP to cover costs associated with reviewing and acting upon the application, as well as costs for field services associated with monitoring construction and operation of the facility. Twenty percent of the fee, except for postcertification fees, is transferred to the Administrative Trust Fund of the Division of Administrative Hearings (DOAH) of the Department of Management Services.[9]

Upon written request with proper itemized accounting, DEP is authorized to reimburse the expenses and costs of the DCA, the FWCC, the water management districts, regional planning councils, and local government in the jurisdiction of which the transmission line is to be located. Such reimbursement is authorized for the preparation of any studies required of the agencies by this act, and for the local government to participate in the proceedings. In the event the amount available for allocation is insufficient to provide for complete reimbursement to the agencies, the reimbursement will be on a prorated basis. If any sums are remaining, DEP has the authority to retain them for its use in the same manner as is otherwise authorized under statute. However, if a certification is withdrawn, the remaining sum will be refunded to the applicant.[10]

This section amends s. 403.5365, F.S., relating to the disposition of fees to account for changes in the process resulting from the potential cancellation of the certification hearing. Under the new fee schedule, DOAH would now receive an initial fee of 5 percent up front rather than 20 percent to cover initial administration costs. DOAH would receive an additional 10 percent if a certification hearing is held. The bill adds provisions to allow reimbursement of agency expenses for applications held in abeyance for more than one year. Further, DOT will also be eligible for reimbursement from DEP for its costs associated with the act.

Determination of Need

Although s. 403.537 is not part of the TLSA, ss. 503.53-403.5363, it is intrinsically related to it. Section 403.537 charges the PSC with responsibility for determining whether a proposed transmission line is needed. The need determination is a prerequisite to TLSA proceedings, and a hearing to determine need may be held upon request of the electric utility or upon motion of the PSC. Further, s. 403.537(1), F.S.,

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[8] s. 403.5365(1), F.S.
[9] s. 403 5365(1)(a-b), F.S.
[10] s. 403.5365(1)(c-d), F.S.

requires the PSC, among other things, to notice in newspapers of general circulation and in the Florida Administrative Weekly at least 45 days before the hearing date.

In determining the need for the proposed transmission line, the PSC must consider "the need for electric system reliability and integrity, the need for abundant, low-cost electric energy to assure the economic well-being of the citizens of this state, the appropriate starting and ending point of the line, and other matters within its jurisdiction deemed relevant to the determination of need. Once the PSC's determination of need is rendered, it is binding on all parties to the certification hearing. The determination is then included in the proposed project analysis submitted by DEP to the ALJ.

The bill amends s. 403.537, F.S, to require the applicant publish notice in newspapers of general circulation at least 21 days before the hearing date, and the PSC notice in the manner specified in chapter 120. In addition, the bill clarifies that the PSC is the sole forum for the determination of need, and that determination may not be raised or be the subject of review in another proceeding.

The bill adds to the variables taken into account by the PSC in its determination of need that the appropriate starting and ending points of the transmission line must be verified. Cross-references are also corrected in this section.

Conforming Changes

The bill makes technical changes to ss. 373.441(3), 403.061(30), 403.0876(3)(a), and 403.809(3)(b), F.S., to conform references to the name Florida Electric Transmission Siting Act.

Repealed Statutes

The bill repeals s. 403.5253, F.S. relating to sufficiency and s. 403.5369, F.S., which is an outdated provision on applicability.

Effective Date

This act shall take effect upon becoming law.

C. SECTION DIRECTORY:

Section 1 Amends S.403.52, F.S. to change the popular name of ss. 403.52-403.5365, F.S., to the "Florida Electric Transmission Citing Act.

Section 2 Amends s. 403.521, F.S., relating to Legislative intent.

Section 3 Amends s. 403.522, F.S., to update, add, and delete definitions applicable to this Act.

Section 4 Amends s. 403.523, F.S., relating to the powers and duties of the Department of Environmental Protection.

Section 5 Amends s. 403.524, F.S., relating to applicability, certification; and exemptions from the Act.

Section 6 Amends s. 403.525, F.S., relating to the appointment, powers, and duties of the Administrative Law Judge.

Section 7 Amends s. 403.5251, F.S., relating to the application schedule.

Section 8 Amends s .403.5252, F.S., relating to the determination of completeness.

Section 9 Amends s. 403.526, F.S., relating to the preliminary statement of issues, project analyses, and studies.

Section 10 Substantially rewords s. 403.527, F.S., relating to the certification hearing, parties, and participants.

Section 11 Amends s. 403.5271, F.S., relating to alternative corridors.

Section 12 Amends s. 403.5272, F.S., relating to informational public meetings.

Section 13 Amends s. 403.5275, F.S., relating to amendments to the application.

Section 14 Amends s. 403.528, F.S., relating to the alteration of time limits.

Section 15 Amends s. 403.529, F.S., relating to the final disposition of the application.

Section 16 Amends s. 403.531, F.S., relating to the effect of certification.

Section 17 Amends s, 403.5312, F.S., relating to filing notice of certified corridor routes.

Section 18 Amends s. 403.5315, F.S., relating to modification of certification.

Section 19 Creates s. 403.5317, F.S., relating to postcertification activities.

Section 20 Creates s. 403.5363, F.S., relating to public notice requirements.

Section 21 Amends s. 403.5365, F.S., relating to the disposition of fees.

Section 22 Amends s, 403.537, F.S., relating to the determination of need.

Section 23 Amends s. 373.441(3), F.S., to conform.

Section 24 Amends s. 403.061(30), F.S., to conform.

Section 25 Amends s. 403.0876(3)(a), F. S., to conform.

Section 26 Amends s. 403.809(3)(b), F.S., to conform.

Section 27 Repeals s. 403.5253, F.S., relating to the determination of sufficiency and s. 403.5369, F.S., relating to applicability.

Section 28 This act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill changes the allocation of funds from the application fee. DOAH currently receives the 20 percent of the application fee. Under the bill, it would currently receive five percent up front and an additional 10 percent if a hearing is held. DOT becomes eligible to receive a portion of the application fee.

2. Expenditures:

DEP will have some non-recurring expenditures associated with amending the TSLA rules to reflect changes in the statute. The costs to conduct hearings should decrease as a result of the provision allowing for cancellation of hearings.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   The costs to conduct hearings should decrease as a result of the provision allowing for cancellation of hearings.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The DEP projects that applicants will receive a direct economic benefit from shortening the application process. With a shorter process, construction contracts can be completed sooner and installations can begin at an earlier date.

D. FISCAL COMMENTS:

DOAH provided the following comments:

Currently, the law provides that 20% of the application filing fee be transferred to the Administrative Trust Fund of the Division of Administrative Hearings (DOAH) to apply to DOAH's expenses in conducting these hearings. Since these cases are reimbursed to DOAH pursuant to the statutory schedule, the hours spent on these cases are not included within DOAH's report of hours spent in hearing by agency, which report is utilized by the Legislature in determining the amount of money to be transferred by each agency to DOAH to fund DOAH's budget.

These cases are labor-intensive. The final hearings last for several weeks resulting in high travel expenses, and the recommended orders produced by DOAH Administrative Law Judges (ALJs) thereafter are extremely detailed and lengthy. An ALJ who is assigned one of these cases will have little time from shortly before the final hearing through the final hearing and the preparation of the recommended order to hear or resolve other cases.

Under the Bills, DOAH's share of the application filing fee is reduced from 20% to 15%. The 15% is further divided so that only 5% of the application filing fee is transferred to DOAH to cover DOAH's expenses associated with the filing of the application at DOAH up to the final hearing. The additional 10% to make up the total 15% is only transferred to DOAH if a final hearing is held.

Although DOAH's share of the application filing fee is reduced under the Bills, DOAH's costs, including travel costs and the amount of time spent on these cases by the ALJ, are not reduced. DOAH has received no explanation as to why DOAH's share is reduced while its travel costs have increased and the amount of ALJ time spent on these cases will, under the Bills, also be increased. It is interesting to note that the Department of Environmental Protection's share of the application fee is 60% under current law and will remain at 60% if either Bill becomes law. The remainder of the application fee remains at the Department's discretion to distribute however the Department believes equitable among the other state and local agencies participating in the proceeding. Further, the application fee itself would not be increased by either Bill, so the only change related to fees is the reduction of the money paid to DOAH.

DOAH requests that its share of the application fee remain at the 20% provided under current law if a final hearing on the application is held. In the event the matter is filed with DOAH and is resolved or

dismissed short of final hearing, DOAH agrees that it would be equitable to reduce its share to only 10% of the application filing fee.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

   None

B. RULE-MAKING AUTHORITY:

The DEP has authority to implement the bill provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to the siting of electric transmission
3 lines; amending s. 403.52, F.S.; changing the short title
4 to the "Florida Electric Transmission Line Siting Act";
5 amending s. 403.521, F.S.; revising legislative intent;
6 amending s. 403.522, F.S.; revising definitions; defining
7 the terms "licensee" and "maintenance and access roads";
8 amending s. 403.523, F.S.; revising powers and duties of
9 the Department of Environmental Protection; requiring the
10 department to collect and process fees, to prepare a
11 project analysis, to act as clerk for the siting board,
12 and to administer and manage the terms and conditions of
13 the certification order and supporting documents and
14 records; amending s. 403.524, F.S.; revising provisions
15 for applicability, certification, and exemptions under the
16 act; revising provisions for notice by an electric utility
17 of its intent to construct an exempt transmission line;
18 amending s. 403.525, F.S.; providing for powers and duties
19 of the administrative law judge designated by the Division
20 of Administrative Hearings to conduct the required
21 hearings; amending s. 403.5251, F.S.; revising application
22 procedures and schedules; providing for the formal date of
23 filing an application for certification and commencement
24 of the certification review process; requiring the
25 department to prepare a proposed schedule of dates for
26 determination of completeness and other significant dates
27 to be followed during the certification process; providing
28 for the formal date of application distribution; requiring

29 the applicant to provide notice of filing the application;
30 amending s. 403.5252, F.S.; revising timeframes and
31 procedures for determination of completeness of the
32 application; requiring the department to consult with
33 affected agencies; revising requirements for the
34 department to file a statement of its determination of
35 completeness with the Division of Administrative Hearings,
36 the applicant, and all parties within a certain time after
37 distribution of the application; revising requirements for
38 the applicant to file a statement with the department, the
39 division, and all parties, if the department determines
40 the application is not complete; providing for the
41 statement to notify the department whether the information
42 will be provided; revising timeframes and procedures for
43 contests of the determination by the department; providing
44 for parties to a hearing on the issue of completeness;
45 amending s. 403.526, F.S.; revising criteria and
46 procedures for preliminary statements of issues, reports,
47 and studies; revising timeframes; requiring that the
48 preliminary statement of issues from each affected agency
49 be submitted to the department and the applicant; revising
50 criteria for the Department of Community Affairs' report;
51 requiring the Department of Transportation, the Public
52 Service Commission, and any other affected agency to
53 prepare a project report; revising required content of the
54 report; providing for notice of any nonprocedural
55 requirements not listed in the application; providing for
56 failure to provide such notification; providing for a

57 recommendation for approval or denial of the application;
58 providing that receipt of an affirmative determination of
59 need is a condition precedent to further processing of the
60 application; requiring that the department prepare a
61 project analysis to be filed with the administrative law
62 judge and served on all parties within a certain time;
63 amending s. 403.527, F.S.; revising procedures and
64 timeframes for the certification hearing conducted by the
65 administrative law judge; revising provisions for notices
66 and publication of notices, public hearings held by local
67 governments, testimony at the public-hearing portion of
68 the certification hearing, the order of presentations at
69 the hearing, and consideration of certain communications
70 by the administrative law judge; requiring the applicant
71 to pay certain expenses and costs; requiring the
72 administrative law judge to issue a recommended order
73 disposing of the application; requiring that certain
74 notices be made in accordance with specified requirements
75 and within a certain time; requiring the Department of
76 Transportation to be a party to the proceedings; providing
77 for the administrative law judge to cancel the
78 certification hearing and relinquish jurisdiction to the
79 Department of Environmental Protection upon request by the
80 applicant or the department; requiring the department and
81 the applicant to publish notice of such cancellation;
82 providing for parties to submit proposed recommended
83 orders to the department when the certification hearing
84 has been canceled; providing that the department prepare a

85 recommended order for final action by the siting board
86 when the hearing has been canceled; amending s. 403.5271,
87 F.S.; revising procedures and timeframes for consideration
88 of proposed alternate corridors; revising notice
89 requirements; providing for notice of the filing of the
90 alternate corridor and revised time schedules; providing
91 for notice to agencies newly affected by the proposed
92 alternate corridor; requiring the person proposing the
93 alternate corridor to provide all data to the agencies
94 within a certain time; providing for a determination by
95 the department that the data is not complete; providing
96 for withdrawal of the proposed alternate corridor upon
97 such determination; requiring that agencies file reports
98 with the applicant and the department which address the
99 proposed alternate corridor; requiring that the department
100 file with the administrative law judge, the applicant, and
101 all parties a project analysis of the proposed alternate
102 corridor; providing that the party proposing an alternate
103 corridor has the burden of proof concerning the
104 certifiability of the alternate corridor; amending s.
105 403.5272, F.S.; revising procedures for informational
106 public meetings; providing for informational public
107 meetings held by regional planning councils; revising
108 timeframes; amending s. 403.5275, F.S.; revising
109 provisions for amendment to the application prior to
110 certification; amending s. 403.528, F.S.; providing that a
111 comprehensive application encompassing more than one
112 proposed transmission line may be good cause for altering

113 established time limits; amending s. 403.529, F.S.;
114 revising provisions for final disposition of the
115 application by the siting board; providing for the
116 administrative law judge's or department's recommended
117 order; amending s. 403.531, F.S.; revising provisions for
118 conditions of certification; amending s. 403.5312, F.S.;
119 requiring the applicant to file notice of a certified
120 corridor route with the department; amending s. 403.5315,
121 F.S.; revising the circumstances under which a
122 certification may be modified after the certification has
123 been issued; providing for procedures if objections are
124 raised to the proposed modification; creating s. 403.5317,
125 F.S.; providing procedures for changes proposed by the
126 licensee after certification; requiring the department to
127 determine within a certain time if the proposed change
128 requires modification of the conditions of certification;
129 requiring notice to the licensee, all agencies, and all
130 parties of changes that are approved as not requiring
131 modification of the conditions of certification; creating
132 s. 403.5363, F.S.; requiring publication of certain
133 notices by the applicant, the proponent of an alternate
134 corridor, and the department; requiring the department to
135 adopt rules specifying the content of such notices;
136 amending s. 403.5365, F.S.; revising application fees and
137 the distribution of fees collected; revising procedures
138 for reimbursement of local governments and regional
139 planning organizations; amending s. 403.537, F.S.;
140 revising the schedule for notice of a public hearing by

141 the Public Service Commission in order to determine the
142 need for a transmission line; providing that the
143 commission is the sole forum in which to determine the
144 need for a transmission line; amending ss. 373.441,
145 403.061, 403.0876, and 403.809, F.S.; conforming
146 terminology to changes made by the act; repealing ss.
147 403.5253 and 403.5369, F.S., relating to determination of
148 sufficiency of application or amendment to the application
149 and the application of the act to applications filed
150 before a certain date; providing an effective date.
151
152 Be It Enacted by the Legislature of the State of Florida:
153
154 Section 1. Section 403.52, Florida Statutes, is amended to
155 read:
156 403.52 Short title.--Sections 403.52-403.5365 may be cited
157 as the "Florida Electric Transmission Line Siting Act."
158 Section 2. Section 403.521, Florida Statutes, is amended
159 to read:
160 403.521 Legislative intent.--The legislative intent of
161 this act is to establish a centralized and coordinated licensing
162 ~~permitting~~ process for the location of electric transmission
163 line corridors and the construction, operation, and maintenance
164 of electric transmission lines, which are critical
165 infrastructure facilities. This necessarily involves several
166 broad interests of the public addressed through the subject
167 matter jurisdiction of several agencies. The Legislature
168 recognizes that electric transmission lines will have an effect

169 upon the reliability of the electric power system, the
170 environment, land use, and the welfare of the population.
171 Recognizing the need to ensure electric power system reliability
172 and integrity, and in order to meet electric ~~electrical~~ energy
173 needs in an orderly and timely fashion, the centralized and
174 coordinated licensing ~~permitting~~ process established by this act
175 is intended to further the legislative goal of ensuring through
176 available and reasonable methods that the location of
177 transmission line corridors and the construction, operation, and
178 maintenance of electric transmission lines produce minimal
179 adverse effects on the environment and public health, safety,
180 and welfare ~~while not unduly conflicting with the goals~~
181 ~~established by the applicable local comprehensive plan~~. It is
182 the intent of this act to fully balance the need for
183 transmission lines with the broad interests of the public in
184 order to effect a reasonable balance between the need for the
185 facility as a means of providing reliable, economical, and
186 efficient electric ~~abundant low-cost electrical~~ energy and the
187 impact on the public and the environment resulting from the
188 location of the transmission line corridor and the construction,
189 operation, and maintenance of the transmission lines. The
190 Legislature intends that the provisions of chapter 120 apply to
191 this act and to proceedings under ~~pursuant to~~ it except as
192 otherwise expressly exempted by other provisions of this act.
193 Section 3. Section 403.522, Florida Statutes, is amended
194 to read:
195 403.522 Definitions relating to the Florida Electric
196 Transmission Line Siting Act.--As used in this act:

197 (1) "Act" means the Florida Electric Transmission Line
198 Siting Act.
199 (2) "Agency," as the context requires, means an official,
200 officer, commission, authority, council, committee, department,
201 division, bureau, board, section, or other unit or entity of
202 government, including a county, municipality, or other regional
203 or local governmental entity.
204 (3) "Amendment" means a material change in information
205 provided by the applicant to the application for certification
206 made after the initial application filing.
207 (4) "Applicant" means any electric utility that ~~which~~
208 applies for certification under ~~pursuant to the provisions of~~
209 this act.
210 (5) "Application" means the documents required by the
211 department to be filed to initiate and support a certification
212 review and evaluation, including the initial document filing,
213 amendments, and responses to requests from the department for
214 additional data and information ~~proceeding~~. An electric utility
215 may file a comprehensive application encompassing all or a part
216 of one or more proposed transmission lines.
217 (6) "Board" means the Governor and Cabinet sitting as the
218 siting board.
219 (7) "Certification" means the approval by the board of the
220 license for a corridor proper for certification pursuant to
221 subsection (10) and the construction, operation, and maintenance
222 of transmission lines within the ~~such~~ corridor with the ~~such~~
223 changes or conditions as the siting board deems appropriate.

224 Certification shall be evidenced by a written order of the
225 board.
226 (8) "Commission" means the Florida Public Service
227 Commission.
228 (9) "Completeness" means that the application has
229 addressed all applicable sections of the prescribed application
230 format and~~, but does not mean~~ that those sections are sufficient
231 in comprehensiveness of data or in quality of information
232 provided to allow the department to determine whether the
233 application provides the reviewing agencies adequate information
234 to prepare the reports required by s. 403.526.
235 (10) "Corridor" means the proposed area within which a
236 transmission line right-of-way, including maintenance and access
237 roads, is to be located. The width of the corridor proposed for
238 certification by an applicant or other party, at the option of
239 the applicant, may be the width of the transmission line right-
240 of-way, or a wider boundary, not to exceed a width of 1 mile.
241 The area within the corridor in which a right-of-way may be
242 located may be further restricted by a condition of
243 certification. After all property interests required for the
244 transmission line right-of-way and maintenance and access roads
245 have been acquired by the applicant, the boundaries of the area
246 certified shall narrow to only that land within the boundaries
247 of the transmission line right-of-way. The corridors proper for
248 certification shall be those addressed in the application, in
249 amendments to the application filed under ~~pursuant to~~ s.
250 403.5275, and in notices of acceptance of proposed alternate
251 corridors filed by an applicant and the department pursuant to

252 s. 403.5271 for which the required ~~sufficient~~ information for
253 the preparation of agency supplemental reports was filed.
254 (11) "Department" means the Department of Environmental
255 Protection.
256 (12) "Electric utility" means cities and towns, counties,
257 public utility districts, regulated electric companies, electric
258 cooperatives, regional transmission organizations, operators of
259 independent transmission systems, or other transmission
260 organizations approved by the Federal Energy Regulatory
261 Commission or the commission for the operation of transmission
262 facilities, and joint operating agencies, or combinations
263 thereof, engaged in, or authorized to engage in, the business of
264 generating, transmitting, or distributing electric energy.
265 (13) "License" means a franchise, permit, certification,
266 registration, charter, comprehensive plan amendment, development
267 order, or permit as defined in chapters 163 and 380, or similar
268 form of authorization required by law, but it does not include a
269 license required primarily for revenue purposes when issuance of
270 the license is merely a ministerial act.
271 (14) "Licensee" means an applicant that has obtained a
272 certification order for the subject project.
273 (15) ~~(14)~~ "Local government" means a municipality or county
274 in the jurisdiction of which the project is proposed to be
275 located.
276 (16) "Maintenance and access roads" mean roads constructed
277 within the transmission line right-of-way. Nothing in this act
278 prohibits an applicant from constructing a road to support

279 construction, operation, or maintenance of the transmission line
280 that lies outside the transmission line right-of-way.
281 (17) ~~(15)~~ "Modification" means any change in the
282 certification order after issuance, including a change in the
283 conditions of certification.
284 (18) ~~(16)~~ "Nonprocedural requirements of agencies" means
285 any agency's regulatory requirements established by statute,
286 rule, ordinance, or comprehensive plan, excluding any provisions
287 prescribing forms, fees, procedures, or time limits for the
288 review or processing of information submitted to demonstrate
289 compliance with such regulatory requirements.
290 (19) ~~(17)~~ "Person" means an individual, partnership, joint
291 venture, private or public corporation, association, firm,
292 public service company, political subdivision, municipal
293 corporation, government agency, public utility district, or any
294 other entity, public or private, however organized.
295 (20) ~~(18)~~ "Preliminary statement of issues" means a listing
296 and explanation of those issues within the agency's jurisdiction
297 which are of major concern to the agency in relation to the
298 proposed electric ~~electrical~~ transmission line corridor.
299 (21) ~~(19)~~ "Regional planning council" means a regional
300 planning council as defined in s. 186.503(4) in the jurisdiction
301 of which the project is proposed to be located.
302 ~~(20) "Sufficiency" means that the application is not only~~
303 ~~complete but that all sections are adequate in the~~
304 ~~comprehensiveness of data and in the quality of information~~
305 ~~provided to allow the department to determine whether the~~

306 ~~application provides the reviewing agencies adequate information~~
307 ~~to prepare the reports authorized by s. 403.526.~~
308 (22) ~~(21)~~ "Transmission line" or "electric transmission
309 line" means structures, maintenance and access roads, and all
310 other facilities that need to be constructed, operated, or
311 maintained for the purpose of conveying electric power ~~any~~
312 ~~electrical transmission line~~ extending from, but not including,
313 an existing or proposed substation or power plant to, but not
314 including, an existing or proposed transmission network or
315 rights-of-way or substation to which the applicant intends to
316 connect which defines the end of the proposed project and which
317 is designed to operate at 230 kilovolts or more. ~~The starting~~
318 ~~point and ending point of a transmission line must be~~
319 ~~specifically defined by the applicant and must be verified by~~
320 ~~the commission in its determination of need. A transmission line~~
321 ~~includes structures and maintenance and access roads that need~~
322 ~~to be constructed for the project to become operational.~~ The
323 transmission line may include, at the applicant's option, any
324 proposed terminal or intermediate substations or substation
325 expansions necessary to serve the transmission line.
326 (23) ~~(22)~~ "Transmission line right-of-way" means land
327 necessary for the construction, operation, and maintenance of a
328 transmission line. The typical width of the right-of-way shall
329 be identified in the application. The right-of-way shall be
330 located within the certified corridor and shall be identified by
331 the applicant ~~subsequent to certification~~ in documents filed
332 with the department before ~~prior to~~ construction.

333 (24) ~~(23)~~ "Water management district" means a water
334 management district created pursuant to chapter 373 in the
335 jurisdiction of which the project is proposed to be located.
336 Section 4. Section 403.523, Florida Statutes, is amended
337 to read:
338 403.523 Department of Environmental Protection; powers and
339 duties.--The department has ~~shall have~~ the following powers and
340 duties:
341 (1) To adopt procedural rules pursuant to ss. 120.536(1)
342 and 120.54 to administer ~~implement the provisions of~~ this act
343 and to adopt or amend rules to implement the provisions of
344 subsection (10).
345 (2) To prescribe the form and content of the public
346 notices and the form, content, and necessary supporting
347 documentation, and any required studies, for certification
348 applications. All ~~such~~ data and studies shall be related to the
349 jurisdiction of the agencies relevant to the application.
350 (3) To receive applications for transmission line and
351 corridor certifications and initially determine the completeness
352 ~~and sufficiency~~ thereof.
353 (4) To make or contract for studies of certification
354 applications. All ~~such~~ studies shall be related to the
355 jurisdiction of the agencies relevant to the application. For
356 studies in areas outside the jurisdiction of the department and
357 in the jurisdiction of another agency, the department may
358 initiate such studies, but only with the consent of the ~~such~~
359 agency.

360 (5) To administer the processing of applications for
361 certification and ensure that the applications, including
362 postcertification reviews, are processed on an expeditious and
363 priority basis ~~as expeditiously as possible~~.
364 (6) To collect and process ~~require~~ such fees as allowed by
365 this act.
366 (7) To prepare a report and project ~~written~~ analysis as
367 required by s. 403.526.
368 (8) To prescribe the means for monitoring the effects
369 arising from the location of the transmission line corridor and
370 the construction, operation, and maintenance of the transmission
371 lines to assure continued compliance with the terms of the
372 certification.
373 (9) To make a determination of acceptability of any
374 alternate corridor proposed for consideration under ~~pursuant to~~
375 s. 403.5271.
376 (10) To set requirements that reasonably protect the
377 public health and welfare from the electric and magnetic fields
378 of transmission lines for which an application is filed under
379 ~~after the effective date of~~ this act.
380 (11) To present rebuttal evidence on any issue properly
381 raised at the certification hearing.
382 (12) To issue final orders after receipt of the
383 administrative law judge's order relinquishing jurisdiction
384 pursuant to s. 403.527(6).
385 (13) To act as clerk for the siting board.

386 (14) To administer and manage the terms and conditions of
387 the certification order and supporting documents and records for
388 the life of the facility.
389 (15) To issue emergency orders on behalf of the board for
390 facilities licensed under this act.
391 Section 5. Section 403.524, Florida Statutes, is amended
392 to read:
393 403.524 Applicability; ~~and~~ certification; exemptions.--
394 (1) ~~The provisions of~~ This act applies ~~apply~~ to each
395 transmission line, except a transmission line certified under
396 ~~pursuant to~~ the Florida Electrical Power Plant Siting Act.
397 (2) Except as provided in subsection (1), ~~no~~ construction
398 of a ~~any~~ transmission line may not be undertaken without first
399 obtaining certification under this act, but ~~the provisions of~~
400 this act does ~~do~~ not apply to:
401 (a) Transmission lines for which development approval has
402 been obtained under ~~pursuant to~~ chapter 380.
403 (b) Transmission lines that ~~which~~ have been exempted by a
404 binding letter of interpretation issued under s. 380.06(4), or
405 in which the Department of Community Affairs or its predecessor
406 agency has determined the utility to have vested development
407 rights within the meaning of s. 380.05(18) or s. 380.06(20).
408 (c) Transmission line development in which all
409 construction is limited to established rights-of-way.
410 Established rights-of-way include ~~such~~ rights-of-way established
411 at any time for roads, highways, railroads, gas, water, oil,
412 electricity, or sewage and any other public purpose rights-of-
413 way. If an established transmission line right-of-way is used to

414 qualify for this exemption, the transmission line right-of-way
415 must have been established at least 5 years before notice of the
416 start of construction under subsection (4) of the proposed
417 transmission line. If an established transmission line right-of-
418 way is relocated to accommodate a public project, the date the
419 original transmission line right-of-way was established applies
420 to the relocated transmission line right-of-way for purposes of
421 this exemption. ~~Except for transmission line rights-of-way,~~
422 ~~established rights-of-way include rights-of-way created before~~
423 ~~or after October 1, 1983. For transmission line rights-of-way,~~
424 ~~established rights-of-way include rights-of-way created before~~
425 ~~October 1, 1983.~~
426 (d) Unless the applicant has applied for certification
427 under this act, transmission lines that ~~which~~ are less than 15
428 miles in length or are located in a single ~~which do not cross a~~
429 county within the state ~~line, unless the applicant has elected~~
430 ~~to apply for certification under the act~~.
431 (3) The exemption of a transmission line under this act
432 does not constitute an exemption for the transmission line from
433 other applicable permitting processes under other provisions of
434 law or local government ordinances.
435 (4) An electric ~~A~~ utility shall notify the department in
436 writing, before ~~prior to~~ the start of construction, of its
437 intent to construct a transmission line exempted under ~~pursuant~~
438 ~~to~~ this section. The ~~Such~~ notice is ~~shall be~~ only for
439 information purposes, and ~~no~~ action by the department is not
440 ~~shall be~~ required pursuant to the ~~such~~ notice. This notice may
441 be included in any submittal filed with the department before

442 the start of construction demonstrating that a new transmission
443 line complies with the applicable electric and magnetic field
444 standards.
445 Section 6. Section 403.525, Florida Statutes, is amended
446 to read:
447 403.525 ~~Appointment of~~ Administrative law judge;
448 appointment; powers and duties.--
449 (1)(a) Within 7 days after receipt of an application,
450 whether complete or not, the department shall request the
451 Division of Administrative Hearings to designate an
452 administrative law judge to conduct the hearings required by
453 this act.
454 (b) The division director shall designate an
455 administrative law judge to conduct the hearings required by
456 this act within 7 days after receipt of the request from the
457 department. Whenever practicable, the division director shall
458 assign an administrative law judge who has had prior experience
459 or training in this type of certification proceeding.
460 (c) Upon being advised that an administrative law judge
461 has been designated, the department shall immediately file a
462 copy of the application and all supporting documents with the
463 administrative law judge, who shall docket the application.
464 (2) The administrative law judge has all powers and duties
465 granted to administrative law judges under chapter 120 and by
466 the laws and rules of the department.
467 Section 7. Section 403.5251, Florida Statutes, is amended
468 to read:
469 403.5251 ~~Distribution of~~ Application; schedules.--

470 (1)(a) The formal date of the filing of the application
471 for certification and commencement of the review process for
472 certification is the date on which the applicant submits:
473 1. Copies of the application for certification in a
474 quantity and format, electronic or otherwise as prescribed by
475 rule, to the department and other agencies identified in s.
476 403.526(2); and
477 2. The application fee as specified under s. 403.5365 to
478 the department.
479
480 The department shall provide to the applicant and the Division
481 of Administrative Hearings the names and addresses of any
482 additional agencies or persons entitled to notice and copies of
483 the application and amendments, if any, within 7 days after
484 receiving the application for certification and the application
485 fees.
486 (b) In the application, the starting point and ending
487 point of a transmission line must be specifically defined by the
488 applicant. ~~Within 7 days after the filing of an application, the~~
489 ~~department shall provide the applicant and the Division of~~
490 ~~Administrative Hearings the names and addresses of those~~
491 ~~affected or other agencies entitled to notice and copies of the~~
492 ~~application and any amendments.~~
493 (2) Within 15 ~~7~~ days after the formal date of the
494 application filing ~~completeness has been determined~~, the
495 department shall prepare a proposed schedule of dates for
496 determination of completeness, submission of statements of
497 issues, ~~determination of sufficiency, and~~ submittal of final

498 reports, ~~from affected and other agencies~~ and other significant
499 dates to be followed during the certification process, including
500 dates for filing notices of appearances to be a party under s.
501 403.527(2) ~~pursuant to s. 403.527(4)~~. This schedule shall be
502 provided by the department to the applicant, the administrative
503 law judge, and the agencies identified under ~~pursuant to~~
504 subsection (1). Within 7 days after the filing of this proposed
505 schedule, the administrative law judge shall issue an order
506 establishing a schedule for the matters addressed in the
507 department's proposed schedule and other appropriate matters, if
508 any.
509 (3) ~~Within 7 days after completeness has been determined,~~
510 ~~the applicant shall distribute copies of the application to all~~
511 ~~agencies identified by the department pursuant to subsection~~
512 ~~(1).~~ Copies of changes and amendments to the application shall
513 be timely distributed by the applicant to all agencies and
514 parties who have received a copy of the application.
515 (4) Notice of the filing of the application shall be made
516 in accordance with the requirements of s. 403.5363.
517 Section 8. Section 403.5252, Florida Statutes, is amended
518 to read:
519 403.5252 Determination of completeness.--
520 (1)(a) Within 30 days after distribution of an
521 application, the affected agencies shall file a statement with
522 the department containing the recommendations of each agency
523 concerning the completeness of the application for
524 certification.

525 (b) Within 7 ~~15~~ days after receipt of the completeness
526 statements of each agency ~~an application~~, the department shall
527 file a statement with the Division of Administrative Hearings,
528 ~~and~~ with the applicant, and with all parties declaring its
529 position with regard to the completeness~~, not the sufficiency,~~
530 of the application. The statement of the department shall be
531 based upon its consultation with the affected agencies.
532 (2) ~~(1)~~ If the department declares the application to be
533 incomplete, the applicant, within 14 ~~15~~ days after the filing of
534 the statement by the department, shall file with the Division of
535 Administrative Hearings, with all parties, and with the
536 department ~~a statement~~:
537 (a) A withdrawal of ~~Agreeing with the statement of the~~
538 ~~department and withdrawing~~ the application;
539 (b) Additional information necessary to make the
540 application complete. After the department first determines the
541 application to be incomplete, the time schedules under this act
542 are not tolled if the applicant makes the application complete
543 within the 14-day period. A subsequent finding by the department
544 that the application remains incomplete tolls the time schedules
545 under this act until the application is determined complete;
546 ~~Agreeing with the statement of the department and agreeing to~~
547 ~~amend the application without withdrawing it. The time schedules~~
548 ~~referencing a complete application under this act shall not~~
549 ~~commence until the application is determined complete; or~~
550 (c) A statement contesting the department's determination
551 of incompleteness; or ~~statement of the department.~~

552 (d) A statement agreeing with the department and
553 requesting additional time to provide the information necessary
554 to make the application complete. If the applicant exercises
555 this option, the time schedules under this act are tolled until
556 the application is determined complete.
557 (3)(a) ~~(2)~~ If the applicant contests the determination by
558 the department that an application is incomplete, the
559 administrative law judge shall schedule a hearing on the
560 statement of completeness. The hearing shall be held as
561 expeditiously as possible, but not later than 21 ~~30~~ days after
562 the filing of the statement by the department. The
563 administrative law judge shall render a decision within 7 ~~10~~
564 days after the hearing.
565 (b) Parties to a hearing on the issue of completeness
566 shall include the applicant, the department, and any agency that
567 has jurisdiction over the matter in dispute. Any substantially
568 affected person who wishes to become a party to the hearing on
569 the issue of completeness must file a motion no later than 10
570 days before the date of the hearing.
571 (c) ~~(a)~~ If the administrative law judge determines that the
572 application was not complete ~~as filed~~, the applicant shall
573 withdraw the application or make such additional submittals as
574 necessary to complete it. The time schedules referencing a
575 complete application under this act do ~~shall~~ not commence until
576 the application is determined complete.
577 (d) ~~(b)~~ If the administrative law judge determines that the
578 application was complete at the time it was declared incomplete

579 ~~filed~~, the time schedules referencing a complete application
580 under this act shall commence upon such determination.
581 (4) If the applicant provides additional information to
582 address the issues identified in the determination of
583 incompleteness, each affected agency may submit to the
584 department, no later than 14 days after the applicant files the
585 additional information, a recommendation on whether the agency
586 believes the application is complete. Within 21 days after
587 receipt of the additional information from the applicant
588 submitted under paragraphs (2)(b), (2)(d), or (3)(c) and
589 considering the recommendations of the affected agencies, the
590 department shall determine whether the additional information
591 supplied by an applicant makes the application complete. If the
592 department finds that the application is still incomplete, the
593 applicant may exercise any of the options specified in
594 subsection (2) as often as is necessary to resolve the dispute.
595 Section 9. Section 403.526, Florida Statutes, is amended
596 to read:
597 403.526 Preliminary statements of issues, reports, and
598 project analyses; ~~and~~ studies.--
599 (1) Each affected agency that is required to file a report
600 ~~which received an application~~ in accordance with this section ~~s.~~
601 ~~403.5251(3)~~ shall submit a preliminary statement of issues to
602 the department and all parties ~~the applicant~~ no later than 50 ~~60~~
603 days after the filing ~~distribution~~ of the ~~complete~~ application.
604 Such statements of issues shall be made available to each local
605 government for use as information for public meetings held under
606 ~~pursuant to~~ s. 403.5272. The failure to raise an issue in this

607 preliminary statement of issues does ~~shall~~ not preclude the
608 issue from being raised in the agency's report.
609 (2)(a) The following ~~affected~~ agencies shall prepare
610 reports as provided below and shall submit them to the
611 department and the applicant no later than ~~within~~ 90 days after
612 the filing ~~distribution~~ of the ~~complete~~ application:
613 1. The department shall prepare a report as to the impact
614 of each proposed transmission line or corridor as it relates to
615 matters within its jurisdiction.
616 2. Each water management district in the jurisdiction of
617 which a proposed transmission line or corridor is to be located
618 shall prepare a report as to the impact on water resources and
619 other matters within its jurisdiction.
620 3. The Department of Community Affairs shall prepare a
621 report containing recommendations which address the impact upon
622 the public of the proposed transmission line or corridor, based
623 on the degree to which the proposed transmission line or
624 corridor is consistent with the applicable portions of the state
625 comprehensive plan, emergency management, and other matters
626 within its jurisdiction. The Department of Community Affairs may
627 also comment on the consistency of the proposed transmission
628 line or corridor with applicable strategic regional policy plans
629 or local comprehensive plans and land development regulations.
630 4. The Fish and Wildlife Conservation Commission shall
631 prepare a report as to the impact of each proposed transmission
632 line or corridor on fish and wildlife resources and other
633 matters within its jurisdiction.

634 5. Each local government shall prepare a report as to the
635 impact of each proposed transmission line or corridor on matters
636 within its jurisdiction, including the consistency of the
637 proposed transmission line or corridor with all applicable local
638 ordinances, regulations, standards, or criteria that apply to
639 the proposed transmission line or corridor, including local
640 comprehensive plans, zoning regulations, land development
641 regulations, and any applicable local environmental regulations
642 adopted pursuant to s. 403.182 or by other means. A ~~No~~ change by
643 the responsible local government or local agency in local
644 comprehensive plans, zoning ordinances, or other regulations
645 made after the date required for the filing of the local
646 government's report required by this section is not ~~shall be~~
647 applicable to the certification of the proposed transmission
648 line or corridor unless the certification is denied or the
649 application is withdrawn.
650 6. Each regional planning council shall present a report
651 containing recommendations that address the impact upon the
652 public of the proposed transmission line or corridor based on
653 the degree to which the transmission line or corridor is
654 consistent with the applicable provisions of the strategic
655 regional policy plan adopted under ~~pursuant to~~ chapter 186 and
656 other impacts of each proposed transmission line or corridor on
657 matters within its jurisdiction.
658 7. The Department of Transportation shall prepare a report
659 as to the impact of the proposed transmission line or corridor
660 on state roads, railroads, airports, aeronautics, seaports, and
661 other matters within its jurisdiction.

662 8. The commission shall prepare a report containing its
663 determination under s. 403.537 and the report may include the
664 comments from the commission with respect to any other subject
665 within its jurisdiction.
666 9. Any other agency, if requested by the department, shall
667 also perform studies or prepare reports as to subjects within
668 the jurisdiction of the agency which may potentially be affected
669 by the proposed transmission line.
670 (b) Each report must ~~shall~~ contain:
671 1. A notice of any nonprocedural requirements not
672 specifically listed in the application from which a variance,
673 exemption, exception, or other relief is necessary in order for
674 the proposed corridor to be certified. Failure to include the
675 notice shall be treated as a waiver from the nonprocedural
676 requirements of that agency.
677 2. A recommendation for approval or denial of the
678 application.
679 3. The ~~information on variances required by s. 403.531(2)~~
680 ~~and~~ proposed conditions of certification on matters within the
681 jurisdiction of each agency. For each condition proposed by an
682 agency, the agency shall list the specific statute, rule, or
683 ordinance, as applicable, which authorizes the proposed
684 condition.
685 (c) Each reviewing agency shall initiate the activities
686 required by this section no later than 15 days after the
687 ~~complete~~ application is filed ~~distributed~~. Each agency shall
688 keep the applicant and the department informed as to the
689 progress of its studies and any issues raised thereby.

690 (d) Receipt of an affirmative determination of need from
691 the commission by the submittal deadline for agency reports
692 under paragraph (a) is a condition precedent to further
693 processing of the application.
694 (3) The department shall prepare a project ~~written~~
695 analysis containing ~~which contains~~ a compilation of agency
696 reports and summaries of the material contained therein which
697 shall be filed with the administrative law judge and served on
698 all parties no later than 115 ~~135~~ days after the application is
699 filed ~~complete application has been distributed to the affected~~
700 ~~agencies~~, and which shall include:
701 (a) A statement indicating whether the proposed electric
702 transmission line will be in compliance with the rules of the
703 department and affected agencies.
704 (b) ~~(a)~~ The studies and reports required by this section
705 and s. 403.537.
706 (c) ~~(b)~~ Comments received from any other agency or person.
707 (d) ~~(c)~~ The recommendation of the department as to the
708 disposition of the application, of variances, exemptions,
709 exceptions, or other relief identified by any party, and of any
710 proposed conditions of certification which the department
711 believes should be imposed.
712 (4) The failure of any agency to submit a preliminary
713 statement of issues or a report, or to submit its preliminary
714 statement of issues or report within the allowed time, is ~~shall~~
715 not ~~be~~ grounds for the alteration of any time limitation in this
716 act under ~~pursuant to~~ s. 403.528. ~~Neither~~ The failure to submit
717 a preliminary statement of issues or a report, or ~~nor~~ the

718 inadequacy of the preliminary statement of issues or report, are
719 not ~~shall be~~ grounds to deny or condition certification.
720 Section 10. Section 403.527, Florida Statutes, is amended
721 to read:
722 (Substantial rewording of section. See s. 403.527, F.S.,
723 for present text.)
724 403.527 Certification hearing, parties, participants.--
725 (1)(a) No later than 145 days after the application is
726 filed, the administrative law judge shall conduct a
727 certification hearing pursuant to ss. 120.569 and 120.57 at a
728 central location in proximity to the proposed transmission line
729 or corridor.
730 (b) Notice of the certification hearing and other public
731 hearings provided for in this section and notice of the deadline
732 for filing of notice of intent to be a party shall be made in
733 accordance with the requirements of s. 403.5363.
734 (2)(a) Parties to the proceeding shall be:
735 1. The applicant.
736 2. The department.
737 3. The commission.
738 4. The Department of Community Affairs.
739 5. The Fish and Wildlife Conservation Commission.
740 6. The Department of Transportation.
741 7. Each water management district in the jurisdiction of
742 which the proposed transmission line or corridor is to be
743 located.
744 8. The local government.
745 9. The regional planning council.

746 (b) Any party listed in paragraph (a), other than the
747 department or the applicant, may waive its right to participate
748 in these proceedings. If any listed party fails to file a notice
749 of its intent to be a party on or before the 30th day before the
750 certification hearing, the party is deemed to have waived its
751 right to be a party unless its participation would not prejudice
752 the rights of any party to the proceeding.
753 (c) Notwithstanding the provisions of chapter 120 to the
754 contrary, upon the filing with the administrative law judge of a
755 notice of intent to be a party by an agency, corporation, or
756 association described in subparagraphs 1. and 2. or a petition
757 for intervention by a person described in subparagraph 3. no
758 later than 30 days before the date set for the certification
759 hearing, the following shall also be parties to the proceeding:
760 1. Any agency not listed in paragraph (a) as to matters
761 within its jurisdiction.
762 2. Any domestic nonprofit corporation or association
763 formed, in whole or in part, to promote conservation of natural
764 beauty; to protect the environment, personal health, or other
765 biological values; to preserve historical sites; to promote
766 consumer interests; to represent labor, commercial, or
767 industrial groups; or to promote comprehensive planning or
768 orderly development of the area in which the proposed
769 transmission line or corridor is to be located.
770 3. Any person whose substantial interests are affected and
771 being determined by the proceeding.

772 (d) Any agency whose properties or works may be affected
773 shall be made a party upon the request of the agency or any
774 party to this proceeding.
775 (3)(a) The order of presentation at the certification
776 hearing, unless otherwise changed by the administrative law
777 judge to ensure the orderly presentation of witnesses and
778 evidence, shall be:
779 1. The applicant.
780 2. The department.
781 3. State agencies.
782 4. Regional agencies, including regional planning councils
783 and water management districts.
784 5. Local governments.
785 6. Other parties.
786 (b) When appropriate, any person may be given an
787 opportunity to present oral or written communications to the
788 administrative law judge. If the administrative law judge
789 proposes to consider such communications, all parties shall be
790 given an opportunity to cross-examine, challenge, or rebut the
791 communications.
792 (4) One public hearing where members of the public who are
793 not parties to the certification hearing may testify shall be
794 held within the boundaries of each county, at the option of any
795 local government.
796 (a) A local government shall notify the administrative law
797 judge and all parties not later than 21 days after the
798 application has been determined complete as to whether the local
799 government wishes to have a public hearing. If a filing for an

800 alternate corridor is accepted for consideration under s.
801 403.5271(1) by the department and the applicant, any newly
802 affected local government must notify the administrative law
803 judge and all parties not later than 10 days after the data
804 concerning the alternate corridor has been determined complete
805 as to whether the local government wishes to have such a public
806 hearing. The local government is responsible for providing the
807 location of the public hearing if held separately from the
808 certification hearing.
809 (b) Within 5 days after notification, the administrative
810 law judge shall determine the date of the public hearing, which
811 shall be held before or during the certification hearing. If two
812 or more local governments within one county request a public
813 hearing, the hearing shall be consolidated so that only one
814 public hearing is held in any county. The location of a
815 consolidated hearing shall be determined by the administrative
816 law judge.
817 (c) If a local government does not request a public
818 hearing within 21 days after the application has been determined
819 complete, persons residing within the jurisdiction of the local
820 government may testify during that portion of the certification
821 hearing at which public testimony is heard.
822 (5) At the conclusion of the certification hearing, the
823 administrative law judge shall, after consideration of all
824 evidence of record, issue a recommended order disposing of the
825 application no later than 45 days after the transcript of the
826 certification hearing and the public hearings is filed with the
827 Division of Administrative Hearings.

828 (6)(a) No later than 25 days before the certification
829 hearing, the department or the applicant may request that the
830 administrative law judge cancel the certification hearing and
831 relinquish jurisdiction to the department if all parties to the
832 proceeding stipulate that there are no disputed issues of
833 material fact to be raised at the certification hearing.
834 (b) The administrative law judge shall issue an order
835 granting or denying the request within 5 days.
836 (c) If the administrative law judge grants the request,
837 the department and the applicant shall publish notices of the
838 cancellation of the certification hearing in accordance with s.
839 403.5363.
840 (d)1. If the administrative law judge grants the request,
841 the department shall prepare and issue a final order in
842 accordance with s. 403.529(1)(a).
843 2. Parties may submit proposed final orders to the
844 department no later than 10 days after the administrative law
845 judge issues an order relinquishing jurisdiction.
846 (7) The applicant shall pay those expenses and costs
847 associated with the conduct of the hearing and the recording and
848 transcription of the proceedings.
849 Section 11. Section 403.5271, Florida Statutes, is amended
850 to read:
851 403.5271 Alternate corridors.--
852 (1) No later than 45 ~~50~~ days before ~~prior to~~ the
853 originally scheduled certification hearing, any party may
854 propose alternate transmission line corridor routes for
855 consideration under ~~pursuant to~~ the provisions of this act.

856 (a) A notice of a ~~any such~~ proposed alternate corridor
857 must ~~shall~~ be filed with the administrative law judge, all
858 parties, and any local governments in whose jurisdiction the
859 alternate corridor is proposed. The ~~Such~~ filing must ~~shall~~
860 include the most recent United States Geological Survey 1:24,000
861 quadrangle maps specifically delineating the corridor
862 boundaries, a description of the proposed corridor, and a
863 statement of the reasons the proposed alternate corridor should
864 be certified.
865 (b)1. Within 7 days after receipt of the ~~such~~ notice, the
866 applicant and the department shall file with the administrative
867 law judge and all parties a notice of acceptance or rejection of
868 a proposed alternate corridor for consideration. If the
869 alternate corridor is rejected ~~either~~ by the applicant or the
870 department, the certification hearing and the public hearings
871 shall be held as scheduled. If both the applicant and the
872 department accept a proposed alternate corridor for
873 consideration, the certification hearing and the public hearings
874 shall be rescheduled, if necessary.
875 2. If rescheduled, the certification hearing shall be held
876 no more than 90 days after the previously scheduled
877 certification hearing, unless the data submitted under paragraph
878 (d) is determined to be incomplete, in which case the
879 rescheduled certification hearing shall be held no more than 105
880 days after the previously scheduled certification hearing. If
881 additional time is needed due to the alternate corridor crossing
882 a local government jurisdiction that was not previously
883 affected, ~~in which case~~ the remainder of the schedule listed

884 below shall be appropriately adjusted by the administrative law
885 judge to allow that local government to prepare a report
886 pursuant to s. 403.526(2)(a)5.
887 (c) Notice of the filing of the alternate corridor, of the
888 revised time schedules, of the deadline for newly affected
889 persons and agencies to file notice of intent to become a party,
890 of the rescheduled hearing date, and of the proceedings ~~pursuant~~
891 ~~to s. 403.527(1)(b) and (e)~~ shall be published in accordance
892 with s. 403.5363.
893 (d) Within 21 ~~25~~ days after acceptance of an alternate
894 corridor by the department and the applicant, the party
895 proposing an alternate corridor shall have the burden of
896 providing all ~~additional~~ data to the agencies listed in s.
897 403.526(2) and newly affected agencies ~~s. 403.526~~ necessary for
898 the preparation of a supplementary report on the proposed
899 alternate corridor.
900 (e)1. Reviewing agencies shall advise the department of
901 any issues concerning completeness no later than 15 days after
902 the submittal of the data required by paragraph (d). Within 22
903 days after receipt of the data, the department shall issue a
904 determination of completeness.
905 2. If the department determines that the data required by
906 paragraph (d) is not complete, the party proposing the alternate
907 corridor must file such additional data to correct the
908 incompleteness. This additional data must be submitted within 14
909 days after the determination by the department.
910 3. If the department, within 14 days after receiving the
911 additional data, determines that the data remains incomplete,

912 the incompleteness of the data is deemed a withdrawal of the
913 proposed alternate corridor. The department may make its
914 determination based on recommendations made by other affected
915 agencies. ~~If the department determines within 15 days that this~~
916 ~~additional data is insufficient, the party proposing the~~
917 ~~alternate corridor shall file such additional data that corrects~~
918 ~~the insufficiency within 15 days after the filing of the~~
919 ~~department's determination. If such additional data is~~
920 ~~determined insufficient, such insufficiency of data shall be~~
921 ~~deemed a withdrawal of the proposed alternate corridor. The~~
922 ~~party proposing an alternate corridor shall have the burden of~~
923 ~~proof on the certifiability of the alternate corridor at the~~
924 ~~certification hearing pursuant to s. 403.529(4). Nothing in this~~
925 ~~act shall be construed as requiring the applicant or agencies~~
926 ~~not proposing the alternate corridor to submit data in support~~
927 ~~of such alternate corridor.~~
928 (f) The agencies listed in s. 403.526(2) and any newly
929 affected agencies ~~s. 403.526~~ shall file supplementary reports
930 with the applicant and the department which address ~~addressing~~
931 the proposed alternate corridors no later than 24 ~~60~~ days after
932 the ~~additional~~ data ~~is~~ submitted pursuant to paragraph (d) or
933 paragraph (e) is determined to be complete.
934 (g) The agency reports on alternate corridors must include
935 all information required by s. 403.526(2) ~~agencies shall submit~~
936 ~~supplementary notice pursuant to s. 403.531(2) at the time of~~
937 ~~filing of their supplemental report~~.
938 (h) The department shall file with the administrative law
939 judge, the applicant, and all parties a project ~~prepare a~~

940 ~~written~~ analysis consistent with s. 403.526(3) no more than 16
941 ~~at least 29~~ days after submittal of agency reports on ~~prior to~~
942 ~~the rescheduled certification hearing addressing~~ the proposed
943 alternate corridor.
944 (2) If the original certification hearing date is
945 rescheduled, the rescheduling shall not provide the opportunity
946 for parties to file additional alternate corridors to the
947 applicant's proposed corridor or any accepted alternate
948 corridor. However, an amendment to the application which changes
949 the alignment of the applicant's proposed corridor shall require
950 rescheduling of the certification hearing, if necessary, so as
951 to allow time for a party to file alternate corridors to the
952 realigned proposed corridor for which the application has been
953 amended. Any ~~such~~ alternate corridor proposal shall have the
954 same starting and ending points as the realigned portion of the
955 corridor proposed by the applicant's amendment, provided that
956 the administrative law judge for good cause shown may authorize
957 another starting or ending point in the area of the applicant's
958 amended corridor.
959 (3)(a) Notwithstanding the rejection of a proposed
960 alternate corridor by the applicant or the department, any party
961 may present evidence at the certification hearing to show that a
962 corridor proper for certification does not satisfy the criteria
963 listed in s. 403.529 or that a rejected alternate corridor would
964 meet the criteria set forth in s. 403.529. ~~No~~ Evidence may not
965 ~~shall~~ be admitted at the certification hearing on any alternate
966 corridor, unless the alternate corridor was proposed by the
967 filing of a notice at least 45 ~~50~~ days before ~~prior to~~ the

968 originally scheduled certification hearing pursuant to this
969 section. Rejected alternate corridors shall be considered by the
970 board as provided in s. 403.529(4) and (5).
971 (b) The party proposing an alternate corridor has the
972 burden to prove that the alternate corridor can be certified at
973 the certification hearing. This act does not require an
974 applicant or agency that is not proposing the alternate corridor
975 to submit data in support of the alternate corridor.
976 (4) If an alternate corridor is accepted by the applicant
977 and the department pursuant to a notice of acceptance as
978 provided in this subsection and the ~~such~~ corridor is ultimately
979 determined to be the corridor that would meet the criteria set
980 forth in s. 403.529(4) and (5), the board shall certify that
981 corridor.
982 Section 12. Section 403.5272, Florida Statutes, is amended
983 to read:
984 403.5272 ~~Local governments;~~ Informational public
985 meetings.--
986 (1) A local government whose jurisdiction is to be crossed
987 by a proposed corridor ~~governments~~ may hold one informational
988 public meeting ~~meetings~~ in addition to the hearings specifically
989 authorized by this act on any matter associated with the
990 transmission line proceeding. The ~~Such~~ informational public
991 meeting may be conducted by the local government or the regional
992 planning council and shall ~~meetings should~~ be held no later than
993 55 ~~80~~ days after the application is filed. The purpose of an
994 informational public meeting is for the local government or
995 regional planning council to further inform the ~~general~~ public

996 about the transmission line proposed, obtain comments from the
997 public, and formulate its recommendation with respect to the
998 proposed transmission line.
999 (2) Informational public meetings shall be held solely at
1000 the option of each local government or regional planning
1001 council. It is the legislative intent that local governments or
1002 regional planning councils attempt to hold such public meetings.
1003 Parties to the proceedings under this act shall be encouraged to
1004 attend; however, a ~~no~~ party other than the applicant and the
1005 department is not ~~shall be~~ required to attend the ~~such~~
1006 informational public meetings ~~hearings~~.
1007 (3) A local government or regional planning council that
1008 intends to conduct an informational public meeting must provide
1009 notice of the meeting, with notice sent to all parties listed in
1010 s. 403.527(2)(a), not less than 5 days before the meeting.
1011 (4) ~~(3)~~ The failure to hold an informational public meeting
1012 or the procedure used for the informational public meeting are
1013 ~~shall~~ not ~~be~~ grounds for the alteration of any time limitation
1014 in this act under ~~pursuant to~~ s. 403.528 or grounds to deny or
1015 condition certification.
1016 Section 13. Section 403.5275, Florida Statutes, is amended
1017 to read:
1018 403.5275 Amendment to the application.--
1019 (1) Any amendment made to the application before
1020 certification shall be sent by the applicant to the
1021 administrative law judge and to all parties to the proceeding.
1022 (2) Any amendment to the application made before ~~prior to~~
1023 certification shall be disposed of as part of the original

1024 certification proceeding. Amendment of the application may be
1025 considered "good cause" for alteration of time limits pursuant
1026 to s. 403.528.
1027 Section 14. Section 403.528, Florida Statutes, is amended
1028 to read:
1029 403.528 Alteration of time limits.--
1030 (1) Any time limitation in this act may be altered by the
1031 administrative law judge upon stipulation between the department
1032 and the applicant unless objected to by any party within 5 days
1033 after notice or for good cause shown by any party.
1034 (2) A comprehensive application encompassing more than one
1035 proposed transmission line may be good cause for alternation of
1036 time limits.
1037 Section 15. Section 403.529, Florida Statutes, is amended
1038 to read:
1039 403.529 Final disposition of application.--
1040 (1)(a) If the administrative law judge has granted a
1041 request to cancel the certification hearing and has relinquished
1042 jurisdiction to the department under s. 403.527(6), within 40
1043 days thereafter, the secretary of the department shall act upon
1044 the application by written order in accordance with the terms of
1045 this act and state the reasons for issuance or denial.
1046 (b) If the administrative law judge does not grant a
1047 request to cancel the certification hearing under the provisions
1048 of s. 403.527(6) within 60 ~~30~~ days after receipt of the
1049 administrative law judge's recommended order, the board shall
1050 act upon the application by written order, approving in whole,
1051 approving with such conditions as the board deems appropriate,

1052 or denying the certification and stating the reasons for
1053 issuance or denial.
1054 (2) The issues that may be raised in any hearing before
1055 the board shall be limited to matters raised in the
1056 certification proceeding before the administrative law judge or
1057 raised in the recommended order of the administrative law judge.
1058 All parties, or their representatives, or persons who appear
1059 before the board shall be subject to ~~the provisions of~~ s.
1060 120.66.
1061 (3) If certification is denied, the board, or secretary if
1062 applicable, shall set forth in writing the action the applicant
1063 would have to take to secure the approval of the application ~~by~~
1064 ~~the board~~.
1065 (4) In determining whether an application should be
1066 approved in whole, approved with modifications or conditions, or
1067 denied, the board, or secretary when applicable, shall consider
1068 whether, and the extent to which, the location of the
1069 transmission line corridor and the construction, operation, and
1070 maintenance of the transmission line will:
1071 (a) Ensure electric power system reliability and
1072 integrity;
1073 (b) Meet the electrical energy needs of the state in an
1074 orderly, economical, and timely fashion;
1075 (c) Comply with applicable nonprocedural requirements of
1076 agencies;
1077 (d) Be consistent with applicable provisions of local
1078 government comprehensive plans, if any; and

1079 (e) Effect a reasonable balance between the need for the
1080 transmission line as a means of providing reliable, economically
1081 efficient electric energy, as determined by the commission,
1082 under s. 403.537, ~~abundant low-cost electrical energy~~ and the
1083 impact upon the public and the environment resulting from the
1084 location of the transmission line corridor and the construction,
1085 operation, and maintenance of the transmission lines.
1086 (5)(a) Any transmission line corridor certified by the
1087 board, or secretary if applicable, shall meet the criteria of
1088 this section. When more than one transmission line corridor is
1089 proper for certification under ~~pursuant to~~ s. 403.522(10) and
1090 meets the criteria of this section, the board, or secretary if
1091 applicable, shall certify the transmission line corridor that
1092 has the least adverse impact regarding the criteria in
1093 subsection (4), including costs.
1094 (b) If the board, or secretary if applicable, finds that
1095 an alternate corridor rejected pursuant to s. 403.5271 meets the
1096 criteria of subsection (4) and has the least adverse impact
1097 regarding the criteria in subsection (4), including cost, of all
1098 corridors that meet the criteria of subsection (4), ~~then~~ the
1099 board, or secretary if applicable, shall deny certification or
1100 shall allow the applicant to submit an amended application to
1101 include the ~~such~~ corridor.
1102 (c) If the board, or secretary if applicable, finds that
1103 two or more of the corridors that comply with ~~the provisions of~~
1104 subsection (4) have the least adverse impacts regarding the
1105 criteria in subsection (4), including costs, and that the ~~such~~
1106 corridors are substantially equal in adverse impacts regarding

1107 the criteria in subsection (4), including costs, ~~then~~ the board,
1108 or secretary if applicable, shall certify the corridor preferred
1109 by the applicant if the corridor is one proper for certification
1110 under ~~pursuant to~~ s. 403.522(10).
1111 (6) The issuance or denial of the certification is ~~by the~~
1112 ~~board shall be~~ the final administrative action required as to
1113 that application.
1114 Section 16. Section 403.531, Florida Statutes, is amended
1115 to read:
1116 403.531 Effect of certification.--
1117 (1) Subject to the conditions set forth therein,
1118 certification shall constitute the sole license of the state and
1119 any agency as to the approval of the location of transmission
1120 line corridors and the construction, operation, and maintenance
1121 of transmission lines. The certification is ~~shall be~~ valid for
1122 the life of the transmission line, if ~~provided that~~ construction
1123 on, or condemnation or acquisition of, the right-of-way is
1124 commenced within 5 years after ~~of~~ the date of certification or
1125 such later date as may be authorized by the board.
1126 (2)(a) The certification authorizes ~~shall authorize~~ the
1127 licensee ~~applicant~~ to locate the transmission line corridor and
1128 to construct and maintain the transmission lines subject only to
1129 the conditions of certification set forth in the ~~such~~
1130 certification.
1131 (b) The certification may include conditions that ~~which~~
1132 constitute variances and exemptions from nonprocedural standards
1133 or rules ~~regulations~~ of the department or any other agency~~,~~
1134 which were expressly considered during the certification review

1135 ~~proceeding~~ unless waived by the agency as provided in s. 403.526
1136 ~~below~~ and which otherwise would be applicable to the location of
1137 the proposed transmission line corridor or the construction,
1138 operation, and maintenance of the transmission lines. ~~Each party~~
1139 ~~shall notify the applicant and other parties at the time~~
1140 ~~scheduled for the filing of the agency reports of any~~
1141 ~~nonprocedural requirements not specifically listed in the~~
1142 ~~application from which a variance, exemption, exception, or~~
1143 ~~other relief is necessary in order for the board to certify any~~
1144 ~~corridor proposed for certification. Failure of such~~
1145 ~~notification shall be treated as a waiver from the nonprocedural~~
1146 ~~requirements of that agency.~~
1147 (3)(a) The certification shall be in lieu of any license,
1148 permit, certificate, or similar document required by any state,
1149 regional, or local agency under ~~pursuant to~~, but not limited to,
1150 chapter 125, chapter 161, chapter 163, chapter 166, chapter 186,
1151 chapter 253, chapter 258, chapter 298, chapter 370, chapter 372,
1152 chapter 373, chapter 376, chapter 380, chapter 381, ~~chapter 387,~~
1153 chapter 403, chapter 404, the Florida Transportation Code, or 33
1154 U.S.C. s. 1341.
1155 (b) On certification, any license, easement, or other
1156 interest in state lands, except those the title of which is
1157 vested in the Board of Trustees of the Internal Improvement
1158 Trust Fund, shall be issued by the appropriate agency as a
1159 ministerial act. The applicant shall ~~be required to~~ seek any
1160 necessary interest in state lands the title to which is vested
1161 in the Board of Trustees of the Internal Improvement Trust Fund
1162 from the board of trustees before, during, or after the

1163 certification proceeding, and certification may be made
1164 contingent upon issuance of the appropriate interest in realty.
1165 However, ~~neither~~ the applicant and ~~nor~~ any party to the
1166 certification proceeding may not directly or indirectly raise or
1167 relitigate any matter that ~~which~~ was or could have been an issue
1168 in the certification proceeding in any proceeding before the
1169 Board of Trustees of the Internal Improvement Trust Fund wherein
1170 the applicant is seeking a necessary interest in state lands,
1171 but the information presented in the certification proceeding
1172 shall be available for review by the board of trustees and its
1173 staff.
1174 (4) This act does ~~shall~~ not in any way affect the
1175 ratemaking powers of the commission under chapter 366. This act
1176 does ~~shall also~~ not in any way affect the right of any local
1177 government to charge appropriate fees or require that
1178 construction be in compliance with the National Electrical
1179 Safety Code, as prescribed by the commission.
1180 (5) A ~~No~~ term or condition of certification may not ~~shall~~
1181 be interpreted to preclude the postcertification exercise by any
1182 party of whatever procedural rights it may have under chapter
1183 120, including those related to rulemaking proceedings.
1184 Section 17. Section 403.5312, Florida Statutes, is amended
1185 to read:
1186 403.5312 Filing ~~Recording~~ of notice of certified corridor
1187 route.--
1188 (1) Within 60 days after certification of a directly
1189 associated transmission line under ~~pursuant to~~ ss. 403.501-
1190 403.518 or a transmission line corridor under ~~pursuant to~~ ss.

1191 403.52-403.5365, the applicant shall file with the department
1192 and, in accordance with s. 28.222, with the clerk of the circuit
1193 court for each county through which the corridor will pass, a
1194 notice of the certified route.
1195 (2) The notice must ~~shall~~ consist of maps or aerial
1196 photographs in the scale of 1:24,000 which clearly show the
1197 location of the certified route and must ~~shall~~ state that the
1198 certification of the corridor will result in the acquisition of
1199 rights-of-way within the corridor. Each clerk shall record the
1200 filing in the official record of the county for the duration of
1201 the certification or until such time as the applicant certifies
1202 to the department and the clerk that all lands required for the
1203 transmission line rights-of-way within the corridor have been
1204 acquired within the ~~such~~ county, whichever is sooner.
1205 (3) The recording of this notice does ~~shall~~ not constitute
1206 a lien, cloud, or encumbrance on real property.
1207 Section 18. Section 403.5315, Florida Statutes, is amended
1208 to read:
1209 403.5315 Modification of certification.--A certification
1210 may be modified after issuance in any one of the following ways:
1211 (1) The board may delegate to the department the authority
1212 to modify specific conditions in the certification.
1213 (2) The licensee may file a petition for modification with
1214 the department or the department may initiate the modification
1215 upon its own initiative.
1216 (a) A petition for modification must set forth:
1217 1. The proposed modification;
1218 2. The factual reasons asserted for the modification; and

1219 3. The anticipated additional environmental effects of the
1220 proposed modification.
1221 (b) ~~(2)~~ The department may modify the terms and conditions
1222 of the certification if no party objects in writing to the ~~such~~
1223 modification within 45 days after notice by mail to the last
1224 address of record in the certification proceeding, and if no
1225 other person whose substantial interests will be affected by the
1226 modification objects in writing within 30 days after issuance of
1227 public notice.
1228 (c) If objections are raised or the department denies the
1229 proposed modification, the licensee may file a request for
1230 hearing on the modification with the department. Such a request
1231 shall be handled pursuant to chapter 120.
1232 (d) A request for hearing referred to the Division of
1233 Administrative Hearings shall be disposed of in the same manner
1234 as an application but with time periods established by the
1235 administrative law judge commensurate with the significance of
1236 the modification requested. ~~If objections are raised, the~~
1237 ~~applicant may file a petition for modification pursuant to~~
1238 ~~subsection (3).~~
1239 ~~(3) The applicant or the department may file a petition~~
1240 ~~for modification with the department and the Division of~~
1241 ~~Administrative Hearings setting forth:~~
1242 ~~(a) The proposed modification;~~
1243 ~~(b) The factual reasons asserted for the modification; and~~
1244 ~~(c) The anticipated additional environmental effects of~~
1245 ~~the proposed modification.~~

1246 ~~(4) Petitions filed pursuant to subsection (3) shall be~~
1247 ~~disposed of in the same manner as an application but with time~~
1248 ~~periods established by the administrative law judge commensurate~~
1249 ~~with the significance of the modification requested.~~
1250 Section 19. Section 403.5317, Florida Statutes, is created
1251 to read:
1252 403.5317 Postcertification activities.--
1253 (1)(a) If, subsequent to certification, a licensee
1254 proposes any material change to the application or prior
1255 amendments, the licensee shall submit to the department a
1256 written request for amendment and description of the proposed
1257 change to the application. The department shall, within 30 days
1258 after the receipt of the request for the amendment, determine
1259 whether the proposed change to the application requires a
1260 modification of the conditions of certification.
1261 (b) If the department concludes that the change would not
1262 require a modification of the conditions of certification, the
1263 department shall notify, in writing, the licensee, all agencies,
1264 and all parties of the approval of the amendment.
1265 (c) If the department concludes that the change would
1266 require a modification of the conditions of certification, the
1267 department shall notify the licensee that the proposed change to
1268 the application requires a request for modification under s.
1269 403.5315.
1270 (2) Postcertification submittals filed by a licensee with
1271 one or more agencies are for the purpose of monitoring for
1272 compliance with the issued certification. Each submittal must be
1273 reviewed by each agency on an expedited and priority basis

1274 because each facility certified under this act is a critical
1275 infrastructure facility. Postcertification review may not be
1276 completed more than 90 days after complete information for a
1277 segment of the certified transmission line is submitted to the
1278 reviewing agencies.
1279 Section 20. Section 403.5363, Florida Statutes, is created
1280 to read:
1281 403.5363 Public notices; requirements.--
1282 (1)(a) The applicant shall arrange for the publication of
1283 the notices specified in paragraph (b).
1284 1. The notices shall be published in newspapers of general
1285 circulation within counties crossed by the transmission line
1286 corridors proper for certification. The required newspaper
1287 notices for filing of an application and for the certification
1288 hearing shall be one-half page in size in a standard-size
1289 newspaper or a full page in a tabloid-size newspaper and
1290 published in a section of the newspaper other than the section
1291 for legal notices. These two notices must include a map
1292 generally depicting all transmission corridors proper for
1293 certification. A newspaper of general circulation shall be the
1294 newspaper within a county crossed by a transmission line
1295 corridor proper for certification which newspaper has the
1296 largest daily circulation in that county and has its principal
1297 office in that county. If the newspaper having the largest daily
1298 circulation has its principal office outside the county, the
1299 notices must appear in both the newspaper having the largest
1300 circulation in that county and in a newspaper authorized to
1301 publish legal notices in that county.

1302 2. The department shall adopt rules specifying the content
1303 of the newspaper notices.
1304 3. All notices published by the applicant shall be paid
1305 for by the applicant and shall be in addition to the application
1306 fee.
1307 (b) Public notices that must be published under this
1308 section include:
1309 1. The notice of the filing of an application, which must
1310 include a description of the proceedings required by this act.
1311 The notice must describe the provisions of s. 403.531(1) and (2)
1312 and give the date by which notice of intent to be a party or a
1313 petition to intervene in accordance with s. 403.527(2) must be
1314 filed. This notice must be published no more than 21 days after
1315 the application is filed.
1316 2. The notice of the certification hearing and any other
1317 public hearing permitted under s. 403.527. The notice must
1318 include the date by which a person wishing to appear as a party
1319 must file the notice to do so. The notice of the certification
1320 hearing must be published at least 65 days before the date set
1321 for the certification hearing.
1322 3. The notice of the cancellation of the certification
1323 hearing, if applicable. The notice must be published at least 3
1324 days before the date of the originally scheduled certification
1325 hearing.
1326 4. The notice of the filing of a proposal to modify the
1327 certification submitted under s. 403.5315, if the department
1328 determines that the modification would require relocation or

1329 expansion of the transmission line right-of-way or a certified
1330 substation.
1331 (2) The proponent of an alternate corridor shall arrange
1332 for the publication of the filing of the proposal for an
1333 alternate corridor, the revised time schedules, the date by
1334 which newly affected persons or agencies may file the notice of
1335 intent to become a party, and the date of the rescheduled
1336 hearing. A notice listed in this subsection must be published in
1337 a newspaper of general circulation within the county or counties
1338 crossed by the proposed alternate corridor and comply with the
1339 content requirements set forth in paragraph (1)(a). The notice
1340 must be published not less than 50 days before the rescheduled
1341 certification hearing.
1342 (3) The department shall arrange for the publication of
1343 the following notices in the manner specified by chapter 120:
1344 (a) The notice of the filing of an application and the
1345 date by which a person intending to become a party must file the
1346 notice of intent. The notice must be published no later than 21
1347 days after the application has been filed.
1348 (b) The notice of any administrative hearing for
1349 certification, if applicable. The notice must be published not
1350 less than 65 days before the date set for a hearing, except that
1351 notice for a rescheduled certification hearing after acceptance
1352 of an alternative corridor must be published not less than 50
1353 days before the date set for the hearing.
1354 (c) The notice of the cancellation of a certification
1355 hearing, if applicable. The notice must be published not later

1356 than 7 days before the date of the originally scheduled
1357 certification hearing.
1358 (d) The notice of the hearing before the siting board, if
1359 applicable.
1360 (e) The notice of stipulations, proposed agency action, or
1361 a petition for modification.
1362 Section 21. Section 403.5365, Florida Statutes, is amended
1363 to read:
1364 403.5365 Fees; disposition.--The department shall charge
1365 the applicant the following fees, as appropriate, which, unless
1366 otherwise specified, shall be paid into the Florida Permit Fee
1367 Trust Fund:
1368 (1) An application fee.
1369 (a) The application fee shall be ~~of~~ $100,000, plus $750
1370 per mile for each mile of corridor in which the transmission
1371 line right-of-way is proposed to be located within an existing
1372 electric ~~electrical~~ transmission line right-of-way or within any
1373 existing right-of-way for any road, highway, railroad, or other
1374 aboveground linear facility, or $1,000 per mile for each mile of
1375 electric transmission line corridor proposed to be located
1376 outside the ~~such~~ existing right-of-way.
1377 (b) ~~(a)~~ Sixty percent of the fee shall go to the department
1378 to cover any costs associated with coordinating the review of
1379 ~~reviewing~~ and acting upon the application and any costs for
1380 field services associated with monitoring construction and
1381 operation of the electric transmission line facility.
1382 (c) ~~(b)~~ The following percentage ~~Twenty percent of the fees~~
1383 ~~specified under this section, except postcertification fees,~~

1384 shall be transferred to the Administrative Trust Fund of the
1385 Division of Administrative Hearings of the Department of
1386 Management Services:~~.~~
1387 1. Five percent to compensate for expenses from the
1388 initial exercise of duties associated with the filing of an
1389 application.
1390 2. An additional 10 percent if an administrative hearing
1391 under s. 403.527 is held.
1392 (d)1.~~(c)~~ Upon written request with proper itemized
1393 accounting within 90 days after final agency action by the
1394 siting board or the department or the withdrawal of the
1395 application, the agencies that prepared reports under s. 403.526
1396 or s. 403.5271 or participated in a hearing under s. 403.527 or
1397 s. 403.5271 may submit a written request to the department for
1398 reimbursement of expenses incurred during the certification
1399 proceedings. The request must contain an accounting of expenses
1400 incurred, which may include time spent reviewing the
1401 application, ~~department shall reimburse the expenses and costs~~
1402 ~~of the Department of Community Affairs, the Fish and Wildlife~~
1403 ~~Conservation Commission, the water management district, regional~~
1404 ~~planning council, and local government in the jurisdiction of~~
1405 ~~which the transmission line is to be located. Such reimbursement~~
1406 ~~shall be authorized for the~~ preparation of any studies required
1407 of the agencies by this act, ~~and for~~ agency travel and per diem
1408 to attend any hearing held under ~~pursuant to~~ this act, and for
1409 the local government or regional planning council providing
1410 additional notice of the informational public meeting. The
1411 department shall review the request and verify whether a claimed

1412 expense is valid. Valid expenses shall be reimbursed; however,
1413 if ~~to participate in the proceedings. In the event~~ the amount of
1414 funds available for reimbursement ~~allocation~~ is insufficient to
1415 provide for full compensation ~~complete reimbursement~~ to the
1416 agencies, reimbursement shall be on a prorated basis.
1417 2. If the application review is held in abeyance for more
1418 than 1 year, the agencies may submit a request for reimbursement
1419 under subparagraph 1.
1420 (e) ~~(d)~~ If any sums are remaining, the department shall
1421 retain them for its use in the same manner as is otherwise
1422 authorized by this section; ~~provided,~~ however, ~~that~~ if the
1423 certification application is withdrawn, the remaining sums shall
1424 be refunded to the applicant within 90 days after withdrawal.
1425 (2) An amendment fee.
1426 (a) If no corridor alignment change is proposed by the
1427 amendment, no amendment fee shall be charged.
1428 (b) If a corridor alignment change under s. 403.5275 is
1429 proposed by the applicant, an additional fee of a minimum of
1430 $2,000 and $750 per mile shall be submitted to the department
1431 for use in accordance with this act.
1432 (c) If an amendment is required to address issues,
1433 including alternate corridors under ~~pursuant to~~ s. 403.5271,
1434 raised by the department or other parties, no fee for the ~~such~~
1435 amendment shall be charged.
1436 (3) A certification modification fee.
1437 (a) If no corridor alignment change is proposed by the
1438 licensee ~~applicant~~, the modification fee shall be $4,000.

1439 (b) If a corridor alignment change is proposed by the
1440 licensee ~~applicant~~, the fee shall be $1,000 for each mile of
1441 realignment plus an amount not to exceed $10,000 to be fixed by
1442 rule on a sliding scale based on the load-carrying capability
1443 and configuration of the transmission line for use in accordance
1444 with subsection (1) ~~(2)~~.
1445 Section 22. Subsection (1) of section 403.537, Florida
1446 Statutes, is amended to read:
1447 403.537 Determination of need for transmission line;
1448 powers and duties.--
1449 (1)(a) Upon request by an applicant or upon its own
1450 motion, the Florida Public Service Commission shall schedule a
1451 public hearing, after notice, to determine the need for a
1452 transmission line regulated by the Florida Electric Transmission
1453 Line Siting Act, ss. 403.52-403.5365. The ~~Such~~ notice shall be
1454 published at least 21 ~~45~~ days before the date set for the
1455 hearing and shall be published by the applicant in at least one-
1456 quarter page size notice in newspapers of general circulation,
1457 and by the commission in the manner specified in chapter 120 ~~in~~
1458 ~~the Florida Administrative Weekly~~, by giving notice to counties
1459 and regional planning councils in whose jurisdiction the
1460 transmission line could be placed, and by giving notice to any
1461 persons who have requested to be placed on the mailing list of
1462 the commission for this purpose. Within 21 days after receipt of
1463 a request for determination by an applicant, the commission
1464 shall set a date for the hearing. The hearing shall be held
1465 pursuant to s. 350.01 within 45 days after the filing of the

1466 request, and a decision shall be rendered within 60 days after
1467 such filing.
1468 (b) The commission shall be the sole forum in which to
1469 determine the need for a transmission line. The need for a
1470 transmission line may not be raised or be the subject of review
1471 in another proceeding.
1472 (c) ~~(b)~~ In the determination of need, the commission shall
1473 take into account the need for electric system reliability and
1474 integrity, the need for abundant, low-cost electrical energy to
1475 assure the economic well-being of the residents ~~citizens~~ of this
1476 state, the appropriate starting and ending point of the line,
1477 and other matters within its jurisdiction deemed relevant to the
1478 determination of need. The appropriate starting and ending
1479 points of the electric transmission line must be verified by the
1480 commission in its determination of need.
1481 (d) ~~(c)~~ The determination by the commission of the need for
1482 the transmission line, as defined in s. 403.522(22) ~~s.~~
1483 ~~403.522(21)~~, is binding on all parties to any certification
1484 proceeding under ~~pursuant to~~ the Florida Electric Transmission
1485 Line Siting Act and is a condition precedent to the conduct of
1486 the certification hearing prescribed therein. An order entered
1487 pursuant to this section constitutes final agency action.
1488 Section 23. Subsection (3) of section 373.441, Florida
1489 Statutes, is amended to read:
1490 373.441 Role of counties, municipalities, and local
1491 pollution control programs in permit processing.--
1492 (3) The department shall review environmental resource
1493 permit applications for electrical distribution and transmission

1494 lines and other facilities related to the production,
1495 transmission, and distribution of electricity which are not
1496 certified under ss. 403.52-403.5365, the Florida Electric
1497 Transmission Line Siting Act, regulated under this part.
1498 Section 24. Subsection (30) of section 403.061, Florida
1499 Statutes, is amended to read:
1500 403.061 Department; powers and duties.--The department
1501 shall have the power and the duty to control and prohibit
1502 pollution of air and water in accordance with the law and rules
1503 adopted and promulgated by it and, for this purpose, to:
1504 (30) Establish requirements by rule that reasonably
1505 protect the public health and welfare from electric and magnetic
1506 fields associated with existing 230 kV or greater electrical
1507 transmission lines, new 230 kV and greater electrical
1508 transmission lines for which an application for certification
1509 under the Florida Electric Transmission Line Siting Act, ss.
1510 403.52-403.5365, is not filed, new or existing electrical
1511 transmission or distribution lines with voltage less than 230
1512 kV, and substation facilities. Notwithstanding any other
1513 provision in this chapter or any other law of this state or
1514 political subdivision thereof, the department shall have
1515 exclusive jurisdiction in the regulation of electric and
1516 magnetic fields associated with all electrical transmission and
1517 distribution lines and substation facilities. However, nothing
1518 herein shall be construed as superseding or repealing the
1519 provisions of s. 403.523(1) and (10).
1520

1521 The department shall implement such programs in conjunction with
1522 its other powers and duties and shall place special emphasis on
1523 reducing and eliminating contamination that presents a threat to
1524 humans, animals or plants, or to the environment.
1525 Section 25. Paragraph (a) of subsection (3) of section
1526 403.0876, Florida Statutes, is amended to read:
1527 403.0876 Permits; processing.--
1528 (3)(a) The department shall establish a special unit for
1529 permit coordination and processing to provide expeditious
1530 processing of department permits which the district offices are
1531 unable to process expeditiously and to provide accelerated
1532 processing of certain permits or renewals for economic and
1533 operating stability. The ability of the department to process
1534 applications under ~~pursuant to~~ this subsection in a more timely
1535 manner than allowed by subsections (1) and (2) is dependent upon
1536 the timely exchange of information between the applicant and the
1537 department and the intervention of outside parties as allowed by
1538 law. An applicant may request the processing of its permit
1539 application by the special unit if the application is from an
1540 area of high unemployment or low per capita income, is from a
1541 business or industry that is the primary employer within an
1542 area's labor market, or is in an industry with respect to which
1543 the complexities involved in the review of the application
1544 require special skills uniquely available in the headquarters
1545 office. The department may require the applicant to waive the
1546 90-day time limitation for department issuance or denial of the
1547 permit once for a period not to exceed 90 days. The department
1548 may require a special fee to cover the direct cost of processing

1549 special applications in addition to normal permit fees and
1550 costs. The special fee may not exceed $10,000 per permit
1551 required. Applications for renewal permits, but not applications
1552 for initial permits, required for facilities pursuant to the
1553 Electrical Power Plant Siting Act or the Florida Electric
1554 Transmission Line Siting Act may be processed under this
1555 subsection. Personnel staffing the special unit shall have
1556 lengthy experience in permit processing.
1557 Section 26. Paragraph (b) of subsection (3) of section
1558 403.809, Florida Statutes, is amended to read:
1559 403.809 Environmental districts; establishment; managers;
1560 functions.--
1561 (3)
1562 (b) The processing of all applications for permits,
1563 licenses, certificates, and exemptions shall be accomplished at
1564 the district center or the branch office, except for those
1565 applications specifically assigned elsewhere in the department
1566 under s. 403.805 or to the water management districts under s.
1567 403.812 and those applications assigned by interagency agreement
1568 as provided in this act. However, the secretary, as head of the
1569 department, may not delegate to district or subdistrict
1570 managers, water management districts, or any unit of local
1571 government the authority to act on the following types of permit
1572 applications:
1573 1. Permits issued under s. 403.0885, except such permit
1574 issuance may be delegated to district managers.
1575 2. Construction of major air pollution sources.

1576 3. Certifications under the Florida Electrical Power Plant
1577 Siting Act or the Florida Electric Transmission Line Siting Act
1578 and the associated permit issued under s. 403.0885, if
1579 applicable.
1580 4. Permits issued under s. 403.0885 to steam electric
1581 generating facilities regulated pursuant to 40 C.F.R. part 423.
1582 5. Permits issued under s. 378.901.
1583 Section 27. Sections 403.5253 and 403.5369, Florida
1584 Statutes, are repealed.
1585 Section 28. This act shall take effect upon becoming a
1586 law.

HB 1473 - Hasner

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1473 Energy
SPONSOR(S): Hasner and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Utilities & Telecommunications Committee		Cater	Holt
2) Fiscal Council			
3) Commerce Council			
4)			
5)			

SUMMARY ANALYSIS

HB 1473 is designed to revise a broad section of energy laws in Florida to provide for the streamlined siting of new, diverse and reliable supplies of energy and to provide for new grants and other incentives for renewable energy. The bill provides for the following:

- Creates the Renewable Energy Technologies Grants Program
- Creates the Energy Efficient Appliance Rebate Program
- Creates the Solar Energy System Rebate Program
- Creates he Florida Energy Council
- Creates a sales tax exemption for equipment, machinery, and other materials for renewable energy technologies.
- Creates the renewable energy technologies investment tax credit.
- Allows the Public Service Commission (PSC) to consider fuel diversity in reviewing 10-year site plans.
- Allows the PSC to require electric utilities to have their infrastructure meet standards that exceed the National Electric Safety Code.
- Requires to PSC to conduct a study of the electric transmission grid.
- Streamlines the Power Plant Siting Act by setting new timelines, streamlining procedures, and establishing a land use consistency determination.

The total fiscal impact of the bill is unknown; however the grants, rebates, and tax exemptions will be paid for from general revenue.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-The bill creates the Florida Energy Council to advise the Governor, the President of the Senate, and the Speaker of the House of Representatives on energy issues. It also requires the Public Service Commission (PSC) to conduct a study on the state's electric transmission grid and subterranean placement of electric distribution facilities, and the hardening of the electric infrastructure.

Ensure Lower Taxes-The bill creates the Renewable Energy Technologies Grants Program. It also provides rebates for the purchase of energy efficient appliances and solar energy systems. The bill creates a sales tax exemption for certain renewable energy technologies, and the renewable energy technologies investment tax credit.

Promote Personal Responsibility/Empower Families-The bill contains rebates and a sales tax exemption to promote the sale of energy efficient products and renewable energy technologies.

Maintain Public Security-The bill provides incentives for the investment in renewable energy and alternative fuels, which will reduce the state's dependence on imported fossil fuels. The bill also requires the PSC to consider fuel diversity when analyzing the utilities' 10-year site plans, easing the state's dependence on any particular fuel for the generation of electricity. The bill also allows the PSC to require electric utilities to have their infrastructure constructed to standards that exceed the National Electric Safety Code.

B. EFFECT OF PROPOSED CHANGES:

General Background

Florida's economy and quality of life depends on a secure, adequate and reliable supply of energy. As the fourth most populous state, Florida ranks third nationally in total energy consumption. With more than 17 million citizens and nearly 1,000 new residents arriving daily, Florida is one of the fastest growing states in the nation. Because of its expanding economy, current forecasts indicate that Florida's electricity consumption will increase by close to 30 percent over the next ten years.

Since the last review of Florida's energy policy in 2000, several unpredictable events have heightened concern over energy reliability, security and supply. The 2003 blackout in the northeast, along with tremendous back-to-back hurricane seasons in 2004 and 2005, demonstrated the impact power outages and fuel interruptions have on the nation's economic welfare.

Producing less than one percent of the energy it consumes and limited by its geography, Florida is more susceptible to interruptions in energy supply than any other state. Unlike other states that rely on petroleum pipelines for fuel delivery, more than 98 percent of Florida's transportation fuel arrives by sea. The state's reliance on imported petroleum products, in addition to its anticipated growth in consumption, underscores its vulnerability to fluctuations in the market and interruptions in fuel production, supply and delivery.

Energy Production and a Growing Economy

Florida depends almost exclusively on other states and nations for supplies of oil and gasoline, generating less than one percent of the nation's crude oil production annually.

To generate electricity, Florida primarily relies on natural gas, coal and oil imports.

Together, fossil fuels represent 86 percent of Florida's total generating capacity. Less than 10 percent of its generating capacity is derived from cleaner nuclear and renewable fuels. In fact, no new nuclear plants have entered service in Florida since 1983.

Current forecasts indicate that new generation capacity will be 80 percent natural gas-fired and 19 percent coal-fired. Meeting these projections could prove expensive at today's prices and lead to an over-reliance on one fuel type, affecting the reliability of electric utility generation supply in Florida. While expansions for natural gas capacity are needed and already underway, improving generation fuel diversity would enhance reliability over the long-term. Too great a reliance on a single fuel source leaves Floridians subject to the risks of price volatility and supply interruption.

A New Class of Energy

Although the nation's reliance on traditional fossil fuels is currently high, Florida is investing in alternative fuels and developing "next generation" energy technologies. In 2003, Governor Jeb Bush launched "H2 Florida" to accelerate the commercialization of hydrogen technologies and spur economic investment in Florida's economy. With a four to one return on investment, Florida and its federal partners have invested $9 million to date in hydrogen infrastructure. Construction of a "hydrogen highway" is underway, 28 hydrogen demonstration projects are in progress and more than 100 hydrogen research and development projects are taking place at Florida's universities.

Utilization of biofuels is in its infancy with the cost of renewable fuels relatively high compared with traditional hydrocarbon fuels. Currently, Florida has just one biodiesel facility and, absent a manufacturing plant, imports ethanol from refineries outside of the state. Increasing production, supply and infrastructure of biofuels through financial incentives would provide both economic and environmental returns for the state. Likewise, a stronger investment both residentially and commercially in solar technology would not only reduce utility costs but generate pollution-free power for Floridians. To date, solar technology has remained largely inefficient and expensive, however, costs are gradually decreasing as system quality and reliability increases. To encourage continued investment in solar energy, systems received a permanent exemption from Florida sales and use tax in 2005.

Florida Energy Plan

On November 10, 2005, Governor Bush issued an Executive Order requiring the Department of Environmental Protection (DEP) to develop a comprehensive energy plan. On December 14, 2005 the Secretary of DEP hosted the Florida Energy Forum where various parties were able to provide input on the energy plan. As required by the Executive Order, DEP issued Florida's Energy Plan on January 17, 2005.

The energy plan gave the following recommendations for electricity generation:

- Streamline and expedite the siting and permitting of generation resources by revising the provisions of the Florida Electrical Power Plant Siting Act.
- Streamline and expedite the siting and permitting of electric transmission and distribution resources by revising the provisions of the Florida Electrical Transmission Line Siting Act. Incorporate the siting of substations into the Transmission Line Siting Act.
- Promote fuel diversity, fuel supply reliability and energy security.
- Facilitate additional fuel delivery mechanisms in Florida for power generation.
- Expedite all State permits required for the redundancies and increased capacity.
- Adopt updated interconnection standards to include all distributed generation technologies.
- Establish an energy council to provide policy advice and counsel to the Governor, Speaker of the House of Representatives and President of the Senate.
- Expedite State performance contracting with Energy Service Companies.
- Promote awareness of energy conservation and alternative energy technologies.

- Use discretionary enforcement authority to allow approved alternative energy projects that provide a greater public benefit in lieu of civil monetary penalties.
- Require all new State government building construction to meet the U.S. Green Building Council's Leadership in Environmental Design standards. Encourage local governments and community developers to adopt high performance green building practices.
- Provide grant funding for research and demonstration projects associated with the development and implementation of renewable energy systems. Expand solar, hydrogen, biomass, wind, ocean current and other emerging technologies.
- Identify alternative energy production and distribution industries as Qualified Target Industries.
- Provide consumer and commercial rebates to assist with initial cost of photovoltaic and solar thermal technology installations on residential and commercial buildings.
- Provide consumer rebates for purchases of energy efficient ENERGY STAR™ appliances.
- Provide sales and corporate tax incentives for the manufacture, purchase and use of fuel cells for supplemental and backup power.

While this bill does not contain all of the recommendations in the Florida Energy Plan, it does contain some of the proposed changes.

Florida Energy Office

The Florida Energy Office (FEO), located within DEP, is the state's primary center for energy policy. It is responsible for developing and implementing Florida's energy policy, and coordinating all federal energy programs delegated to the state, including energy supply, demand, conservation and allocation.

Through the FEO, the State of Florida is shaping "Florida's Energy Future," by focusing on advanced clean energy sources, energy conservation and efficiency. Florida is actively leading the nation in projects that promote hydrogen power, solar energy, bio-based fuels, clean vehicles and energy conservation.

Proposed Changes

Legislative Findings and Intent (Section 1)

The first section of the bill provides the Legislature's findings and intent. In its intent language, the Legislature finds that advancing the development of renewable energy technologies and energy efficiency is important for the state's future, its energy stability, and the protection of its citizens' public health and environment.

Florida Renewable Energy Technologies and Energy Efficiency Act (Sections 2 through 7)

Some of the recommendations in Florida's Energy Plan are to provide grant funding for renewable energy research and provide rebates for the purchase of energy efficient and solar energy products. The bill creates the Florida Renewable Energy Technologies and Energy Efficiency Act (act) in ss. 377.801 through 377.806, F.S., whose purpose is to provide matching grants to advance renewable energy technologies. The grants program is designed to advance the establishment of renewable energy technologies and encourage the use of other incentives to attract additional renewable energy technology producers, developers, and users to the state. The act also intends to provide rebates for energy efficient appliances and for solar energy equipment installations for residential and commercial buildings.

Definitions

While the act provides several definitions, the following are the ones that are the most technical in nature.

Energy Star qualified appliance-A refrigerator, residential model clothes washer, including a residential style coin operated clothes washer, or dishwasher that has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding the energy saving efficiency requirements under each agency's Energy Star program.

Renewable energy- electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations. [1]

Renewable energy technology-any technology that generates or utilizes a renewable energy resource.

Solar energy system-equipment that provides for the collection and use of incident solar energy for water heating, space heating or cooling, or other applications that require a conventional source of energy such as petroleum products, natural gas, or electricity and equipment that performs primarily with solar energy. In other systems in which solar energy is used in a supplemental way, only the components which collect and transfer solar energy shall be included in this definition. The term "solar energy system" does not include a swimming pool heater.

Solar photovoltaic system-a devise that converts incident sunlight into electrical current.

Solar thermal system-a device that traps heat from incident sunlight in order to heat water.

Renewable Energy Technologies Grant Program

The FEO currently administers approximately $1 million annually in U.S. Department of Energy grant funds. These grants are targeted at energy efficiency and renewable energy, with current projects including hydrogen fueling infrastructure, hydrogen vehicles, stationary fuel cells, solar photovoltaic systems, solar thermal systems, energy efficiency projects, and biomass projects.

The Renewable Energy Technologies Grant Program is created within DEP to provide matching grants for demonstration, commercialization, research and development projects relating to renewable energy technologies. These grants may be made to any of the following:

- Municipal and county governments
- Established for-profit companies licensed to do business in Florida
- Universities and Colleges
- Utilities located and operating within the state
- Not-for-profit organizations
- Other qualified persons as determined by DEP.

In order to administer this program. DEP is given rulemaking authority. In considering who to award the grants to, the DEP must consider, but is not limited to the following:

- Degree the project stimulates in-state capital investment and economic development
- Extent that the proposed project has been demonstrated to be technologically feasible
- Degree the project incorporates an innovative new technology or innovative application of an existing technology
- Degree the project generates thermal, mechanical, or electrical energy by means of a renewable energy resource that has substantial long-term production potential
- Degree the project demonstrates efficient use of energy and material resources

[1] The bill provides that the definition of "renewable energy" is the definition in s. 366.91, F.S.

- Degree the project fosters overall understanding and appreciation of renewable energy technologies
- Ability of matching funds from the applicant
- Other in-kind contributions applied to the project
- Ability to administer a complete program
- Project duration and timeline for expenditures
- Geographic area in which the project is to be conducted in relation to other projects
- Degree of public visibility and interaction

Energy Efficient Appliance Rebate Program

The bill creates the energy efficient appliance rebate program to provide financial incentives for the purchase of Energy Star qualified appliances. In order to receive a rebate, a Florida resident must purchase a qualified appliance from a retail store between July 1, 2006 and June 30, 2010. The rebate application must be made within 90 days after purchasing the appliance, and is limited to one per type of appliance per year.

DEP is required to adopt rules designating rebate amounts and administer their issuance, and these rules may include separate incentives for low-income families.

The total dollar amount of the rebates is subject to the total amount appropriated in any fiscal year. However, if there are insufficient funds to pay all requests for rebates in one fiscal year, any outstanding requests may be processed in the following fiscal years. On a regular basis, DEP is to determine and publish the amount of rebate funds remaining.

Solar Energy System Rebate Program

The FEO offers a $500 financial incentive for the installation of a solar water heater in new home construction. Through the Energy Policy Act of 2005, the Federal government provides a 30 percent tax credit, up to $2,000, for qualified solar system expenditures. Additionally, there is a federal business tax credit of 30 percent for business that purchase solar thermal and solar photovoltaic systems during 2006 and 2007.

The bill creates the Solar Energy System Rebate Program to provide rebates for the purchase of solar energy systems. In order to be eligible a rebate, one must purchase a two kilowatt or larger solar photovoltaic system or a solar energy system that provides at least 50 percent of the building's hot water consumption for a solar thermal system. In order to receive a rebate, the system must be installed by a certified solar contractor between July 1, 2006 and June 30, 2010. DEP must adopt rules to designate rebate amounts and administer their issuance. The rebate application must be made within 90 days after purchasing an eligible system, and is limited to two per person.

The total dollar amount of the rebates is subject to the total amount appropriated in any fiscal year. However, if there are insufficient funds to pay all requests for rebates in one fiscal year, any outstanding requests may be processed in the following fiscal years. On a regular basis, DEP is to determine and publish the amount of rebate funds remaining.

<u>Florida Energy Council (Section 8)</u>

The bill creates the Florida Energy Council, within DEP, to provide advice and counsel on energy policy to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The council's membership is to be comprised of utility providers, researchers, fuel suppliers, technology manufacturers, environmental interests, and others. The council will consist of the following eight members:

- The Secretary of DEP who serves as the council's chair
- The Chair of PSC who serves as the council's vice chair

- Two members appointed by the Governor
- Two members appointed by the President of the Senate
- Two members appointed by the Speaker of the House of Representatives

All initial appointments must be made by September 1, 2006. The appointments made by the Governor, President of the Senate, and Speaker of the House of Representatives are for a term of two years, with members serving until their successors are appointed. Any vacancies on the council are to be filled in the manner of the original appointment and are for the remainder of the vacated term. While the members serve without compensation, they are entitled to travel reimbursement and per diem expenses related to their council duties and responsibilities. The council is to be staffed by DEP, who is responsible for electronically recording the meetings and preserving those electronic recordings.

DEP is given the authority to adopt rules pertaining to the Florida Energy Council.

Tax Incentives and Rebates (Sections 9 through 13)

For hydrogen fuel cells used in a business, the Federal government offers a tax credit of 30 percent of the expenditure, up to $500, per 500 watt capacity. In order to receive the tax credit, the business must use fuel cells with a capacity of 500 watts or greater and a generation efficiency of 30 percent or greater

For biofuels, the Federal government provides several tax incentives. First, it provides an excise tax exemption of 51 cents per gallon for ethanol blended into gasoline. This tax exemption goes to the petroleum blender. For biodiesel and biodiesel blends, there is also an excise tax credit of one cent per percentage point of biodiesel blended with petroleum diesel. There is also a half-cent per percentage point tax credit for biodiesel made from sources such as recycled cooking oil. Finally, the Energy Policy Act of 2005, created a 30 percent tax credit for installing clean-fuel vehicle refueling property.[2]

One of the recommendations in Florida's Energy Plan is to provide sales and corporate tax incentives for the manufacture, purchase, and use of fuel cells for supplemental and back-up power.

Sales Tax Exemption

The bill creates a sales tax exemption for equipment, machinery, and other materials used for renewable energy technologies in order to stimulate the development of hydrogen technologies and biofuels in the state. At this time, only four hydrogen fueling stations are planned for installation, and all of those facilities are at least partially funded by the DEP. At this time, Florida does not have any fuel ethanol production facilities or retail outlets selling ethanol blends to the public.. Florida also has a limited availability of biodiesel.. The tax exemption is designed to enhance the production, distribution and retail mechanisms supporting biofuels in order to their use while reducing the consumption of fossil fuels.

The sales tax exemption is available through a refund of previously paid. Pursuant to the bill's provisions, the following items are excluded from sales tax:

- Hydrogen powered vehicles, materials incorporated into hydrogen powered vehicles, and hydrogen fueling stations, up to $2 million each fiscal year.
- Commercial stationary hydrogen fuel cells,[3] up to $1 million each fiscal year.
- Materials used in the distribution of biodiesel[4] (B10-B100) and ethanol[5] (E10-E85), including fueling infrastructure, transportation, and storage, up to $1 each fiscal year.

[2] Clean fuel includes blends containing 20 percent or more biodiesel as well as ethanol and hydrogen.
[3] Hydrogen Fuel Cells are equipment using hydrogen or hydrogen rich fuel in an electrochemical process to generate energy, electricity or transfer heat.

In order to receive the refund, a purchaser must file an application with DEP containing information such as the ones name and address, a description of the purchase for which the refund is sought, a proof of purchase, and a sworn statement attesting to the accuracy of the information provided.

Once an application has been received, DEP has 30 days to review it and notify the applicant of any deficiencies. Within 60 days of receiving a complete application, DEP must issue either a written certification that the applicant is eligible for the refund or deny the refund, and provide. the Department of Revenue (DOR) a copy of each certification it issues.

After receiving certification, the applicant has six months to forward to DOR a certified copy of the application and all required documents. Any refund of the sales tax must be made within 30 days of DOR' s approval of the refund. In addition, the generally applicable sales tax refund provisions do not apply to a refund application pursuant to this section.

The DOR is required to adopt rules governing the manner and form of the application and may establish guidelines as to the requirements for showing that one qualifies for an exemption. It is DEP's responsibility to ensure that the exemptions do not exceed the provided limits. The DEP is required to regularly determine and publish the amount of sales tax funds remaining in each fiscal year.

This exemption is repealed on July 1, 2010.

Renewable Energy Technologies Investment Tax Credit

The bill creates the renewable energy technologies investment tax credit, where for tax years beginning on or after January 1, 2007, a credit against corporate income tax is granted in the amount equal to the eligible costs. The costs eligible for the credit are costs incurred between July 1, 2006 and June 30, 2010, including, but not limited to the costs of constructing, installing, and equipping various renewable energy technologies. "Eligible Costs" are defined as:

- Seventy-five percent of all capital costs, operational and maintenance costs, and research and development costs, up to $3 million per fiscal year, in connection with an investment in hydrogen powered vehicles and hydrogen vehicle fueling stations.
- Seventy-five percent of all capital costs, operational and maintenance costs, and research and development costs, up to a limit of $1.5 million in connection with an investment in commercial stationary hydrogen fuel.
- Seventy-five percent of all capital costs, operational and maintenance costs, and research and development costs, up to a limit of $6.5 million per fiscal year, in connection with an investment in the production and distribution of biodiesel (B10-B100) and ethanol (E10-E85).

This tax credit may be used between January 1, 2007, and December 31, 2013. If a corporation does not fully use the credit in one tax year, the unused amount may be carried forward through December 31, 2012. A taxpayer filing a consolidated tax return may be allowed to take the credit on a consolidated basis up to the amount of tax imposed upon the consolidated group. Eligible costs for which a credit is claimed and deducted or otherwise reduces federal taxable income is required to be added back in the calculation of adjusted federal income.

If a corporation wishes to obtain this tax credit it must submit an application to DEP, which must including a complete description of eligible costs and a description of the total amount of the credit sought. DEP will determine the applicant's eligibility and certify its determination to both the applicant and DOR. In order to use the tax credit, the corporation must attach DEP's certification to the tax

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[4] Biodiesel is a fuel derived from vegetable oils or animal fats meeting certain requirements. It may refer to a blend of biodiesel fuel and petroleum-based diesel fuel, designated BXX, where XX represents the volume percentage of biodiesel fuel in the blend.
[5] Ethanol is a high octane, liquid fuel produced by the fermentation of plant sugars. Ethanol refers to a blend of ethanol fuel with petroleum-based gasoline fuel, designated EXX, where XX represents the volume percentage of ethanol fuel in the blend.

return on which the credit claimed. DOR is authorized to adopt rules, guidelines, and materials for the application process.

The bill gives DOR the authority to perform the financial and technical audits and investigations that to verify the eligible costs included in the tax credit return and to ensure compliance. Upon request from DOR, DEP is required to provide technical assistance on any technical audits or examinations. Previously claimed and received tax credits may be forfeited if DOR determines that a taxpayer received tax credits to which the taxpayer is not entitled. The taxpayer is responsible for returning the forfeited tax credits to DOR to be paid into the General Revenue Fund.

If it is discovered that an applicant submitted any false information on the application for the tax credit or any supporting documentation, DEP is authorized to revoke or modify any written decision granting eligibility for tax credits. Upon the revocation or modification of an order granting a tax credit, DEP is required to immediately notify DOR.

If there is a change to the tax credit it is claiming, the taxpayer must notify DOR. Additionally, the taxpayer shall file with DOR an amended return or other report is required to pay any required tax and interest within 60 days of being notified that its tax credits have been revoked or modified. If the order is contested, the taxpayer is required to file this information within 60 days after a final order is issued following proceedings.

After the taxpayer receives formal notification from DEP that the approved tax credits have been revoked or modified, the DOR has three years to issue a notice of deficiency. However, if a taxpayer fails to notify DOR of any changes to its tax credit claimed, a notice of deficiency may be issued at any time.

The DOR is authorized to adopt rules relating to the forms required to claim the tax credit, the requirements and basis for establishing an entitlement to a credit, and the examination and audit procedures required to administer the credit.

Other Changes

In order to provide for the new sales tax exemption and income tax credit, other changes were made to tax sections of the statutes. One change allows DOR to share certain information with DEP for enforcement purposes. A second change provides the order of application of the renewable energy technologies investment tax credit. A final change adds the renewable energy technologies investment tax credit to the definition of "adjusted federal income."

Public Service Commission (Sections 14 through 17)

The Florida PSC is charged with ensuring the development of reliable electric system resources in a manner that is economically competitive and protective of consumers. Chapter 366, F. S., provides the PSC with the authority and mechanisms for ensuring the provision of adequate, reliable, and reasonable cost electricity to consumers. The bill contains provisions concerning the authority of the PSC.

Ten-Year Site Plan

Pursuant to s. 186.801, F.S., all major generating electric utilities are required to annually submit a *Ten-Year Site Plan* to the PSC for review. Each *Ten-Year Site Plan* contains projections of the utility's electric power needs for the next ten years and the general location of proposed power plant sites and major transmission facilities. In accordance with the statute, the PSC performs a preliminary study of each *Ten-Year Site Plan* to determine whether it is "suitable" or "unsuitable." To aid in its review, the PSC receives comments from state, regional, and local planning agencies regarding various issues of concern. Upon completion, the PSC forwards its *Ten-Year Site Plan* review, to DEP for use in subsequent power plant siting proceedings.

To fulfill the requirements of Section 186.801, F. S., the PSC has adopted Rules 25-22.070 through 25-22.072, F.A.C. These rules require electric utilities to file their annual *Ten-Year Site Plans* by April 1. However, utilities whose existing generating capacity is below 250 megawatts (MW) are exempt from this requirement unless the it plans to build a new unit larger than 75 MW within the ten-year planning period.

In evaluating the 10-year site plans, the PSC is required to review:

- Need for electrical power in the area to be served.
- Anticipated environmental impact.
- Possible alternatives to the proposed plan.
- Views of appropriate local, state, and federal agencies.
- Consistency with the state comprehensive plan.
- Information of the state on energy availability and consumption.

The bill requires the PSC to consider each 10-year site plan's effect on fuel diversity within the state. While the PSC currently looks at fuel issues, this change provides that fuel issues must be considered.

Jurisdiction of the Public Service Commission

Section 366.04, F.S., provides that the jurisdiction of the PSC includes prescribing and enforcing safety standards for electric transmission and distribution. This bill adds the phrase "at a minimum" when describing the safety standards the PSC must adopt. This allows the PSC to adopt stricter safety standards than the National Electrical Safety Code (NESC) as needed to protect Florida's electric system from disasters.[6]

Powers of the Public Service Commission

Section 366.05, F.S., provides for the power of the PSC. Section 366.05(1), F.S., gives the PSC the power to prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements and service rules and regulations for public utilities to require repairs, improvements, additions, and extensions to plant and equipment of public utilities reasonably necessary to promote the convenience and welfare of the public and secure adequate service. The bill amends this section to give the PSC the power to adopt construction standards that <u>exceed</u> the NESC in order to ensure the reliable provision of service. In addition, the PSC is given the power to order the replacement of plant by a public utility.

Section 366.05(8), F.S., gives the PSC the power over the state's electrical grid, and gives the PSC the power, following certain proceeding, to require the installation or repair of necessary facilities if inadequacies exist. While the existing authority permits the PSC to require repairs to the distribution systems of individual utilities, this authority has never been tested. The bill amends this section to give the PSC the authority to require utilities to build additional facilities or repair existing facilities if the PSC determines that the electric grid is inadequate with respect to "fuel diversity or fuel supply reliability." Further, "distribution" is specifically identified as facilities that can be ordered by the PSC to be upgraded. This new language would strengthen the PSC's authority if such actions were challenged.

Public Service Commission Study

The bill requires the PSC to conduct a study on Florida's electric transmission grid. The study shall look at electric system reliability to examine the efficiency and reliability of power transfer and emergency contingency conditions. Additionally, the study must examine the subterranean placement

[6] The PSC currently has open Docket No. 060173-EU, which proposes an amendment to the PSC's rules regarding overhead electric facilities to allow more stringent construction standards than required by the NESC.

of distribution lines and the hardening of infrastructure to address issues from the 2004 and 2005 hurricane seasons. The report of the results must be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 10, 2007.

According to the PSC, the January 10, 2007 deadline to perform all three components of this study could be difficult to achieve. An effective date of July 1, 2006, gives the PSC six months to perform the required study. It has been the PSC's experience with respect to undergrounding lines, the complexity of the issues, and the need for public input frequently requires a longer time frame. The PSC is currently working with the Florida Reliability Coordinating Council (FRCC) on a new transmission planning process and this involvement may enhance the proposed study on Florida's electric transmission grid. The purpose of the new FRCC transmission planning process is to increase coordination among the FRCC members in an effort to improve the overall transmission planning process and to provide a better transmission expansion plan from a statewide perspective. The utilities will file their first reports utilizing this new planning process in April 2006. Additionally, the PSC has opened a docket proposing rules governing the placement of new electric distribution facilities underground and conversion of existing overhead distribution facilities to underground, to address the effects of extreme weather events.[7]

Florida Electrical Power Plant Siting Act (Sections 18 through 40)

Created by the Legislature in 1973, the Power Plant Siting Act (PPSA), provides for certification (licensure) of steam electric or solar power plants which are 75 megawatts (MW) or larger in size. The plants can be gas-fired combined-cycle units, nuclear units or those fueled by more conventional means. Combustion turbines can be permitted in conjunction with a certified facility, or as an addition via the modification process, but in and of themselves do not trigger the certification process.

Certification may include a power plant's directly associated facilities, which are necessary for the construction and operation of the power plant, such as a natural gas pipeline, rail lines, roadways, and electrical transmission lines. For linear features, the applicant can propose certification of a corridor, within which a right-of-way will be located. These corridors can be up to a mile in width, whereas the rights-of-way are typically more on the order of 100-200 feet in width, depending on the facility type.

Certification is issued by the Siting Board (Governor & Cabinet). For the PPSA, DEP is the lead agency for coordination of the siting process, and has jurisdiction for many of the activities which the certification is in lieu of.

The PPSA allows electric utilities to file applications for:

- A site and several units to be constructed immediately.
- A site at which one or more units will be constructed immediately, and the others will be constructed some time in the future ("ultimate site capacity").
- Supplemental units to be added to a site which has been certified for "ultimate site capacity."
- Certification of an existing power plant site at which there will be an increase in generating capacity, or at which the applicant wishes to roll all existing individual permits into a unified certification.

Since certification is a life-of-the facility permit, and many power plants may be in operation for 40 or more years, the considerations involved in the application review are extensive, and the applications themselves may be many volumes in size.

Certification Process

In order to initiate the review process, the application must be submitted along with the appropriate fee. The Office of General Counsel's siting support attorney will request the assignment of an Administrative

[7] Docket No. 060172-EU

Law Judge (ALJ) by the Division of Administrative Hearings (DOAH); this immediately shifts the review into a formal legal proceeding.

As a part of the certification application, permit applications for federally delegated or approved permit programs are submitted. The review of these permits is interwoven with the certification process, but due to federal requirements, may not operate under the same time schedules as certification. Also, the final approval body for the permits is not the Siting Board, but DEP. Where possible, these two processes overlap, and steps are combined.

Once the application is filed, the SCO then determines whether or not the application is "complete" --- that all the appropriate portions are there, but not that the information is adequate for reviewers to analyze the impacts of the proposed project. This determination must occur within 15 days of application filing. If the application is not complete, the applicant may withdraw it or submit additional material, but the review clock does not commence until the application is determined complete. The majority of applications submitted over the years have been complete as filed. Distribution of the application by the applicant to the other agencies must occur no later than 7 days after the determination of completeness. Also, copies of the application will have been distributed by the applicant to the main library in the vicinity of the site.

Within 15 days of the determination that the application is complete, notice must be published about the application. A newspaper advertisement is required, which must be at least 1/2 page in size.

Once the application has been determined complete, the affected agencies and DEP's Power Plant Siting Review Committee assess whether the application is "sufficient" --- that the information is adequate for reviewers to analyze the impacts of the proposed project. This assessment is forwarded to the SCO by no later than 30 days after the application has been determined to be complete, for compilation into an overall determination, which must be submitted to the applicant by no later than 45 days after the application has been determined to be complete (Day 67). The majority of applications submitted over the years have not been sufficient as filed. The applicant is afforded an opportunity to (a) rectify insufficiencies, but if the application is not sufficient within 40 days of the sufficiency determination, then the clock reverts back to Day 67; or, (b) challenge the determination and have the issue resolved by the ALJ.

One difficulty with the sufficiency clock under provision (a) above is that, if the applicant submits its information on the 39th day after the sufficiency determination, this is process Day 106. The clock does not stop while the next iteration of sufficiency review is ongoing. If, at the end of the 30 days allowed for this, the application is determined sufficient, the processing clock is at Day 136. This may encroach on the time available for the agencies for report preparation.

Regardless of the status of sufficiency, the agencies (including DEP) are required to file a "Preliminary Statement of Issues" by no later than 60 days after distribution of a complete application, or about Day 82 in the process. This statement is on the order of a "fatal flaw" analysis, or to highlight various problems with the project as proposed which have been noted early in the review. A more detailed assessment will occur in the required agency reports.

The PPSA requires that a Land Use and Zoning hearing by an ALJ be conducted to verify that the site is consistent with and in compliance with local government plans and zoning ordinances. This hearing must occur no later than 90 days after receipt of a complete application. The ALJ's findings will then be sent to the Siting Board for final ratification no later than 75 days after the administrative hearing (Process Day 165). If the site is not in compliance, the applicant is allowed the opportunity to correct the problem, but if corrections cannot be arranged through a variety of legal recourses, further actions by the agencies are halted.

Within 150 days after the distribution of a complete application (Day 172), the designated agencies are required to file Agency Reports on matters within their jurisdiction which will be affected by the project.

Among the other agencies, the PSC must submit a report on the project, which must contain their Determination of Need. Since the PPSA states that "an affirmative finding of need is condition precedent to the conduct of the certification", if the report/determination is negative, the remainder of the process essentially becomes moot.

DEP has additional report requirements under the PPSA, which must be available within 210 days after the filing of a complete application. Such items include topics not normally within the department's jurisdiction, and so the SCO may contract for special studies, or may rely on the expertise of the other affected agencies. Day 210 is also when information must be available on whether the proposed project will meet federally delegated or approved permit program requirements. However, because of federal process needs and clocks, this is not always possible, so draft positions are used when necessary.

The SCO, on behalf of DEP, will then take the various reports and recommendations, and prepare an analysis. This must be done no later than 240 days after the complete application is filed. This analysis must attempt to interweave all the varying viewpoints and come up with an overall picture of the issues. A recommendation, based to the degree possible on all the recommendations, will be included, along with (a) if approval is recommended, appropriate conditions of certification that combine duplicative conditions, and the terms for any variances, if recommended; (b) if denial is recommended, the reasons therefore and the corrective measures suggested.

A "Certification Hearing", which is conducted by an ALJ, must be held on every application, regardless of whether any matters remain in dispute. The hearing must be conducted no later than 300 days after a complete application is filed. A notice of this hearing will be published no later than 45 days before the hearing, including a large newspaper advertisement. . Federal permit program disputes may be combined, where possible, with this hearing, and so in actuality, the federal time schedules may control. Testimony and evidence will be presented, and agency staff may be called upon to be witnesses. The hearing will be held in the vicinity of the site. The hearings may last from a few hours to several weeks. The public may testify at this hearing, although oftentimes a special time is set aside for this purpose, typically in the evening.

Within 60 days after receipt of the transcript of the Certification Hearing, the ALJ must issue a Recommended Order, which contains finding of facts and conclusions of law about the matters raised at the hearing and in the application. The agencies may file exceptions to this recommended order if they feel something has been overlooked or incorrectly interpreted. Upon occasion, agency staff is asked to assist in reviewing the order and preparing the exceptions.

The Recommended Order, Exceptions, and other pertinent data are then formulated into an Agenda package to be sent to the Governor and Cabinet (Siting Board). Much of this work is done by DEP's Office of General Counsel, the SCO, as well as the DEP Cabinet Affairs Office. The Siting Board must hold a hearing and act upon the application within 60 days of receipt of the ALJ's Recommended Order.

A Final Order is issued by the Board, in which the application may be approved, or denied. If denied, an explanation must be given as to what could be done to make the project approvable. If approved, the Order will be accompanied by Conditions of Certification.

Once the Final Order is signed, it must be sent to the Clerk of the Siting Board for official entry. The Clerk of the Department has been designated the Clerk for PPSA proceedings. The certification will not become effective until "clerked-in".

One of the recommendations in Florida's Energy Plan is to streamline the Florida Electrical Power Plant Siting Act (PPSA) Included in that recommendation was to:

- Simplify and streamline completeness and sufficiency procedures
- Reduce mandatory hearings

- Revise time limits
- Clarify the statutes defining the authority of the Siting Board to review local government determinations on land use consistency to ensure the successful development of projects critical to the State's welfare,

In order to address the recommendations of Florida's Energy Plan, the bill makes numberous changes to the PPSA.

Definitions

The bill amends s. 403.503, F.S., in order to amend, add, and delete the following definitions:

- "**Application**" is amended to provide that it includes the initial document filing, amendments, and responses to requests from DEP for additional data and information.

- "**Completeness**" is amended to incorporate the concept of sufficiency.

- "**Electrical power plant**" is amended to provide that it includes associated facilities such as fuel unloading facilities, pipelines necessary for transporting fuel for the operation of the facility or other fuel transporting facilities, water or wastewater transport pipelines, construction, maintenance and access roads, railway lines necessary for transport of construction equipment or fuel for the operation of the facility.

- "**Sufficiency**" is deleted since this part of the process will be subsumed under the completeness review.

- "**Licensee**" is defined as an applicant that has obtained a certification order for the subject project.

- "**Ultimate Site Capacity**" is defined as the maximum generation capacity for a site as certified by the board.

Department of Environmental Protection-Powers and Duties

In its role of coordinating the siting process, DEP has the following powers and duties:

- Adopt procedural rules to administer this act.
- Prescribe the form and content of public notices, supporting documentation, and any required studies for certification application.
- Receive applications for certification and initially determine their completeness and sufficiency.
- Make or contract for studies of certification applications.
- Administer the processing of applications for certification.
- Require fees as allowed by the act.
- Conduct studies and prepare a project analysis.
- Prescribe a means for monitoring the construction and operation of the electrical power plants to assure continued compliance with terms of the certification.

The bill gives DEP's the authority to issue final orders when there is no certification hearing, resulting in a significant saving in overall licensing time. DEP also receives the authority to issue emergency orders, which will expedite issuance of such orders when emergency conditions require a short turn-around time.

In recognizing existing practice and ensure efficient application processing, the DEP receives the statutory authority to act as clerk for the Siting Board. As a clarification, DEP also receives the power to administer and manages the terms of the certification.

Application for Permits

The bill amends s. 403.5055, F.S., relating to applications for permits pursuant to s. 403.0885, F.S[8]. The bill adds that only if the decision regarding any proposed NPDES permit is available at the time the Project Analysis is issued, the NPDES decision must be included in the analysis. It also provides that any hearing on an NPDES permit shall be conducted in conjunction with the certification hearing. This section also deletes language duplicative of other statutory provisions relating to NPDES permits.

Applicability and Certification

The applicability provisions in s. 403.506, F.S., are amended to clarify how an expansion of in steam generator capacity is measured. In this instance, it is measured by an increase in the normal generator nameplate rating, which is the initial capacity of a piece of electrical equipment as stated on a nameplate attached to the equipment.

Distribution of the Application; Schedules

The distribution of the application and application schedule provisions of s.. 403.5064, F.S., are amended. The date the process begins is changed to the date the application is filed with the department and distributed to the agencies, resulting in a time savings. A provision is added to provide that any amendment made prior to certification will be addressed as part of the original certification proceeding; however, the amendment may be good cause of altering time limits.

This section provides that the ALJ will issue a schedule for processing the application based on a schedule recommended by DEP. The bill also clarifies notice provisions to reference that the notice of application filing will be done pursuant to the newly created notice section. Additionally, it provides for electronic filing of the application, which can save time and money.

Appointment of Administrative Law Judge; Powers and Duties

The bill amends s. 403.5065, F.S., relating to the powers, duties and appointment of the ALJ. This section contains technical correction relocating existing ALJ powers and duties language to this section. This change is related to the proposed provisions designed to streamline the section on certification hearings. This section also deletes reference to completeness to conform to changes made elsewhere in the PPSA.

Determination of Completeness

The bill amends determination of completeness provisions contained in s. 403.5066, F.S. The bill makes numerous technical corrections to consolidate the old sufficiency review with the old completeness review, streamlining steps and expediting the review process. Under the new provisions, agencies will file comments on the application's completeness 30 days after the application is filed and DEP will issue its initial completeness determination 10 days later (Day 40). If the DEP initially determines that the application is incomplete, the applicant has 15 days to file additional information to make the application complete. DEP then has an additional 22 days to issue a second determination on the completeness of the application. Another completeness review ensues with shorter timeframes. If the additional information is determined to render the application complete, the time clocks are not stopped. However, if the application is determined incomplete, the time clocks stop at that point.

Informational Public Meeting

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[8]Establishment of federally approved state National Pollutant Discharge Elimination System (NPDES) Program

[10] Specific Appropriation 1963.

The bill creates s. 403.50663, F.S., providing that local governments, or regional planning councils if local governments do not do so, may hold informational public meetings to obtain public comments about the proposed power plant, including its associated facilities. This meeting(s) expands the opportunity for public interaction, with the applicant and DEP being required to attend the meeting(s). The number of meetings is limited to one per county and must be held within 70 days of the filing of an application. The local government/regional planning council must provide notice of the meeting, but such notice is reimbursable from the application fee. This section also provides that lack of an informational public meeting is not grounds for alteration of any time limitation.

Land Use Consistency Determination

The bill creates s. 403.50665, F.S., to revises a mechanism for review of the proposed power plant's consistency with local zoning ordinances and land use codes. Within 80 days of the application being filed, each local government is required to file a determination of the power plant's consistency with land use and zoning ordinances in effect when the application was filed. Inadequate information can be used a grounds for finding on inconsistency.

Any substantially affected persons may dispute the local government's determination, in which case the ALJ will conduct a hearing. If no objections are filed to the land use determination, no hearing is necessary, and the review process is expedited. Following the determination, the local government may then not change the ordinances or plans so as to foreclose construction and operation of the project.

Determination of Sufficiency

The bill repeals s. 403.5067, F.S., relating to the determination of sufficiency. This determination is now included in the review for completeness.

Preliminary Statement of Issues, Reports, Project Analyses, and Studies

The bill amends s. 403.507, F.S., relating preliminary statements of issues, reports, project analyses, and studies. It changes the date for the filing of preliminary statements of issues from 60 days after distribution of the application, to 40 days after the application has been determined complete (Day 80). It now requires agency reports to be filed to 100 days after the application has been determined complete, expediting the review process by 32 days.

The bill also clarifies that the Department of Community Affairs (DCA) shall include issues related to emergency management in their report, and that the water management district's report shall include issues related to water resources, impact on regional water supply planning, and impact on district-owned lands and works.

This section also adds the Department of Transportation (DOT) to the list of agencies that must file reports. Currently, DOT is typically involved in the process, but its formal addition ties in with DOT's addition to the list of parties to the proceeding, and to the list of agencies eligible for reimbursement from the application fee.

The bill relocates provisions related to the PSC filing it report. Additionally, prior to DEP issuing its project analysis; the PSC must have made an affirmative determination of need. While the need determination is currently required prior to the certification hearing, this language needed is amended, since the hearing may now be canceled.

The bill amends the date of the issuance of DEP's project analysis from 240 days after the filing of the application to 130 days after the application is filed. DEP will now issue its report 30 days after receipt of agency reports, expediting the review process by 70 days. This section also adds requirements to the contents of the analysis.

In addition to other provisions, this section relocates provisions requiring agency reports to include notification regarding whether variances, exemptions, or exceptions are necessary in order for the application to be certified, and deletes several provisions related to a federally delegated/approved permit program, in order to make the act internally consistent regarding the handling of such permits.

Land Use and Certification Hearings

The bill amends s. 403.508, F.S., relating to land use and certification hearings. First, there are supportive changes to the land use consistency determination provisions. This section provides a process for circumstances when a petition for a land-use hearing. It provides that even if the application is not complete, this hearing, if necessary, will be held at the time provided. It also provides that if the application information on land use plans and zoning ordinances was inadequate, this can be used as grounds for a finding that the project will be inconsistent. This section also provides for notice of the land use hearing.

If the Siting Board determines that that the project is consistent with existing land use plans and zoning ordinances, the bill prohibits the local government from making changes to these plans and ordinances that would prevent subsequent construction and operation of the project. If the siting board determines that that the project is not consistent, the siting board may authorize variances or rezoning of the site for the project. If the siting board does not authorize variances or rezoning, no further action can be taken on the application until the applicant obtains the appropriate changes.

The bill changes the date for the holding of the certification hearing from 300 days after application filing, to 265 days after the application is filed. The DEP analysis will have been issued 95 days earlier. According to DEP, this length of time is needed to account for the possibility that the application was not complete as filed but was rendered complete before the deadline for the tolling of the time clock, and also to provide adequate time to prepare for the hearing.

A key substantive change is the addition of a mechanism for the cancellation of the otherwise mandatory certification hearing. The ALJ, upon request, can order cancellation of the hearing for a non-controversial project upon stipulation by all parties. The ALJ would relinquish jurisdiction, and the department would prepare the Final Order. This new option would shorten the process by as much as four and a half months, and would save money for the applicant and the agencies.

The bill also makes numerous technical changes to this section, including the relocation of provisions to group that related activities and improve the chronological sequencing of events. Additionally DOT is added to the list of parties, and process deadlines are revised to conform to other deadline changes. The language regarding "public notice" has been relocated to a new notice section pertaining to the entire process, as opposed to just the hearing proceeding.

The bill also conforms existing provisions related to the conduct of the hearing, parties, and intervention, and retains existing provisions related to public participation and public hearings, though relevant dates are changed to conform to changes in the dates of the overall process.

Final Disposition of the Application

The bill amends s. 403.509, F.S., relating to the final disposition of application. The bill adds a provision allowing DEP to issue the final order, on certification if the ALJ has cancelled the certification hearing. This would only apply if there are no controversial issues, and could save several months.

This section also creates criteria for approval or denial of the application, which is drawn from the intent language, and criteria listed elsewhere in the act. In order to make the act internally consistent regarding federally delegated/approved permits, provisions related to these permits are deleted.

Effect of Certification

The bill amends s. 403.511, F.S., relating to the effect of certification. The bill provides that no term or condition of site certification is to be interpreted to supersede or control provisions of a final operation permit for a major source of air pollution. Another section is added to recognize that the certification acts as the state's determination of coastal zone consistency.

Filing of Notice of Certified Corridor Route

The bill creates s. 403.5112, F.S., relating to filing of notice of certified corridor route. This provision is drawn from s. 403.5312, F.S., contained in the Transmission Line Siting Act, but which technically applies to the PPSA, as well. This section provides that within 60 days after a directly associated linear facility is certified, the applicant must file notice of the certified route with DEP and the clerk of the circuit court in each county through which the corridor will pass.

Postcertification Amendments

The bill creates s. 403.5113, F.S., related to post-certification amendments. This is essentially a technical addition clarifying the difference in required actions between amendments submitted by the applicant during the application review, as opposed to after certification. This section also requires DEP to determine within 30 days of receiving the amendment whether or not the proposed change requires the conditions of certification to be modified.. These changes codify and clarify existing DEP rules, and provide regulatory certainty for licensees.

Public Notice; Costs of Proceeding

The bill amends s. 403.5115 F.S., relating to public notice. This section conforms requirements to other provisions, updates vehicles for notification to allow for notice as specified in ch. 120, F.S., and makes clarifications. This section also adds new public notices for the land use determination (15 days after it is filed), and for the cancellation of the certification hearing (seven days before the hearing was originally scheduled).

Review

The bill amends the judicial review provisions in s. 403.513, F.S. to conform its requirements to other provisions regarding the separate handling of federally delegated or approved permits.

Modification of Certification

Modifications of certification are frequently necessary, in part because of the life-of-the-facility license granted. However, not all changes at a certified facility necessitate a formal modification, rather, an approved amendment may suffice. A "modification" is any change in the certification order after issuance, including a change in the conditions of certification. Thus, a condition might specify that the chemical treatment system for the facility only be allowed a 30 foot mixing zone, and if the applicant wishes to have a 40 foot mixing zone, a modification would be necessary. However, if a construction shed was to be moved and this was not mentioned in the conditions nor are there any foreseeable impacts, an amendment would be approved.

Modifications can be approved by the Siting Board, or the may delegate that authority to the Secretary of DEP --- which is frequently the case. If a dispute arises, the decision-making authority reverts to the Siting Board.

The process for modifications normally starts with informal discussions about what the licensee is contemplating. Often a decision can be reached whether a formal modification is needed, or whether an amendment will do. If a formal modification is needed, the licensee must file a request with DEP and pay a fee, beginning a legal proceeding, requiring oversight and assistance from OGC.

The request will be circulated to the appropriate staff for a completeness/sufficiency review. Copies will also be sent to the parties to the certification proceeding. If DEP believes the change will significantly increase the impacts to the environment or the public, newspaper notice of the proposed modification may be published.. If objections are received from either staff or the parties, the licensee will be asked for more information, or to discuss possible revisions. If no objections are received regarding sufficiency, or, subsequently, on the proposal, then the SCO and OGC will prepare a proposed Final Order and circulate it to staff and the parties. Notice of the proposed modification will be published.

Staff and parties will have 45 days after issuance of the notice to the proposed final order to object to it; other substantially affected persons will have 30 days. If no objections have been submitted, and if DEP has been delegated the authority to approve the modification, then the final order will be signed, sent to the parties, and to the clerk of the DEP/SIting Board. After that, the conditions of certification will be updated to reflect the changes.

If objections have been submitted, the licensee can attempt to resolve the problem, or it can file a petition for an administrative hearing. DEP also has the authority to request a hearing. Such petitions are to be "disposed of in the same manner as an application" that is, undergo the various steps outlined for a Certification review; however it is done in a time period commensurate with the significance/scope of the modification requested. Since a completeness and sufficiency review would have already been conducted, it is likely that this step would be forgone. Unless the site boundary is expanded, a land use hearing would probably be unnecessary. However, staff would need to submit information to the SCO for a preliminary statement of issues (unless some other step could be determined to suffice for this), and information for the agency report. Further justification might be needed in the report on the proposed findings and the recommended new or revised conditions of certification. A written analysis would be issued, an administrative hearing conducted, and eventually the matter would be heard by the Siting Board.

The bill amends s. 403.516, F.S., relating to the modification of certification. This section makes edits to clarify and streamline former unclear provisions related to modification of certifications. Additionally, it conforms requirements to other provisions regarding federally delegated or approved permits.

Supplemental Applications for Sites Certified for Ultimate Site Capacity

The bill amends s. 403.517, F.S., relating to supplemental applications for sites certified for ultimate site capacity to simplify and clarify language regarding procedural steps for applications at facilities that have previously been certified, but are expanding. Additionally, the definition of "ultimate site capacity" transferred to the definitions section.

Existing Electrical Power Plant Site Certification

The bill amends s. 403.5175, F.S., relating to existing electrical power plant site certification to make technical edits conforming this section to other sections of the PPSA.

Fees; Disposition

The bill amends s. 403.518, F.S., relating to the disposition of fees. These changes take into account the potential cancellation of the certification hearing. Currently, DOAH receives 20 percent of the application fee to cover its administrative costs.. Under the new provisions, DOAH would now receive an initial fee of 5 percent up front to cover its initial administration costs. DOAH would receive an additional 5 percent if a land use hearing is held and an additional 10 percent if a certification hearing is held. If all hearings are held, DOAH will receive the 20 percent it currently receives. Additionally, a provision is added to allow agencies to seek reimbursement of their expenses if an application held in abeyance for more than one year.

Exclusive Forum for Determination of Need

The need determination process can occur prior to the filing of a certification application, or afterwards; however, it is usually recommended that it be commenced beforehand. Need determination is a formal process required under s. 403.519, F.S., and is conducted by the PSC. The PSC reviews the need for the generation capacity which the proposed facility would produce in relation to the needs of the region, and to the state as a whole. The PSC also looks at whether the facility would be the most cost-effective means of obtaining generating capacity. If the PSC makes a negative determination, or recommends that an alternative approach is more suitable, then either the pending application need not be submitted, or should be revised. If the application has already been submitted, then the certification application process comes to a halt.

Section 403.519(2), F.S., requires the PSC to publish notices in the newspaper of its need determination hearing 45 days before the date set for the hearing. The bill shifts this responsibility to the applicant and shortens the time frame to 21 days before the hearing. In addition, it states that the PSC shall continue to post a notice in the Florida Administrative Weekly at least seven days prior to the date of the hearing.

The bill amends s. 403.519(3), F.S., allowing the PSC to take into account the need for fuel diversity and supply reliability when making a need determination. The PSC currently includes fuel issues in its need determination proceeding, but bill requires it to be addressed in the PSC's deliberations. The bill does not specify if the need for fuel diversity and supply reliability refers to the state as a whole or to the specific applicant.

Effective Date (Section 41)

This act shall take effect upon becoming law.

C. SECTION DIRECTORY:

Section 1	Provides legislative findings and intent.
Section 2	Creates s. 377.801, F.S., providing a popular name.
Section 3	Creates s. 377.802, F.S., providing a purpose.
Section 4	Creates s. 377.803, F.S., providing definitions.
Section 5	Creates s. 377.804, F.S., creating the Renewable Energy Technologies Grant Program.
Section 6	Creates s. 377.805, F.S., creating the Energy Efficient Appliances Rebate Program.
Section 7	Creates s. 377.806, F.S., creating the Solar Energy Systems Rebate Program.
Section 8	Creates s. 377.900, F.S., creating the Florida Energy Council.
Section 9	Creates s. 212.08(7)(ccc), F.S., creating a sales tax exemption for renewable energy technologies.
Section 10	Creates s, 213.053(7)(y), F.S., relating to confidentiality and information sharing.
Section 11	Amends s. 220.02(8), F.S., providing an order for the application of tax credits.
Section 12	Creates s. 220.192, F.S., creating the renewable energy technologies investment tax credit.
Section 13	Amends s. 220.13, F.S., relating to the definition of "adjusted federal income," for purposes of the corporate income tax.
Section 14	Amends s. 186.801(2), F.S., relating to the ten-year site plan.

Section 15	Amends s. 366.04(6), F.S., relating to the jurisdiction of the Public Service Commission.
Section 16	Amends s. 366.05(1) and (8), F.S., related to powers of the Public Service Commission
Section 17	Requires the Public Service Commission to conduct a study.
Section 18	Amends s. 403.503, F.S., providing definitions for the Florida Electrical Power Plant Siting Act
Section 19	Amends s. 403.504, F.S., providing powers and duties of the Department of Environmental Protection.
Section 20	Amends s. 403.5505, F.S., relation to applications for permits pursuant to s. 403.0885, F.S. (Establishment of federally approved state National Pollutant Discharge Elimination System (NPDES) Program).
Section 21	Amends s. 403.506, F.S., relating to applicability, thresholds, and certification.
Section 22	Amends s. 403.5064, F.S., relating to the distribution of the application and the application schedule.
Section 23	Amends s. 403.5065, F.S., relating to the appointment, powers, and duties of the administrative law judge.
Section 24	Amends s. 403.5066, F.S., relating to determination of completeness.
Section 25	Creates s. 403.50663, F.S., relating to informational public meetings.
Section 26	Creates s. 403.50665, F.S., relating to land use consistency determination.
Section 27	Repeals s. 403.5067, F.S., relating to determination of sufficiency.
Section 28	Amends s. 403.507, F.S., preliminary statement of issues, reports, project analyses, and studies.
Section 29	Amends s. 403.508, F.S., relating to land use and certification hearings.
Section 30	Amends s. 403.509, F.S, relating to the final disposition of the application.
Section 31	Amends s. 403.511, F.S., relating to the effect of certification.
Section 32	Creates s. 403.5112, F.S. relating to the filing of notice of certified corridor route.
Section 33	Creates s. 403.5113, F.S., relating to post certification amendments.
Section 34	Amends s. 403.5115, F.S., relating to public notice.
Section 35	Amends s. 403.513, F.S., relating to judicial review.
Section 36	Amends s. 403.516, F.S., relating to the modification of certification.
Section 37	Amends s. 403.517, F.S., relating to supplemental applications for sites certified for ultimate site capacity
Section 38	Amends s. 403.5175, F.S., relating to electrical power plant site certifications
Section 39	Amends s. 403.518, F.S., relating to the disposition of fees.

Section 40 Amends s, 403.519, F.S. relating to the determination of need.

Section 41 This act shall take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Conceptually, there could be a positive effect on state revenues due to the encouraged investment in renewable energy technologies and solar energy. However, there could be a decrease in gross tax receipts due to a reduced sale in electricity.

2. Expenditures:

Renewable Energy Technologies Grant Program

According to DEP, there will be recurring costs associated with administering the programs provided for under the act. At this time Energy Office staff time is paid for via a federal government grant from the United States Department of Energy and administering a grant program would be an allowable cost under the federal grant. However, the additional workload may necessitate additional staff being hired. The actual grant program will be funded out of general revenue. The current House of Representatives General Appropriations Act has a $5 million appropriation for a grant program for the 2006-2007 fiscal year.[10]

The Energy Efficient Appliance and Solar Energy System Rebate Programs

The DEP will incur costs associated with administering these rebate programs. Based on information provide by DEP, it estimates the final cost to the state for the Energy Efficient Appliance Rebate Program to be approximately $2.5 million, and the cost of the Solar Energy System Rebate Program to be about $375,000.

Florida Energy Council

The DEP will incur administrative costs as staff to the council. The state will also have to absorb the cost of travel reimbursement for council members.

Sales Tax Exemption and Corporate Income Tax Credit

These provisions will necessitate the administering of the tax incentive program or DEP contracting with an outside organization to do so. The costs associated with these incentives are recurring in nature, though Energy Office staff time is covered via a federal government grant from the U.S. Dept. of Energy and administration of a tax incentive program for biofuels and hydrogen would be an allowable cost under the federal grant. However, the additional workload may necessitate the hiring of additional staff.

There will also be general revenue impact to the state as a result of the sales tax exemption and corporate income tax credit. The bill total limits for the sales tax exemption is $4 million per fiscal year. The bill limits the total amount of the tax credit to $11 million per fiscal year.

According to DOR, it will need one additional position at a recurring cost of $48,708 to administer these programs. For the 2006-2007 fiscal year, DOR expects to incur $4,834 in non-recurring expenses.

Public Service Commission

The PSC may see an increased workload as a result of the additional authorities given to it to monitor system reliability related to fuel diversity. The PSC will also incur costs related to the study it is required to conduct.

Power Plant Siting Act

As a result of potential hearing cancellations, the costs to conduct and participate those hearings should decrease. However, the shortened time frames will result in an increased workload over the same amount of time, and may require additional staff.

Other Costs

The DEP and DOR will incur expenses associated with rulemaking required by this bill. In addition, DEP and the PSC incur expenses associated with revising their current rules to conform to statutory changes.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Local governments would be eligible to receive grants under the Renewable Energy Technologies Grant Program. Added infrastructure and development could have a positive impact on a local government's revenues.

2. Expenditures:

   In the long-run, local governments may save funds as a result of canceling the certification hearing under the Power Plant Siting Act; however, local governments may incur expenses related to holding informational public meetings.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Renewable Energy Technologies Grant Program will provide grants to the private sector. Applicants for siting power plants will see a direct economic benefit from a streamlined permitting process, including the ability to begin construction at an earlier date.

D. FISCAL COMMENTS:

The bill does not contain a appropriation for the expenses of the Florida Energy Council.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

   None

B. RULE-MAKING AUTHORITY:

The bill provides rulemaking authority in the following instances:

a. The DEP may adopt rules to administer the Renewable Energy Technologies Grant Program

b. The DEP shall adopt rules to designate rebate amounts and administer the use issuance of Energy Efficient Appliance Rebates. These rules may include incentives for low-income families to purchase qualifying appliances.
c. The DEP shall adopt rules to designate rebate amounts and administer the issuance of Solar Energy Systems Rebates.
d. The DEP may adopt rules to implement provisions related to the Florida Energy Council
e. The DOR is required to adopt rules regarding the manner and form of sales tax refund applications and may establish guidelines for an affirmative showing of qualification for exemptions.
f. The DEP is authorized to adopt rules, guidelines, and application materials for the application process for the Renewable Energy Technologies Investment Tax Credit
g. The DOR has the authority to adopt rules relating to forms required to claim the Renewable Energy Technologies Investment Tax Credit, the requirements and basis for establishing an entitlement to a credit, and examination and audit procedures required to administer the credit.

The DEP may have to amend its power plant siting rules[11] to conform to change to the Florida Electric Power Plant Siting Act.

The PSC may have to amend some of its current rules to conform to provisions contained in this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Tax Issues

Sales Tax Exemption

For the sales and use tax exemptions DOR suggests that the terms "hydrogen powered vehicles", "hydrogen fueling stations," "commercial stationary fuel cells," and "materials used in the distribution of biodiesel and ethanol" be defined for greater clarity.

DOR also recommends that this section be clarified to provide that the term "fiscal year" is the state fiscal year, and that it be clarified that the cap amounts in the statute be clarified that those are the amounts paid in tax.

There is a specific sales tax exemption on materials used in the distribution of biodiesel and ethanol, including fueling infrastructure, transportation, and storage. According to DOR, this language appears to be vague and overly broad in that many fuel handling systems handle more than one type of fuel. DOR recommends specifying that the exemption only applies to systems exclusively used for alternative fuels.

Investment Tax Credit

The bill creates the Renewable Energy Technologies Investment Tax Credit. Except for credit carryovers, this statute is repealed on July 1, 2010. The statute also provides DOR and DEP with the authority to audit and revoke wrongfully obtained credits. According to DOR, it usually audits a return one or two years after their return is filed, and that return is not filed until April or October of the following year. If this section is repealed on July 1, 2010, according to DOR, it will not have the authority to audit or revoke wrongfully obtained credits for most tax years in which such credits will be claimed.

The credit is set to expire on July 1, 2010. On line 515, the bill provides that the credit may be used for tax years beginning January 1, 2007 through December 31, 2013. Other portions of this section provide that the credit may be used for tax years beginning on January 1, 2007 and through December 31, 2010, not December 31, 2013.

[11] These rules are contained in ss. 62.17.011 through 62.17.293, F.A.C.

Other Change

The DEP is recommending several changes to in order to clarify provisions contained in the bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to energy; providing legislative findings
3 and intent; creating s. 377.801, F.S.; creating the
4 "Florida Renewable Energy Technologies and Energy
5 Efficiency Act"; creating s. 377.802, F.S.; stating the
6 purpose of the act; creating s. 377.803, F.S.; providing
7 definitions; creating s. 377.804, F.S.; creating the
8 Renewable Energy Technologies Grants Program; providing
9 program requirements and procedures, including matching
10 funds; creating s. 377.805, F.S.; creating the Energy
11 Efficient Appliance Rebate Program; providing program
12 requirements, procedures, and limitations; creating s.
13 377.806, F.S.; creating the Solar Energy System Rebate
14 Program; providing program requirements, procedures, and
15 limitations; creating s. 377.901, F.S.; creating the
16 Florida Energy Council within the Department of
17 Environmental Protection; providing purpose and
18 composition; providing for appointment of members and
19 their terms; providing for reimbursement for travel and
20 per diem; requiring the department to provide certain
21 services to the council; providing rulemaking authority;
22 amending s. 212.08, F.S.; providing definitions for the
23 terms "biodiesel" and "ethanol"; providing tax exemptions
24 for the sale or use of certain energy efficient products;
25 providing eligibility requirements and tax credit limits;
26 directing the department to adopt rules; directing the
27 department to determine and publish certain information
28 relating to such exemptions; amending s. 213.053, F.S.;

29 authorizing the Department of Revenue to share certain
30 information with the Department of Environmental
31 Protection for specified purposes; amending s. 220.02,
32 F.S.; providing the order of application of the renewable
33 energy technologies investment tax credit; creating s.
34 220.192, F.S.; establishing a corporate tax credit for
35 certain costs related to renewable energy technologies;
36 providing eligibility requirements and credit limits;
37 providing certain authority to the Department of
38 Environmental Protection and the Department of Revenue;
39 directing the Department of Environmental Protection to
40 determine and publish certain information; providing for
41 repeal of the tax credit; amending s. 220.13, F.S.;
42 providing an addition to the definition of "adjusted
43 federal income"; amending s. 186.801, F.S.; revising the
44 provisions of electric utility 10-year site plans to
45 include the effect on fuel diversity; amending s. 366.04,
46 F.S.; revising the safety standards for public utilities;
47 amending s. 366.05, F.S.; authorizing the Public Service
48 Commission to adopt certain construction standards and
49 make certain determinations; directing the commission to
50 conduct a study and provide a report by a certain date;
51 amending s. 403.503, F.S.; revising and providing
52 definitions applicable to the Florida Electrical Power
53 Plant Siting Act; amending s. 403.504, F.S.; providing the
54 Department of Environmental Protection with additional
55 powers and duties relating to the Florida Electrical Power
56 Plant Siting Act; amending s. 403.5055, F.S.; revising

57 provisions for certain permits associated with
58 applications for electrical power plant certification;
59 amending s. 403.506, F.S.; revising provisions relating to
60 applicability and certification of certain power plants;
61 amending s. 403.5064, F.S.; revising provisions for
62 distribution of applications and schedules relating to
63 certification; amending s. 403.5065, F.S.; revising
64 provisions relating to the appointment of administrative
65 law judges; amending s. 403.5066, F.S.; revising
66 provisions relating to the determination of completeness
67 for certain applications; creating s. 403.50663, F.S.;
68 authorizing certain local governments and regional
69 planning councils to hold an informational public meeting;
70 providing requirements and procedures therefor; creating
71 s. 403.50665, F.S.; requiring local governments to file
72 certain land use determinations; providing requirements
73 and procedures therefor; repealing s. 403.5067, F.S.;
74 relating to the determination of sufficiency for certain
75 applications; amending s. 403.507, F.S.; revising required
76 statement provisions for affected agencies; amending s.
77 403.508, F.S.; revising provisions related to land use and
78 certification proceedings; requiring certain notice;
79 amending s. 403.509, F.S.; revising provisions related to
80 the final disposition of certain applications; providing
81 requirements and provisions with respect thereto; amending
82 s. 403.511, F.S.; revising provisions related to the
83 effect of certification for the construction and operation
84 of proposed power plants; providing that issuance of

85 certification meets certain consistency requirements;
86 creating s. 403.5112, F.S.; requiring filing of notice for
87 certified corridor routes; providing requirements and
88 procedures with respect thereto; creating s. 403.5113,
89 F.S.; authorizing postcertification amendments for power
90 plant site certification applications; providing
91 requirements and procedures with respect thereto; amending
92 s. 403.5115, F.S.; requiring certain public notice for
93 activities related to power plant site application,
94 certification, and land use determination; providing
95 requirements and procedures with respect thereto;
96 directing the Department of Environmental Protection to
97 maintain certain lists and provide copies to of certain
98 publications; amending s. 403.513, F.S.; revising
99 provisions for judicial review of appeals related to power
100 plant site certification; amending s. 403.516, F.S.;
101 revising provisions relating to modification of
102 certification for power plant sites; amending s. 403.517,
103 F.S.; revising the provisions relating to supplemental
104 applications for certain power plant sites; amending s.
105 403.5175, F.S.; revising provisions relating to existing
106 power plant site certification; revising the procedure for
107 reviewing and processing applications; requiring
108 additional information to be included in certain
109 applications; amending s. 403.518, F.S.; revising the
110 allocation of proceeds from certain fees collected;
111 providing for reimbursement of certain expenses; directing
112 the Department of Environmental Protection to establish

113 rules for determination of certain fees; eliminating
114 certain operational license fees; amending s. 403.519,
115 F.S.; directing the Public Service Commission to consider
116 fuel diversity and reliability in certain determinations;
117 providing an effective date.
118
119 Be It Enacted by the Legislature of the State of Florida:
120
121 Section 1. Legislative findings and intent.--The
122 Legislature finds that advancing the development of renewable
123 energy technologies and energy efficiency is important for the
124 state's future, its energy stability, and the protection of its
125 citizens' public health and its environment. The Legislature
126 finds that the development of renewable energy technologies and
127 energy efficiency in the state will help to reduce demand for
128 foreign fuels, promote energy diversity, enhance system
129 reliability, reduce pollution, educate the public on the promise
130 of renewable energy technologies, and promote economic growth.
131 The Legislature finds that there is a need to assist in the
132 development of market demand that will advance the
133 commercialization and widespread application of renewable energy
134 technologies. The Legislature further finds that the state is
135 ideally positioned to stimulate economic development through
136 such renewable energy technologies due to its ongoing and
137 successful research and development track record in these areas,
138 an abundance of natural and renewable energy sources, an ability
139 to attract significant federal research and development funds,

140 and the need to find and secure renewable energy technologies
141 for the benefit of its citizens, visitors, and environment.
142 Section 2. Section 377.801, Florida Statutes, is created
143 to read:
144 377.801 Short title.--Sections 377.801-377.806 may be
145 cited as the "Florida Renewable Energy Technologies and Energy
146 Efficiency Act."
147 Section 3. Section 377.802, Florida Statutes, is created
148 to read:
149 377.802 Purpose.--This act is intended to provide matching
150 grants to stimulate capital investment in the state and to
151 enhance the market for and promote the statewide utilization of
152 renewable energy technologies. The targeted grants program is
153 designed to advance the already growing establishment of
154 renewable energy technologies in the state and encourage the use
155 of other incentives such as tax exemptions and regulatory
156 certainty to attract additional renewable energy technology
157 producers, developers, and users to the state. This act is also
158 intended to provide rebates for energy efficient appliances and
159 for solar energy equipment installations for residential and
160 commercial buildings.
161 Section 4. Section 377.803, Florida Statutes, is created
162 to read:
163 377.803 Definitions.--As used in this act, the term:
164 (1) "Act" means the Florida Renewable Energy Technologies
165 and Energy Efficiency Act.
166 (2) "Department" means the Department of Environmental
167 Protection.

168 (3) "Energy Star qualified appliance" means a
169 refrigerator, residential model clothes washer including a
170 residential style coin operated clothes washer, or dishwasher
171 that has been designated by the United States Environmental
172 Protection Agency and the United States Department of Energy as
173 meeting or exceeding the energy saving efficiency requirements
174 under each agency's Energy Star program.
175 (4) "Person" means an individual, partnership, joint
176 venture, private or public corporation, association, firm,
177 public service company, or any other public or private entity.
178 (5) "Renewable energy" means renewable energy as defined
179 in s. 366.91.
180 (6) "Renewable energy technology" means any technology
181 that generates or utilizes a renewable energy resource.
182 (7) "Solar energy system" means equipment that provides
183 for the collection and use of incident solar energy for water
184 heating, space heating or cooling, or other applications that
185 require a conventional source of energy such as petroleum
186 products, natural gas, or electricity and equipment that
187 performs primarily with solar energy. In other systems in which
188 solar energy is used in a supplemental way, only those
189 components which collect and transfer solar energy shall be
190 included in this definition. The term "solar energy system" does
191 not include a swimming pool heater.
192 (8) "Solar photovoltaic system" means a device that
193 converts incident sunlight into electrical current.
194 (9) "Solar thermal system" means a device that traps heat
195 from incident sunlight in order to heat water.

196 Section 5. Section 377.804, Florida Statutes, is created
197 to read:
198 377.804 Renewable Energy Technologies Grants Program.--
199 (1) The Renewable Energy Technologies Grants Program is
200 established within the department to provide renewable energy
201 matching grants for demonstration, commercialization, research,
202 and development projects relating to renewable energy
203 technologies.
204 (2) Matching grants for renewable energy technology
205 demonstration, commercialization, research, and development
206 projects may be made to any of the following:
207 (a) Municipalities and county governments.
208 (b) Established for-profit companies licensed to do
209 business in the state.
210 (c) Universities and colleges.
211 (d) Utilities located and operating within the state.
212 (e) Not-for-profit organizations.
213 (f) Other qualified persons, as determined by the
214 department.
215 (3) The department may adopt rules pursuant to ss.
216 120.536(1) and 120.54 to administer the awarding of grants under
217 this program.
218 (4) Factors the department shall consider in awarding
219 grants include, but are not limited to:
220 (a) The degree to which the project stimulates in-state
221 capital investment and economic development in metropolitan and
222 rural areas, including the creation of jobs and the future

223 development of a commercial market for renewable energy
224 technologies.
225 (b) The extent to which the proposed project has been
226 demonstrated to be technically feasible based on pilot project
227 demonstrations, laboratory testing, scientific modeling, or
228 engineering or chemical theory which supports the proposal.
229 (c) The degree to which the project incorporates an
230 innovative new technology or an innovative application of an
231 existing technology.
232 (d) The degree to which a project generates thermal,
233 mechanical, or electrical energy by means of a renewable energy
234 resource that has substantial long-term production potential.
235 (e) The degree to which a project demonstrates efficient
236 use of energy and material resources.
237 (f) The degree to which the project fosters overall
238 understanding and appreciation of renewable energy technologies.
239 (g) The availability of matching funds from an applicant.
240 (h) Other in-kind contributions applied to the total
241 project.
242 (i) The ability to administer a complete project.
243 (j) Project duration and timeline for expenditures.
244 (k) The geographic area in which the project is to be
245 conducted in relation to other projects.
246 (l) The degree of public visibility and interaction.
247 Section 6. Section 377.805, Florida Statutes, is created
248 to read:
249 377.805 Energy Efficient Appliance Rebate Program.--

250 (1) The Energy Efficient Appliances Rebate Program is
251 established within the department to provide for financial
252 incentives for the purchase of Energy Star qualified appliances
253 as specified in this section.
254 (2) Any resident of the state who purchases a new Energy
255 Star qualified appliance from July 1, 2006, through June 30,
256 2010, from a retail store in the state is eligible for a rebate.
257 (3) The department shall adopt rules pursuant to ss.
258 120.536(1) and 120.54 to designate rebate amounts and administer
259 the issuance of rebates. The department's rules may include
260 separate incentives for low-income families to purchase Energy
261 Star qualified appliances.
262 (4) Application for a rebate must be made within 90 days
263 after the purchase of the Energy Star qualified appliance.
264 (5) Rebates are limited to one per type of appliance per
265 year.
266 (6) The total dollar amount of all rebates issued by the
267 department is subject to the total amount of appropriations in
268 any fiscal year for this program. If funds are insufficient
269 during the current fiscal year, any requests for rebates
270 received during that fiscal year may be processed during the
271 following fiscal year.
272 (7) The department shall determine and publish on a
273 regular basis the amount of rebate funds remaining in each
274 fiscal year.
275 Section 7. Section 377.806, Florida Statutes, is created
276 to read:
277 377.806 Solar Energy System Rebate Program.--

278 (1) The Solar Energy System Rebate Program is established
279 within the department to provide for financial incentives for
280 the purchase of solar energy systems.
281 (2) Any person who purchases a new solar energy system
282 from July 1, 2006, through June 30, 2010, of 2 kilowatts or
283 larger for a solar photovoltaic system, or a solar energy system
284 that provides at least 50 percent of a building's hot water
285 consumption for a solar thermal system and has the system
286 installed by a certified solar contractor, is eligible for a
287 rebate.
288 (3) The department shall adopt rules pursuant to ss.
289 120.536(1) and 120.54 to designate rebate amounts and administer
290 the issuance of rebates.
291 (4) Application for a rebate must be made within 90 days
292 after the purchase of the solar energy equipment.
293 (5) Rebates are limited to two per person.
294 (6) The total dollar amount of all rebates issued by the
295 department is subject to the total amount of appropriations in
296 any fiscal year for this program. If funds are insufficient
297 during the current fiscal year, any requests for rebates
298 received during that fiscal year may be processed during the
299 following fiscal year.
300 (7) The department shall determine and publish on a
301 regular basis the amount of rebate funds remaining in each
302 fiscal year.
303 Section 8. Section 377.901, Florida Statutes, is created
304 to read:
305 377.901 Florida Energy Council.--

306 (1) The Florida Energy Council is created within the
307 Department of Environmental Protection to provide advice and
308 counsel to the Governor, the President of the Senate, and the
309 Speaker of the House of Representatives on the energy policy of
310 the state. The council should advise the state on current and
311 projected energy issues including, but not limited to,
312 generation, transmission, and fuel supply issues.
313 (2)(a) The council shall be comprised of utility
314 providers, researchers, fuel suppliers, technology
315 manufacturers, environmental interests, and others.
316 (b) The council shall consist of eight voting members as
317 follows:
318 1. The Secretary of the Department of Environmental
319 Protection shall serve as chair of the council.
320 2. The Chair of the Public Service Commission shall serve
321 as vice chair of the council.
322 3. Two members shall be appointed by the Governor.
323 4. Two members shall be appointed by the President of the
324 Senate.
325 5. Two members shall be appointed by the Speaker of the
326 House of Representatives.
327 (c) All initial members shall be appointed prior to
328 September 1, 2006. Appointments made by the Governor, the
329 President of the Senate, and the Speaker of the House of
330 Representatives shall be for terms of 2 years each. Members
331 shall serve until their successors are appointed. Vacancies
332 shall be filled in the manner of the original appointment for
333 the remainder of the term that is vacated.

334 (d) Members shall serve without compensation, but shall be
335 entitled to travel reimbursement and per diem expenses related
336 to council duties and responsibilities pursuant to s. 112.061.
337 (3) The Department of Environmental Protection shall
338 provide primary staff support to the council and shall ensure
339 that council meetings are electronically recorded. Such
340 recording shall be preserved pursuant to chapters 119 and 257.
341 (4) The Department of Environmental Protection may adopt
342 rules pursuant to ss. 120.536 and 120.54 to implement the
343 provisions of this section.
344 Section 9. Paragraph (ccc) is added to subsection (7) of
345 section 212.08, Florida Statutes, to read:
346 212.08 Sales, rental, use, consumption, distribution, and
347 storage tax; specified exemptions.--The sale at retail, the
348 rental, the use, the consumption, the distribution, and the
349 storage to be used or consumed in this state of the following
350 are hereby specifically exempt from the tax imposed by this
351 chapter.
352 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
353 entity by this chapter do not inure to any transaction that is
354 otherwise taxable under this chapter when payment is made by a
355 representative or employee of the entity by any means,
356 including, but not limited to, cash, check, or credit card, even
357 when that representative or employee is subsequently reimbursed
358 by the entity. In addition, exemptions provided to any entity by
359 this subsection do not inure to any transaction that is
360 otherwise taxable under this chapter unless the entity has
361 obtained a sales tax exemption certificate from the department

362 or the entity obtains or provides other documentation as
363 required by the department. Eligible purchases or leases made
364 with such a certificate must be in strict compliance with this
365 subsection and departmental rules, and any person who makes an
366 exempt purchase with a certificate that is not in strict
367 compliance with this subsection and the rules is liable for and
368 shall pay the tax. The department may adopt rules to administer
369 this subsection.
370 (ccc) Equipment, machinery, and other materials for
371 renewable energy technologies.--
372 1. Definitions.--As used in this paragraph, the term:
373 a. "Biodiesel" means a fuel comprised of mono-alkyl esters
374 of long-chain fatty acids derived from vegetable oils or animal
375 fats meeting the requirements of American Society for Testing
376 and Materials (ASTM) standard D6751. Biodiesel may refer to a
377 blend of biodiesel fuel meeting the ASTM standard D6751 with
378 petroleum-based diesel fuel, designated BXX, where XX represents
379 the volume percentage of biodiesel fuel in the blend.
380 b. "Ethanol" means a high octane, liquid fuel produced by
381 the fermentation of plant sugars meeting the requirements of
382 ASTM standard D5798-99. Ethanol refers to a blend of ethanol
383 fuel meeting ASTM standard D5798-99 with petroleum-based
384 gasoline fuel, designated EXX, where XX represents the volume
385 percentage of ethanol fuel in the blend.
386 c. "Hydrogen fuel cells" means equipment using hydrogen or
387 a hydrogen rich fuel in an electrochemical process to generate
388 energy, electricity, or the transfer of heat.

389 2. The sale or use of the following is exempt from the tax
390 imposed by this chapter:
391 a. Hydrogen-powered vehicles, materials incorporated into
392 hydrogen-powered vehicles, and hydrogen-fueling stations, up to
393 $2 million each fiscal year.
394 b. Commercial stationary hydrogen fuel cells, up to $1
395 million each fiscal year.
396 c. Materials used in the distribution of biodiesel (B10-
397 B100) and ethanol (E10-E85), including fueling infrastructure,
398 transportation, and storage, up to $1 million each fiscal year.
399 3. The Department of Environmental Protection shall
400 provide to the department a list of items eligible for the
401 exemption.
402 4.a. The exemption shall be available to a purchaser
403 through a refund of previously paid taxes.
404 b. To be eligible to receive the exemption, a purchaser
405 shall file an application with the Department of Environmental
406 Protection. The application shall be developed by the Department
407 of Environmental Protection, in consultation with the
408 department, and shall require:
409 (I) The name and address of the person claiming the
410 refund.
411 (II) A specific description of the purchase for which a
412 refund is sought, including, when applicable, a serial number or
413 other permanent identification number.
414 (III) The sales invoice or other proof of purchase showing
415 the amount of sales tax paid, the date of purchase, and the name

416 and address of the sales tax dealer from whom the property was
417 purchased.
418 (IV) A sworn statement that the information provided is
419 accurate.
420 c. Within 30 days after receipt of an application, the
421 Department of Environmental Protection shall review the
422 application and shall notify the applicant of any deficiencies.
423 Upon receipt of a completed application, the Department of
424 Environmental Protection shall evaluate the application for
425 exemption and issue a written certification that the applicant
426 is eligible for a refund or issue a written denial of such
427 certification within 60 days. The Department of Environmental
428 Protection shall provide the department with a copy of each
429 certification issued upon approval of an application.
430 d. Each certified applicant shall be responsible for
431 forwarding a certified copy of the application and copies of all
432 required documentation to the department within 6 months after
433 certification by the Department of Environmental Protection.
434 e. The provisions of s. 212.095 do not apply to any refund
435 application made pursuant to this paragraph. A refund approved
436 pursuant to this paragraph shall be made within 30 days after
437 formal approval by the department.
438 f. The department shall adopt rules governing the manner
439 and form of refund applications and may establish guidelines as
440 to the requisites for an affirmative showing of qualification
441 for exemption under this paragraph.

442 g. The Department of Environmental Protection shall be
443 responsible for ensuring that the exemptions do not exceed the
444 limits provided in subparagraph 2.
445 5. The Department of Environmental Protection shall
446 determine and publish on a regular basis the amount of sales tax
447 funds remaining in each fiscal year.
448 6. This exemption is repealed July 1, 2010.
449 Section 10. Paragraph (y) is added to subsection (7) of
450 section 213.053, Florida Statutes, to read:
451 213.053 Confidentiality and information sharing.--
452 (7) Notwithstanding any other provision of this section,
453 the department may provide:
454 (y) Information relative to ss. 212.08(7)(ccc) and 220.192
455 to the Department of Environmental Protection for use in the
456 conduct of its official business.
457
458 Disclosure of information under this subsection shall be
459 pursuant to a written agreement between the executive director
460 and the agency. Such agencies, governmental or nongovernmental,
461 shall be bound by the same requirements of confidentiality as
462 the Department of Revenue. Breach of confidentiality is a
463 misdemeanor of the first degree, punishable as provided by s.
464 775.082 or s. 775.083.
465 Section 11. Subsection (8) of section 220.02, Florida
466 Statutes, is amended to read:
467 220.02 Legislative intent.--
468 (8) It is the intent of the Legislature that credits
469 against either the corporate income tax or the franchise tax be

470 applied in the following order: those enumerated in s. 631.828,
471 those enumerated in s. 220.191, those enumerated in s. 220.181,
472 those enumerated in s. 220.183, those enumerated in s. 220.182,
473 those enumerated in s. 220.1895, those enumerated in s. 221.02,
474 those enumerated in s. 220.184, those enumerated in s. 220.186,
475 those enumerated in s. 220.1845, those enumerated in s. 220.19,
476 those enumerated in s. 220.185, ~~and~~ those enumerated in s.
477 220.187, and those enumerated in s. 220.192.
478 Section 12. Section 220.192, Florida Statutes, is created
479 to read:
480 220.192 Renewable energy technologies investment tax
481 credit.--
482 (1) DEFINITIONS.--For purposes of this section, the term:
483 (a) "Biodiesel" means biodiesel as defined in s.
484 212.08(7)(ccc).
485 (b) "Eligible costs" means:
486 1. Seventy-five percent of all capital costs, operational
487 and maintenance costs, and research and development costs
488 incurred between July 1, 2006, and June 30, 2010, up to $3
489 million per fiscal year, in connection with an investment in
490 hydrogen powered vehicles and hydrogen vehicle fueling stations
491 including, but not limited to, the costs of constructing,
492 installing, and equipping such technologies in the state.
493 2. Seventy-five percent of all capital costs, operational
494 and maintenance costs, and research and development costs
495 incurred between July 1, 2006, and June 30, 2010, up to a limit
496 of $1.5 million in connection with an investment in commercial
497 stationary hydrogen fuel cells including, but not limited to,

498 the costs of constructing, installing, and equipping such
499 technologies in the state.
500 3. Seventy-five percent of all capital costs, operational
501 and maintenance costs, and research and development costs
502 incurred between July 1, 2006, and June 30, 2010, up to a limit
503 of $6.5 million per fiscal year, in connection with an
504 investment in the production and distribution of biodiesel (B10-
505 B100) and ethanol (E10-E85) including, the costs of
506 constructing, installing, and equipping such technologies in the
507 state.
508 (c) "Ethanol" means ethanol as defined in s.
509 212.08(7)(ccc).
510 (d) "Hydrogen fuel cell" means hydrogen fuel cell as
511 defined in s. 212.08(7)(ccc).
512 (2) TAX CREDIT.--For tax years beginning on or after
513 January 1, 2007, a credit against the tax imposed by this
514 chapter shall be granted in an amount equal to the eligible
515 costs. Credits may be used beginning January 1, 2007, through
516 December 31, 2013, after which the credit shall expire. If the
517 credit is not fully used in any one tax year because of
518 insufficient tax liability on the part of the corporation, the
519 unused amount may be carried forward through December 31, 2012,
520 after which the credit carryover expires and may not be used. A
521 taxpayer that files a consolidated return in this state as a
522 member of an affiliated group under s. 220.131(1) may be allowed
523 the credit on a consolidated return basis up to the amount of
524 tax imposed upon the consolidated group. Any eligible cost for
525 which a credit is claimed and which is deducted or otherwise

526 reduces federal taxable income shall be added back in computing
527 adjusted federal income under s. 220.13.
528 (3) APPLICATION PROCESS.--Any corporation wishing to
529 obtain tax credits available under this section must submit to
530 the Department of Environmental Protection an application for
531 tax credit that includes a complete description of all eligible
532 costs for which the corporation is seeking a credit and a
533 description of the total amount of credits sought. The
534 Department of Environmental Protection shall make a
535 determination on the eligibility of the applicant for the
536 credits sought and certify the determination to the applicant
537 and the Department of Revenue. The corporation must attach the
538 Department of Environmental Protection's certification to the
539 tax return on which the credit is claimed. The Department of
540 Environmental Protection is authorized to adopt the necessary
541 rules, guidelines, and application materials for the application
542 process.
543 (4) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
544 CREDITS.--
545 (a) In addition to its existing audit and investigation
546 authority, the Department of Revenue may perform any additional
547 financial and technical audits and investigations, including
548 examining the accounts, books, and records of the tax credit
549 applicant, that are necessary to verify the eligible costs
550 included in the tax credit return and to ensure compliance with
551 this section. The Department of Environmental Protection shall
552 provide technical assistance when requested by the Department of

553 Revenue on any technical audits or examinations performed
554 pursuant to this section.
555 (b) It is grounds for forfeiture of previously claimed and
556 received tax credits if the Department of Revenue determines, as
557 a result of either an audit or examination or from information
558 received from the Department of Environmental Protection, that a
559 taxpayer received tax credits pursuant to this section to which
560 the taxpayer was not entitled. The taxpayer is responsible for
561 returning forfeited tax credits to the Department of Revenue,
562 and such funds shall be paid into the General Revenue Fund of
563 the state.
564 (c) The Department of Environmental Protection may revoke
565 or modify any written decision granting eligibility for tax
566 credits under this section if it is discovered that the tax
567 credit applicant submitted any false statement, representation,
568 or certification in any application, record, report, plan, or
569 other document filed in an attempt to receive tax credits under
570 this section. The Department of Environmental Protection shall
571 immediately notify the Department of Revenue of any revoked or
572 modified orders affecting previously granted tax credits.
573 Additionally, the taxpayer must notify the Department of Revenue
574 of any change in its tax credit claimed.
575 (d) The taxpayer shall file with the Department of Revenue
576 an amended return or such other report as the Department of
577 Revenue prescribes by rule and shall pay any required tax and
578 interest within 60 days after the taxpayer receives notification
579 from the Department of Environmental Protection that previously
580 approved tax credits have been revoked or modified. If the

581 revocation or modification order is contested, the taxpayer
582 shall file as provided in this paragraph within 60 days after a
583 final order is issued following proceedings.
584 (e) A notice of deficiency may be issued by the Department
585 of Revenue at any time within 3 years after the taxpayer
586 receives formal notification from the Department of
587 Environmental Protection that previously approved tax credits
588 have been revoked or modified. If a taxpayer fails to notify the
589 Department of Revenue of any changes to its tax credit claimed,
590 a notice of deficiency may be issued at any time.
591 (5) RULES.--The Department of Revenue shall have the
592 authority to adopt rules relating to the forms required to claim
593 a tax credit under this section, the requirements and basis for
594 establishing an entitlement to a credit, and the examination and
595 audit procedures required to administer this section.
596 (6) PUBLICATION.--The Department of Environmental
597 Protection shall determine and publish on a regular basis the
598 amount of available tax credits remaining in each fiscal year.
599 (7) REPEAL.--The provisions of this section, except the
600 credit carryover provisions provided in subsection (2), are
601 repealed on July 1, 2010.
602 Section 13. Paragraph (a) of subsection (1) of section
603 220.13, Florida Statutes, is amended to read:
604 220.13 "Adjusted federal income" defined.--
605 (1) The term "adjusted federal income" means an amount
606 equal to the taxpayer's taxable income as defined in subsection
607 (2), or such taxable income of more than one taxpayer as

608 provided in s. 220.131, for the taxable year, adjusted as
609 follows:
610 (a) Additions.--There shall be added to such taxable
611 income:
612 1. The amount of any tax upon or measured by income,
613 excluding taxes based on gross receipts or revenues, paid or
614 accrued as a liability to the District of Columbia or any state
615 of the United States which is deductible from gross income in
616 the computation of taxable income for the taxable year.
617 2. The amount of interest which is excluded from taxable
618 income under s. 103(a) of the Internal Revenue Code or any other
619 federal law, less the associated expenses disallowed in the
620 computation of taxable income under s. 265 of the Internal
621 Revenue Code or any other law, excluding 60 percent of any
622 amounts included in alternative minimum taxable income, as
623 defined in s. 55(b)(2) of the Internal Revenue Code, if the
624 taxpayer pays tax under s. 220.11(3).
625 3. In the case of a regulated investment company or real
626 estate investment trust, an amount equal to the excess of the
627 net long-term capital gain for the taxable year over the amount
628 of the capital gain dividends attributable to the taxable year.
629 4. That portion of the wages or salaries paid or incurred
630 for the taxable year which is equal to the amount of the credit
631 allowable for the taxable year under s. 220.181. The provisions
632 of this subparagraph shall expire and be void on June 30, 2005.
633 5. That portion of the ad valorem school taxes paid or
634 incurred for the taxable year which is equal to the amount of
635 the credit allowable for the taxable year under s. 220.182. The

636 provisions of this subparagraph shall expire and be void on June
637 30, 2005.
638 6. The amount of emergency excise tax paid or accrued as a
639 liability to this state under chapter 221 which tax is
640 deductible from gross income in the computation of taxable
641 income for the taxable year.
642 7. That portion of assessments to fund a guaranty
643 association incurred for the taxable year which is equal to the
644 amount of the credit allowable for the taxable year.
645 8. In the case of a nonprofit corporation which holds a
646 pari-mutuel permit and which is exempt from federal income tax
647 as a farmers' cooperative, an amount equal to the excess of the
648 gross income attributable to the pari-mutuel operations over the
649 attributable expenses for the taxable year.
650 9. The amount taken as a credit for the taxable year under
651 s. 220.1895.
652 10. Up to nine percent of the eligible basis of any
653 designated project which is equal to the credit allowable for
654 the taxable year under s. 220.185.
655 11. The amount taken as a credit for the taxable year
656 under s. 220.187.
657 <u>12. The amount taken as a credit for the taxable year</u>
658 <u>under s. 220.192.</u>
659 Section 14. Subsection (2) of section 186.801, Florida
660 Statutes, is amended to read:
661 186.801 Ten-year site plans.--
662 (2) Within 9 months after the receipt of the proposed
663 plan, the commission shall make a preliminary study of such plan

664 and classify it as "suitable" or "unsuitable." The commission
665 may suggest alternatives to the plan. All findings of the
666 commission shall be made available to the Department of
667 Environmental Protection for its consideration at any subsequent
668 electrical power plant site certification proceedings. It is
669 recognized that 10-year site plans submitted by an electric
670 utility are tentative information for planning purposes only and
671 may be amended at any time at the discretion of the utility upon
672 written notification to the commission. A complete application
673 for certification of an electrical power plant site under
674 chapter 403, when such site is not designated in the current 10-
675 year site plan of the applicant, shall constitute an amendment
676 to the 10-year site plan. In its preliminary study of each 10-
677 year site plan, the commission shall consider such plan as a
678 planning document and shall review:
679 (a) The need, including the need as determined by the
680 commission, for electrical power in the area to be served.
681 (b) The effect on fuel diversity within the state.
682 (c) ~~(b)~~ The anticipated environmental impact of each
683 proposed electrical power plant site.
684 (d) ~~(c)~~ Possible alternatives to the proposed plan.
685 (e) ~~(d)~~ The views of appropriate local, state, and federal
686 agencies, including the views of the appropriate water
687 management district as to the availability of water and its
688 recommendation as to the use by the proposed plant of salt water
689 or fresh water for cooling purposes.
690 (f) ~~(e)~~ The extent to which the plan is consistent with the
691 state comprehensive plan.

692 (g) ~~(f)~~ The plan with respect to the information of the
693 state on energy availability and consumption.
694 Section 15. Subsection (6) of section 366.04, Florida
695 Statutes, is amended to read:
696 366.04 Jurisdiction of commission.--
697 (6) The commission shall further have exclusive
698 jurisdiction to prescribe and enforce safety standards for
699 transmission and distribution facilities of all public electric
700 utilities, cooperatives organized under the Rural Electric
701 Cooperative Law, and electric utilities owned and operated by
702 municipalities. In adopting safety standards, the commission
703 shall, at a minimum:
704 (a) Adopt the 1984 edition of the National Electrical
705 Safety Code (ANSI C2) as initial standards; and
706 (b) Adopt, after review, any new edition of the National
707 Electrical Safety Code (ANSI C2).
708
709 The standards prescribed by the current 1984 edition of the
710 National Electrical Safety Code (ANSI C2) shall constitute
711 acceptable and adequate requirements for the protection of the
712 safety of the public, and compliance with the minimum
713 requirements of that code shall constitute good engineering
714 practice by the utilities. The administrative authority referred
715 to in the 1984 edition of the National Electrical Safety Code is
716 the commission. However, nothing herein shall be construed as
717 superseding, repealing, or amending the provisions of s.
718 403.523(1) and (10).

719 Section 16. Subsections (1) and (8) of section 366.05,
720 Florida Statutes, are amended to read:
721 366.05 Powers.--
722 (1) In the exercise of such jurisdiction, the commission
723 shall have power to prescribe fair and reasonable rates and
724 charges, classifications, standards of quality and measurements,
725 including the ability to adopt construction standards that
726 exceed the National Electrical Safety Code, for purposes of
727 ensuring the reliable provision of service and service rules and
728 regulations to be observed by each public utility; to require
729 repairs, improvements, additions, replacements, and extensions
730 to the plant and equipment of any public utility when reasonably
731 necessary to promote the convenience and welfare of the public
732 and secure adequate service or facilities for those reasonably
733 entitled thereto; to employ and fix the compensation for such
734 examiners and technical, legal, and clerical employees as it
735 deems necessary to carry out the provisions of this chapter; and
736 to adopt rules pursuant to ss. 120.536(1) and 120.54 to
737 implement and enforce the provisions of this chapter.
738 (8) If the commission determines that there is probable
739 cause to believe that inadequacies exist with respect to the
740 energy grids developed by the electric utility industry,
741 including inadequacies in fuel diversity or fuel supply
742 reliability, it shall have the power, after proceedings as
743 provided by law, and after a finding that mutual benefits will
744 accrue to the electric utilities involved, to require
745 installation or repair of necessary facilities, including
746 generating plants and transmission facilities, with the costs to

747 be distributed in proportion to the benefits received, and to
748 take all necessary steps to ensure compliance. The electric
749 utilities involved in any action taken or orders issued pursuant
750 to this subsection shall have full power and authority,
751 notwithstanding any general or special laws to the contrary, to
752 jointly plan, finance, build, operate, or lease generating, ~~and~~
753 transmission, and distribution facilities and shall be further
754 authorized to exercise the powers granted to corporations in
755 chapter 361. This subsection shall not supersede or control any
756 provision of the Florida Electrical Power Plant Siting Act, ss.
757 403.501-403.518.
758 Section 17. The Florida Public Service Commission shall
759 conduct a study of the electric transmission grid in the state.
760 The study shall look at electric system reliability to examine
761 the efficiency and reliability of power transfer and emergency
762 contingency conditions. In addition, the study shall examine
763 subterranean placement of distribution lines and the hardening
764 of infrastructure to address issues arising from the 2004 and
765 2005 hurricane seasons. A report of the results of the study
766 shall be provided to the Governor, the President of the Senate,
767 and the Speaker of the House of Representatives by January 30,
768 2007.
769 Section 18. Subsections (5), (8), (9), (12), and (27) of
770 section 403.503, Florida Statutes, are amended, subsections (16)
771 through (28) are renumbered as (17) through (29), respectively,
772 and new subsection (16) is added to that section, to read:
773 403.503 Definitions relating to Florida Electrical Power
774 Plant Siting Act.--As used in this act:

775 (5) "Application" means the documents required by the
776 department to be filed to initiate a certification review and
777 evaluation, including the initial document filing, amendments,
778 and responses to requests from the department for additional
779 data and information ~~proceeding and shall include the documents~~
780 ~~necessary for the department to render a decision on any permit~~
781 ~~required pursuant to any federally delegated or approved permit~~
782 ~~program~~.
783 (8) "Completeness" means that the application has
784 addressed all applicable sections of the prescribed application
785 format, and ~~but does not mean~~ that those sections are sufficient
786 in comprehensiveness of data or in quality of information
787 provided to allow the department to determine whether the
788 application provides the reviewing agencies adequate information
789 to prepare the reports required by s. 403.507.
790 (9) "Corridor" means the proposed area within which an
791 associated linear facility right-of-way is to be located. The
792 width of the corridor proposed for certification as an
793 associated facility, at the option of the licensee ~~applicant~~,
794 may be the width of the right-of-way or a wider boundary, not to
795 exceed a width of 1 mile. The area within the corridor in which
796 a right-of-way may be located may be further restricted by a
797 condition of certification. After all property interests
798 required for the right-of-way have been acquired by the licensee
799 ~~applicant~~, the boundaries of the area certified shall narrow to
800 only that land within the boundaries of the right-of-way.
801 (12) "Electrical power plant" means, for the purpose of
802 certification, any steam or solar electrical generating facility

803 using any process or fuel, including nuclear materials, except
804 that this term does not include any steam or solar electric
805 generating facility of less than 75 megawatts in capacity unless
806 the applicant for such a facility elects to apply for
807 certification under this act. This term ~~and~~ includes associated
808 facilities which directly support the construction and operation
809 of the electrical power plant such as fuel unloading facilities,
810 pipelines necessary for transporting fuel for the operation of
811 the facility or other fuel transportation facilities, water or
812 wastewater transport pipelines, construction, maintenance and
813 access roads, railway lines necessary for transport of
814 construction equipment or fuel for the operation of the
815 facility, and those associated transmission lines which connect
816 the electrical power plant to an existing transmission network
817 or rights-of-way to which the licensee ~~applicant~~ intends to
818 connect~~, except that this term does not include any steam or~~
819 ~~solar electrical generating facility of less than 75 megawatts~~
820 ~~in capacity unless the applicant for such a facility elects to~~
821 ~~apply for certification under this act~~. An associated
822 transmission line may include, at the licensee's ~~applicant's~~
823 option, any proposed terminal or intermediate substations or
824 substation expansions connected to the associated transmission
825 line.
826 (16) "Licensee" means an applicant that has obtained a
827 certification order for the subject project.
828 (28) ~~(27)~~ "Ultimate site capacity" means the maximum
829 generating capacity for a site as certified by the board.
830 ~~"Sufficiency" means that the application is not only complete~~

831 ~~but that all sections are sufficient in the comprehensiveness of~~
832 ~~data or in the quality of information provided to allow the~~
833 ~~department to determine whether the application provides the~~
834 ~~reviewing agencies adequate information to prepare the reports~~
835 ~~required by s. 403.507.~~
836 Section 19. Subsections (1), (7), (9), and (10) of section
837 403.504, Florida Statutes, are amended, and new subsections (9),
838 (10), (11), and (12) are added to that section, to read:
839 403.504 Department of Environmental Protection; powers and
840 duties enumerated.--The department shall have the following
841 powers and duties in relation to this act:
842 (1) To adopt rules pursuant to ss. 120.536(1) and 120.54
843 to implement the provisions of this act, including rules setting
844 forth environmental precautions to be followed in relation to
845 the location, construction, and operation of electrical power
846 plants.
847 (7) To conduct studies and prepare a project ~~written~~
848 analysis under s. 403.507.
849 (9) To issue final orders after receipt of the
850 administrative law judge's order relinquishing jurisdiction
851 pursuant to s. 403.508(6).
852 (10) To act as clerk for the siting board.
853 (11) To administer and manage the terms and conditions of
854 the certification order and supporting documents and records for
855 the life of the facility.
856 (12) To issue emergency orders on behalf of the board for
857 facilities licensed under this act.

858 ~~(9) To notify all affected agencies of the filing of a~~
859 ~~notice of intent within 15 days after receipt of the notice.~~
860 ~~(10) To issue, with the electrical power plant~~
861 ~~certification, any license required pursuant to any federally~~
862 ~~delegated or approved permit program.~~
863 Section 20. Section 403.5055, Florida Statutes, is amended
864 to read:
865 403.5055 Application for permits pursuant to s.
866 403.0885.--In processing applications for permits pursuant to s.
867 403.0885 that are associated with applications for electrical
868 power plant certification:
869 (1) The procedural requirements set forth in 40 C.F.R. s.
870 123.25, including public notice, public comments, and public
871 hearings, shall be closely coordinated with the certification
872 process established under this part. In the event of a conflict
873 between the certification process and federally required
874 procedures for NPDES permit issuance, the applicable federal
875 requirements shall control.
876 ~~(2) The department's proposed action pursuant to 40 C.F.R.~~
877 ~~s. 124.6, including any draft NPDES permit (containing the~~
878 ~~information required under 40 C.F.R. s. 124.6(d)), shall within~~
879 ~~130 days after the submittal of a complete application be~~
880 ~~publicly noticed and transmitted to the United States~~
881 ~~Environmental Protection Agency for its review pursuant to 33~~
882 ~~U.S.C. s. 1342(d).~~
883 ~~(3) The department shall include in its written analysis~~
884 ~~pursuant to s. 403.507(3) copies of the department's proposed~~
885 ~~action pursuant to 40 C.F.R. s. 124.6 on any application for a~~

886 ~~NPDES permit; any corresponding comments received from the~~
887 ~~United States Environmental Protection Agency, the applicant, or~~
888 ~~the general public; and the department's response to those~~
889 ~~comments.~~
890 (2) ~~(4)~~ The department shall not issue or deny the permit
891 pursuant to s. 403.0885 in advance of the issuance of the
892 electric power plant certification under this part unless
893 required to do so by the provisions of federal law. When
894 possible, any hearing on a permit issued pursuant to s.
895 403.0885, shall be conducted in conjunction with the
896 certification hearing held pursuant to this act. The
897 department's actions on an NPDES permit shall be based on the
898 record and recommended order of the certification hearing, if
899 the hearing on the NPDES was conducted in conjunction with the
900 certification hearing, and of any other proceeding held in
901 connection with the application for an NPDES permit, timely
902 public comments received with respect to the application, and
903 the provisions of federal law. The department's action on an
904 NPDES permit, if issued, shall differ from the actions taken by
905 the siting board regarding the certification order if federal
906 laws and regulations require different action to be taken to
907 ensure compliance with the Clean Water Act, as amended, and
908 implementing regulations. Nothing in this part shall be
909 construed to displace the department's authority as the final
910 permitting entity under the federally approved state NPDES
911 program. Nothing in this part shall be construed to authorize
912 the issuance of a state NPDES permit which does not conform to

913 the requirements of the federally approved state NPDES program.
914 ~~The permit, if issued, shall be valid for no more than 5 years.~~
915 ~~(5) The department's action on an NPDES permit renewal, if~~
916 ~~issued, shall differ from the actions taken by the siting board~~
917 ~~regarding the certification order if federal laws and~~
918 ~~regulations require different action to be taken to ensure~~
919 ~~compliance with the Clean Water Act, as amended, and~~
920 ~~implementing regulations.~~
921 Section 21. Section 403.506, Florida Statutes, is amended
922 to read:
923 403.506 Applicability and certification.--
924 (1) The provisions of this act shall apply to any
925 electrical power plant as defined herein, except that the
926 provisions of this act shall not apply to any electrical power
927 plant or steam generating plant of less than 75 megawatts in
928 capacity or to any substation to be constructed as part of an
929 associated transmission line unless the applicant has elected to
930 apply for certification of such plant or substation under this
931 act. No construction of any new electrical power plant or
932 expansion in steam generating capacity <u>as measured by an</u>
933 <u>increase in the maximum normal generator nameplate rating</u> of any
934 existing electrical power plant may be undertaken after October
935 1, 1973, without first obtaining certification in the manner as
936 herein provided, except that this act shall not apply to any
937 such electrical power plant which is presently operating or
938 under construction or which has, upon the effective date of
939 chapter 73-33, Laws of Florida, applied for a permit or

940 certification under requirements in force prior to the effective
941 date of such act.
942 (2) Except as provided in the certification, modification
943 of nonnuclear fuels, internal related hardware, including
944 increases in steam turbine efficiency, or operating conditions
945 not in conflict with certification which increase the electrical
946 output of a unit to no greater capacity than the maximum
947 operating capacity of the existing generator shall not
948 constitute an alteration or addition to generating capacity
949 which requires certification pursuant to this act.
950 ~~(3) The application for any related department license~~
951 ~~which is required pursuant to any federally delegated or~~
952 ~~approved permit program shall be processed within the time~~
953 ~~periods allowed by this act, in lieu of those specified in s.~~
954 ~~120.60. However, permits issued pursuant to s. 403.0885 shall be~~
955 ~~processed in accordance with 40 C.F.R. part 123.~~
956 Section 22. Section 403.5064, Florida Statutes, is amended
957 to read:
958 403.5064 Distribution of application; schedules.--
959 (1) The formal date of certification application filing
960 and commencement of the certification review process shall be
961 when the applicant submits:
962 (a) Copies of the certification application as prescribed
963 by rule to the department and other agencies identified in s.
964 403.507(2)(a).
965 (b) The application fee specified under s. 403.518 to the
966 department.

967 (2) ~~(1)~~ Within 7 days after the filing of an application,
968 the department shall provide to the applicant and the Division
969 of Administrative Hearings the names and addresses of any
970 additional ~~those affected or other~~ agencies or persons entitled
971 to notice and copies of the application and any amendments.
972 (3) Any amendment to the application made prior to
973 certification shall be disposed of as part of the original
974 certification proceeding. Amendment of the application may be
975 considered good cause for alteration of time limits pursuant to
976 s. 403.5095.
977 (4) ~~(2)~~ Within 15 ~~7~~ days after the application filing
978 ~~completeness has been determined~~, the department shall prepare a
979 proposed schedule of dates for determination of completeness,
980 submission of statements of issues, ~~determination of~~
981 ~~sufficiency, and~~ submittal of final reports, ~~from affected and~~
982 ~~other agencies~~ and other significant dates to be followed during
983 the certification process, including dates for filing notices of
984 appearance to be a party pursuant to s. 403.508(3) ~~(4)~~. This
985 schedule shall be timely provided by the department to the
986 applicant, the administrative law judge, all agencies identified
987 pursuant to subsection (2) ~~(1)~~, and all parties. Within 7 days
988 after the filing of this proposed schedule, the administrative
989 law judge shall issue an order establishing a schedule for the
990 matters addressed in the department's proposed schedule and
991 other appropriate matters, if any.
992 (5) ~~(3)~~ ~~Within 7 days after completeness has been~~
993 ~~determined, the applicant shall distribute copies of the~~
994 ~~application to all agencies identified by the department~~

995 ~~pursuant to subsection (1).~~ Copies of changes and amendments to
996 the application shall be timely distributed by the applicant to
997 all ~~affected~~ agencies and parties who have received a copy of
998 the application.
999 (6) Notice of the filing of the application shall be
1000 published in accordance with the requirements of s. 403.5115.
1001 Section 23. Section 403.5065, Florida Statutes, is amended
1002 to read:
1003 403.5065 Appointment of administrative law judge, powers
1004 and duties.--
1005 (1) Within 7 days after receipt of an application, ~~whether~~
1006 ~~complete or not,~~ the department shall request the Division of
1007 Administrative Hearings to designate an administrative law judge
1008 to conduct the hearings required by this act. The division
1009 director shall designate an administrative law judge within 7
1010 days after receipt of the request from the department. In
1011 designating an administrative law judge for this purpose, the
1012 division director shall, whenever practicable, assign an
1013 administrative law judge who has had prior experience or
1014 training in electrical power plant site certification
1015 proceedings. Upon being advised that an administrative law judge
1016 has been appointed, the department shall immediately file a copy
1017 of the application and all supporting documents with the
1018 designated administrative law judge, who shall docket the
1019 application.
1020 (2) The administrative law judge shall have all powers and
1021 duties granted to administrative law judges by chapter 120 and
1022 by the laws and rules of the department.

1023 Section 24. Section 403.5066, Florida Statutes, is amended
1024 to read:
1025 403.5066 Determination of completeness.--
1026 (1)(a) Within 30 days after filing of an application, the
1027 affected agencies shall file a statement with the department
1028 containing each agency's recommendations on the completeness of
1029 the application.
1030 (b) Within 40 ~~15~~ days after the filing ~~receipt~~ of an
1031 application, the department shall file a statement with the
1032 Division of Administrative Hearings, ~~and~~ with the applicant, and
1033 with all parties declaring its position with regard to the
1034 completeness~~, not the sufficiency,~~ of the application. The
1035 department's statement shall be based upon consultation with the
1036 affected agencies.
1037 (2)~~(1)~~ If the department declares the application to be
1038 incomplete, the applicant, within 15 days after the filing of
1039 the statement by the department, shall file with the Division of
1040 Administrative Hearings, ~~and~~ with the department, and all
1041 parties ~~a statement~~:
1042 (a) A withdrawal of ~~Agreeing with the statement of the~~
1043 ~~department and withdrawing~~ the application;
1044 (b) Additional information necessary to make the
1045 application complete. If the department first determined that
1046 the application is incomplete, the time schedules under this act
1047 shall not be tolled if the applicant makes the application
1048 complete within the 15-day time period. A subsequent finding by
1049 the department that the application remains incomplete tolls the
1050 time schedules under this act until the application is

1051 determined complete; ~~Agreeing with the statement of the~~
1052 ~~department and agreeing to amend the application without~~
1053 ~~withdrawing it. The time schedules referencing a complete~~
1054 ~~application under this act shall not commence until the~~
1055 ~~application is determined complete; or~~
1056 (c) A statement contesting the department's determination
1057 of incompleteness; or ~~contesting the statement of the~~
1058 ~~department.~~
1059 (d) A statement agreeing with the department and
1060 requesting additional time to provide the information necessary
1061 to make the application complete. If the applicant exercises
1062 this option, the time schedules under this act are tolled until
1063 the application is determined complete.
1064 (3)(a) ~~(2)~~ If the applicant contests the determination by
1065 the department that an application is incomplete, the
1066 administrative law judge shall schedule a hearing on the
1067 statement of completeness. The hearing shall be held as
1068 expeditiously as possible, but not later than 21 ~~30~~ days after
1069 the filing of the statement by the department. The
1070 administrative law judge shall render a decision within 7 ~~10~~
1071 days after the hearing.
1072 (b) Parties to a hearing on the issue of completeness
1073 shall include the applicant, the department, and any agency that
1074 has jurisdiction over the matter in dispute. Any substantially
1075 affected person who wishes to become a party to the completeness
1076 hearing must file a motion to intervene no later than 10 days
1077 prior to the date of the hearing.

1078 (c) ~~(a)~~ If the administrative law judge determines that the
1079 application was not complete ~~as filed~~, the applicant shall
1080 withdraw the application or make such additional submittals as
1081 necessary to complete it. The time schedules referencing a
1082 complete application under this act shall not commence until the
1083 application is determined complete.
1084 (d) ~~(b)~~ If the administrative law judge determines that the
1085 application was complete at the time it was declared incomplete
1086 ~~filed~~, the time schedules referencing a complete application
1087 under this act shall commence upon such determination.
1088 (4) If the applicant provides additional information to
1089 address the issues identified in the determination of
1090 incompleteness, each affected agency may submit to the
1091 department, no later than 15 days after the applicant files the
1092 additional information, a recommendation on whether the agency
1093 believes the application is complete. Within 22 days after
1094 receipt of the additional information from the applicant
1095 submitted under paragraph (2)(b), paragraph (2)(d), or paragraph
1096 (3)(c), the department shall determine whether the additional
1097 information supplied by an applicant makes the application
1098 complete. If the department finds that the application is still
1099 incomplete, the applicant may exercise any of the options
1100 specified in subsection (2) as often as is necessary to resolve
1101 the dispute.
1102 Section 25. Section 403.50663, Florida Statutes, is
1103 created to read:
1104 403.50663 Informational public meetings.--
1105 (1) Each local government or regional planning council, in

1106 the jurisdiction of which the power plant is proposed to be
1107 sited, may hold one informational public meeting in addition to
1108 the hearings specifically authorized by this act on any matter
1109 associated with the electric power plant proceeding. Such
1110 informational public meetings shall be held no later than 70
1111 days after the application is filed. The purpose of an
1112 informational public meeting is for the local government or
1113 regional planning council to further inform the public about the
1114 proposed electric power plant or associated facilities, obtain
1115 comments from the public, and formulate its recommendation with
1116 respect to the proposed electric power plant.
1117 (2) Informational public meetings shall be held solely at
1118 the option of each local government or regional planning
1119 council. It is the legislative intent that local governments or
1120 regional planning councils attempt to hold such public meetings.
1121 Parties to the proceedings under this act shall be encouraged to
1122 attend; however, no party other than the applicant and the
1123 department shall be required to attend such informational public
1124 meetings.
1125 (3) A local government or regional planning council that
1126 intends to conduct an informational public meeting must provide
1127 notice of the meeting to all parties not less than 5 days prior
1128 to the meeting.
1129 (4) The failure to hold an informational public meeting or
1130 the procedure used for the informational public meeting are not
1131 for the alteration of any time limitation in this act under s.
1132 403.5095 or grounds to deny or condition certification.

1133 Section 26. Section 403.50665, Florida Statutes, is
1134 created to read:
1135 403.50665 Land use consistency determination.--
1136 (1) Within 80 days after the application is filed, each
1137 local government shall file a determination with the department
1138 and the applicant on the consistency of the site or any directly
1139 associated facilities within their jurisdiction with existing
1140 land use plans and zoning ordinances which were in effect on the
1141 date the application was filed. The applicant shall publish
1142 notice of the determination in accordance with the requirements
1143 of s. 403.5115. These dates may be altered upon agreement
1144 between the applicant, the local government, and the department
1145 pursuant to s. 403.5095.
1146 (2) If any substantially affected person wishes to dispute
1147 the local government's determination, he or she shall file a
1148 petition with the department within 15 days of the publication
1149 of notice of the local government's determination. If a hearing
1150 is requested, the provisions of s. 403.508(1) shall apply.
1151 (3) If it is determined by the local government that the
1152 proposed site or directly associated facility does conform with
1153 existing land use plans and zoning ordinances in effect as of
1154 the date of the application and no petition has been filed, the
1155 responsible zoning or planning authority shall not thereafter
1156 change such land use plans or zoning ordinances so as to
1157 foreclose construction and operation of the proposed site or
1158 directly associated facilities unless certification is
1159 subsequently denied or withdrawn.

1160 Section 27. Section 403.5067, Florida Statutes, is
1161 repealed.
1162 Section 28. Section 403.507, Florida Statutes, is amended
1163 to read:
1164 403.507 Preliminary statements of issues, reports, project
1165 analyses, and studies.--
1166 (1) Each affected agency identified in paragraph (2)(a)
1167 shall submit a preliminary statement of issues to the
1168 department, ~~and~~ the applicant, and all parties no later than 40
1169 ~~60~~ days after the certification application has been determined
1170 ~~distribution of the~~ complete ~~application~~. The failure to raise
1171 an issue in this statement shall not preclude the issue from
1172 being raised in the agency's report.
1173 (2)(a) No later than 100 days after the certification
1174 application has been determined complete, the following reports
1175 shall be submitted to the department and the applicant ~~The~~
1176 ~~following agencies shall prepare reports as provided below and~~
1177 ~~shall submit them to the department and the applicant within 150~~
1178 ~~days after distribution of the complete application~~:
1179 1. The Department of Community Affairs shall prepare a
1180 report containing recommendations which address the impact upon
1181 the public of the proposed electrical power plant, based on the
1182 degree to which the electrical power plant is consistent with
1183 the applicable portions of the state comprehensive plan,
1184 emergency management, and other such matters within its
1185 jurisdiction. The Department of Community Affairs may also
1186 comment on the consistency of the proposed electrical power

1187 plant with applicable strategic regional policy plans or local
1188 comprehensive plans and land development regulations.
1189 ~~2. The Public Service Commission shall prepare a report as~~
1190 ~~to the present and future need for the electrical generating~~
1191 ~~capacity to be supplied by the proposed electrical power plant.~~
1192 ~~The report shall include the commission's determination pursuant~~
1193 ~~to s. 403.519 and may include the commission's comments with~~
1194 ~~respect to any other matters within its jurisdiction.~~
1195 2.~~3.~~ The water management district shall prepare a report
1196 as to matters within its jurisdiction, including but not limited
1197 to, impact on water resources, impact on regional water supply
1198 planning, and impact on district-owned lands and works.
1199 3.~~4.~~ Each local government in whose jurisdiction the
1200 proposed electrical power plant is to be located shall prepare a
1201 report as to the consistency of the proposed electrical power
1202 plant with all applicable local ordinances, regulations,
1203 standards, or criteria that apply to the proposed electrical
1204 power plant, including ~~adopted local comprehensive plans, land~~
1205 ~~development regulations, and~~ any applicable local environmental
1206 regulations adopted pursuant to s. 403.182 or by other means.
1207 4.~~5.~~ The Fish and Wildlife Conservation Commission shall
1208 prepare a report as to matters within its jurisdiction.
1209 5.~~6.~~ Each ~~The~~ regional planning council shall prepare a
1210 report containing recommendations that address the impact upon
1211 the public of the proposed electrical power plant, based on the
1212 degree to which the electrical power plant is consistent with
1213 the applicable provisions of the strategic regional policy plan

1214 adopted pursuant to chapter 186 and other matters within its
1215 jurisdiction.
1216 6. The Department of Transportation shall address the
1217 impact of the proposed transmission line or corridor on roads,
1218 railroads, airports, aeronautics, seaports, and other matters
1219 within its jurisdiction.
1220 (b)~~7.~~ Any other agency, if requested by the department,
1221 shall also perform studies or prepare reports as to matters
1222 within that agency's jurisdiction which may potentially be
1223 affected by the proposed electrical power plant.
1224 ~~(b) As needed to verify or supplement the studies made by~~
1225 ~~the applicant in support of the application, it shall be the~~
1226 ~~duty of the department to conduct, or contract for, studies of~~
1227 ~~the proposed electrical power plant and site, including, but not~~
1228 ~~limited to, the following, which shall be completed no later~~
1229 ~~than 210 days after the complete application is filed with the~~
1230 ~~department:~~
1231 ~~1. Cooling system requirements.~~
1232 ~~2. Construction and operational safeguards.~~
1233 ~~3. Proximity to transportation systems.~~
1234 ~~4. Soil and foundation conditions.~~
1235 ~~5. Impact on suitable present and projected water supplies~~
1236 ~~for this and other competing uses.~~
1237 ~~6. Impact on surrounding land uses.~~
1238 ~~7. Accessibility to transmission corridors.~~
1239 ~~8. Environmental impacts.~~
1240 ~~9. Requirements applicable under any federally delegated~~
1241 ~~or approved permit program.~~

1242 (3) ~~(c)~~ Each report described in subsection (2) ~~paragraphs~~
1243 ~~(a) and (b)~~ shall contain:
1244 (a) A notice of any nonprocedural requirements not
1245 specifically listed in the application from which a variance,
1246 exemption, exception, ~~all information on variances, exemptions,~~
1247 ~~exceptions,~~ or other relief is necessary in order for the
1248 proposed electric power plant to be certified. Failure of such
1249 notification by an agency shall be treated as a waiver from
1250 nonprocedural requirements of that agency. However, no variance
1251 shall be granted from standards or regulations of the department
1252 applicable under any federally delegated or approved permit
1253 program, except as expressly allowed in such program. ~~which may~~
1254 ~~be required by s. 403.511(2) and~~
1255 (b) A recommendation for approval or denial of the
1256 application.
1257 (c) Any proposed conditions of certification on matters
1258 within the jurisdiction of such agency. For each condition
1259 proposed by an agency in its report, the agency shall list the
1260 specific statute, rule, or ordinance which authorizes the
1261 proposed condition.
1262 (d) The agencies shall initiate the activities required by
1263 this section no later than 30 days after the complete
1264 application is distributed. The agencies shall keep the
1265 applicant and the department informed as to the progress of the
1266 studies and any issues raised thereby.
1267 ~~(3) No later than 60 days after the application for a~~
1268 ~~federally required new source review or prevention of~~
1269 ~~significant deterioration permit for the electrical power plant~~

1270 ~~is complete and sufficient, the department shall issue its~~
1271 ~~preliminary determination on such permit. Notice of such~~
1272 ~~determination shall be published as required by the department's~~
1273 ~~rules for notices of such permits. The department shall receive~~
1274 ~~public comments and comments from the United States~~
1275 ~~Environmental Protection Agency and other affected agencies on~~
1276 ~~the preliminary determination as provided for in the federally~~
1277 ~~approved state implementation plan. The department shall~~
1278 ~~maintain a record of all comments received and considered in~~
1279 ~~taking action on such permits. If a petition for an~~
1280 ~~administrative hearing on the department's preliminary~~
1281 ~~determination is filed by a substantially affected person, that~~
1282 ~~hearing shall be consolidated with the certification hearing.~~
1283 (4)(a) No later than 150 days after the application is
1284 filed, the Public Service Commission shall prepare a report as
1285 to the present and future need for electric generating capacity
1286 to be supplied by the proposed electrical power plant. The
1287 report shall include the commission's determination pursuant to
1288 s. 403.519 and may include the commission's comments with
1289 respect to any other matters within its jurisdiction.
1290 (b) Receipt of an affirmative determination of need by the
1291 submittal deadline under paragraph (a) and shall be required for
1292 further processing of the application.
1293 (5) ~~(4)~~ The department shall prepare a project ~~written~~
1294 analysis, which shall be filed with the designated
1295 administrative law judge and served on all parties no later than
1296 130 ~~240~~ days after the ~~complete~~ application is determined

1297 complete ~~filed with the department, but no later than 60 days~~
1298 ~~prior to the hearing~~, and which shall include:
1299 (a) A statement indicating whether the proposed electrical
1300 power plant and proposed ultimate site capacity will be in
1301 compliance and consistent with matters within the department's
1302 standard jurisdiction, including ~~with~~ the rules of the
1303 department, as well as whether the proposed electrical power
1304 plant and proposed ultimate site capacity will be in compliance
1305 with the rules of the affected agencies.
1306 (b) Copies of the studies and reports required by this
1307 section ~~and s. 403.519~~.
1308 (c) The comments received by the department from any other
1309 agency or person.
1310 (d) The recommendation of the department as to the
1311 disposition of the application, of variances, exemptions,
1312 exceptions, or other relief identified by any party, and of any
1313 proposed conditions of certification which the department
1314 believes should be imposed.
1315 (e) If available, the recommendation of the department
1316 regarding the issuance of any license required pursuant to a
1317 federally delegated or approved permit program.
1318 ~~(f) Copies of the department's draft of the operation~~
1319 ~~permit for a major source of air pollution, which must also be~~
1320 ~~provided to the United States Environmental Protection Agency~~
1321 ~~for review within 5 days after issuance of the written analysis.~~
1322 (6) ~~(5)~~ Except when good cause is shown, the failure of any
1323 agency to submit a preliminary statement of issues or a report,
1324 or to submit its preliminary statement of issues or report

1325 within the allowed time, shall not be grounds for the alteration
1326 of any time limitation in this act. Neither the failure to
1327 submit a preliminary statement of issues or a report nor the
1328 inadequacy of the preliminary statement of issues or report are
1329 ~~shall be~~ grounds to deny or condition certification.
1330 Section 29. Section 403.508, Florida Statutes, is amended
1331 to read:
1332 403.508 Land use and certification hearings ~~proceedings~~,
1333 parties, participants.--
1334 (1)(a) If a petition for a hearing on land use has been
1335 filed pursuant to s. 403.50665, the designated administrative
1336 law judge shall conduct a land use hearing in the county of the
1337 proposed site or directly associated facility, as applicable,
1338 within 30 ~~90~~ days after the department's receipt of the petition
1339 ~~a complete application for electrical power plant site~~
1340 ~~certification by the department~~. The place of such hearing shall
1341 be as close as possible to the proposed site or directly
1342 associated facility.
1343 (b) Notice of the land use hearing shall be published in
1344 accordance with the requirements of s. 403.5115.
1345 (c)~~(2)~~ The sole issue for determination at the land use
1346 hearing shall be whether or not the proposed site is consistent
1347 and in compliance with existing land use plans and zoning
1348 ordinances.
1349 (d) The designated administrative law judge's recommended
1350 order shall be issued within 30 days after completion of the
1351 hearing and shall be reviewed by the board within 60 ~~45~~ days
1352 after receipt of the recommended order by the board.

1353 (e) If it is determined by the board that the proposed
1354 site does conform with existing land use plans and zoning
1355 ordinances in effect as of the date of the application, the
1356 responsible zoning or planning authority shall not thereafter
1357 change such land use plans or zoning ordinances so as to
1358 foreclose construction and operation of ~~affect~~ the proposed site
1359 or directly associated facilities unless certification is
1360 subsequently denied or withdrawn.
1361 (f) If it is determined by the board that the proposed
1362 site does not conform, ~~it shall be the responsibility of the~~
1363 ~~applicant to make the necessary application for rezoning. Should~~
1364 ~~the application for rezoning be denied, the applicant may appeal~~
1365 ~~this decision to~~ the board~~, which may~~, if it determines after
1366 notice and hearing that it is in the public interest to
1367 authorize the use of the land as a site for an electrical power
1368 plant, authorize a variance to the adopted land use plan and
1369 zoning ordinances. In the event a variance is denied, it shall
1370 be the responsibility of the applicant to make the necessary
1371 application for rezoning. No further action may be taken on the
1372 complete application ~~by the department~~ until the proposed site
1373 conforms to the adopted land use plan or zoning ordinances or
1374 the board grants a variance.
1375 (2)(a)~~(3)~~ A certification hearing shall be held by the
1376 designated administrative law judge no later than 250 ~~300~~ days
1377 after the ~~complete~~ application is filed with the department~~,~~
1378 ~~however, an affirmative determination of need by the Public~~
1379 ~~Service Commission pursuant to s. 403.519 shall be a condition~~
1380 ~~precedent to the conduct of the certification hearing~~. The

1381 certification hearing shall be held at a location in proximity
1382 to the proposed site. ~~The certification hearing shall also~~
1383 ~~constitute the sole hearing allowed by chapter 120 to determine~~
1384 ~~the substantial interest of a party regarding any required~~
1385 ~~agency license or any related permit required pursuant to any~~
1386 ~~federally delegated or approved permit program. At the~~
1387 ~~conclusion of the certification hearing, the designated~~
1388 ~~administrative law judge shall, after consideration of all~~
1389 ~~evidence of record, submit to the board a recommended order no~~
1390 ~~later than 60 days after the filing of the hearing transcript.~~
1391 ~~In the event the administrative law judge fails to issue a~~
1392 ~~recommended order within 60 days after the filing of the hearing~~
1393 ~~transcript, the administrative law judge shall submit a report~~
1394 ~~to the board with a copy to all parties within 60 days after the~~
1395 ~~filing of the hearing transcript to advise the board of the~~
1396 ~~reason for the delay in the issuance of the recommended order~~
1397 ~~and of the date by which the recommended order will be issued.~~
1398 (b) ~~(4)(a)~~ Parties to the proceeding shall include:
1399 1. The applicant.
1400 2. The Public Service Commission.
1401 3. The Department of Community Affairs.
1402 4. The Fish and Wildlife Conservation Commission.
1403 5. The water management district.
1404 6. The department.
1405 7. The regional planning council.
1406 8. The local government.
1407 9. The Department of Transportation.

1408 (c) ~~(b)~~ Any party listed in paragraph (b) ~~(a)~~ other than the
1409 department or the applicant may waive its right to participate
1410 in these proceedings. If such listed party fails to file a
1411 notice of its intent to be a party on or before the 90th day
1412 prior to the certification hearing, such party shall be deemed
1413 to have waived its right to be a party.
1414 (d) ~~(c)~~ Notwithstanding the provisions of chapter 120 to
1415 the contrary, upon the filing with the administrative law judge
1416 of a notice of intent to be a party no later than 30 ~~at least 15~~
1417 days prior to the date of the certification ~~land use~~ hearing,
1418 the following shall also be parties to the proceeding:
1419 1. Any agency not listed in paragraph (b) ~~(a)~~ as to matters
1420 within its jurisdiction.
1421 2. Any domestic nonprofit corporation or association
1422 formed, in whole or in part, to promote conservation or natural
1423 beauty; to protect the environment, personal health, or other
1424 biological values; to preserve historical sites; to promote
1425 consumer interests; to represent labor, commercial, or
1426 industrial groups; or to promote comprehensive planning or
1427 orderly development of the area in which the proposed electrical
1428 power plant is to be located.
1429 (e) ~~(d)~~ Notwithstanding paragraph (f) ~~(e)~~, failure of an
1430 agency described in subparagraph (d)1. ~~(c)1.~~ to file a notice of
1431 intent to be a party within the time provided herein shall
1432 constitute a waiver of the right of that agency to participate
1433 as a party in the proceeding.
1434 (f) ~~(e)~~ Other parties may include any person, including
1435 those persons enumerated in paragraph (d) ~~(c)~~ who have failed to

1436 timely file a notice of intent to be a party, whose substantial
1437 interests are affected and being determined by the proceeding
1438 and who timely file a motion to intervene pursuant to chapter
1439 120 and applicable rules. Intervention pursuant to this
1440 paragraph may be granted at the discretion of the designated
1441 administrative law judge and upon such conditions as he or she
1442 may prescribe any time prior to 30 days before the commencement
1443 of the certification hearing.
1444 (g) ~~(f)~~ Any agency, including those whose properties or
1445 works are being affected pursuant to s. 403.509(4), shall be
1446 made a party upon the request of the department or the
1447 applicant.
1448 (3)(a) The order of presentation at the certification
1449 hearing, unless otherwise changed by the administrative law
1450 judge to ensure the orderly presentation of witnesses and
1451 evidence, shall be:
1452 1. The applicant.
1453 2. The department.
1454 3. State agencies.
1455 4. Regional agencies, including regional planning councils
1456 and water management districts.
1457 5. Local governments.
1458 6. Other parties.
1459 (b) ~~(5)~~ When appropriate, any person may be given an
1460 opportunity to present oral or written communications to the
1461 designated administrative law judge. If the designated
1462 administrative law judge proposes to consider such
1463 communications, then all parties shall be given an opportunity

1464 to cross-examine or challenge or rebut such communications.
1465 (4) At the conclusion of the certification hearing, the
1466 designated administrative law judge shall, after consideration
1467 of all evidence of record, submit to the board a recommended
1468 order no later than 45 days after the filing of the hearing
1469 transcript.
1470 (5)(a) No later than 25 days prior to the conduct of the
1471 certification hearing, the department or the applicant may
1472 request that the administrative law judge cancel the
1473 certification hearing and relinquish jurisdiction to the
1474 department if all parties to the proceeding stipulate that there
1475 are no disputed issues of fact to be raised at the certification
1476 hearing.
1477 (b) The administrative law judge shall issue an order
1478 granting or denying the request within 5 days.
1479 (c) If the administrative law judge grants the request,
1480 the department and the applicant shall publish notices of the
1481 cancellation of the certification hearing, in accordance with s.
1482 403.5115.
1483 (d)1. If the administrative law judge grants the request,
1484 the department shall prepare and issue a final order in
1485 accordance with s. 403.509(1)(a).
1486 2. Parties may submit proposed recommended orders to the
1487 department no later than 10 days after the administrative law
1488 judge issues an order relinquishing jurisdiction.
1489 (6) The applicant shall pay those expenses and costs
1490 associated with the conduct of the hearings and the recording
1491 and transcription of the proceedings. ~~The designated~~

1492 ~~administrative law judge shall have all powers and duties~~
1493 ~~granted to administrative law judges by chapter 120 and this~~
1494 ~~chapter and by the rules of the department and the~~
1495 ~~Administration Commission, including the authority to resolve~~
1496 ~~disputes over the completeness and sufficiency of an application~~
1497 ~~for certification.~~
1498 ~~(7) The order of presentation at the certification~~
1499 ~~hearing, unless otherwise changed by the administrative law~~
1500 ~~judge to ensure the orderly presentation of witnesses and~~
1501 ~~evidence, shall be:~~
1502 ~~(a) The applicant.~~
1503 ~~(b) The department.~~
1504 ~~(c) State agencies.~~
1505 ~~(d) Regional agencies, including regional planning~~
1506 ~~councils and water management districts.~~
1507 ~~(e) Local governments.~~
1508 ~~(f) Other parties.~~
1509 (7) ~~(8)~~ In issuing permits under the federally approved new
1510 source review or prevention of significant deterioration permit
1511 program, the department shall observe the procedures specified
1512 under the federally approved state implementation plan,
1513 including public notice, public comment, public hearing, and
1514 notice of applications and amendments to federal, state, and
1515 local agencies, to assure that all such permits issued in
1516 coordination with the certification of a power plant under this
1517 act are federally enforceable and are issued after opportunity
1518 for informed public participation regarding the terms and
1519 conditions thereof. When possible, any hearing on a federally

1520 approved or delegated program permit such as new source review,
1521 prevention of significant deterioration permit, or NPDES permit
1522 shall be conducted in conjunction with the certification hearing
1523 held under this act. ~~The department shall accept written comment~~
1524 ~~with respect to an application for, or the department's~~
1525 ~~preliminary determination on, a new source review or prevention~~
1526 ~~of significant deterioration permit for a period of no less than~~
1527 ~~30 days from the date notice of such action is published. Upon~~
1528 ~~request submitted within 30 days after published notice, the~~
1529 ~~department shall hold a public meeting, in the area affected,~~
1530 ~~for the purpose of receiving public comment on issues related to~~
1531 ~~the new source review or prevention of significant deterioration~~
1532 ~~permit. If requested following notice of the department's~~
1533 ~~preliminary determination, the public meeting to receive public~~
1534 ~~comment shall be held prior to the scheduled certification~~
1535 ~~hearing. The department shall also solicit comments from the~~
1536 ~~United States Environmental Protection Agency and other affected~~
1537 ~~federal agencies regarding the department's preliminary~~
1538 ~~determination for any federally required new source review or~~
1539 ~~prevention of significant deterioration permit.~~ It is the intent
1540 of the Legislature that the issuance of such permits be closely
1541 coordinated with the certification process established under
1542 this part. In the event of a conflict between the certification
1543 process and federally required procedures ~~contained in the state~~
1544 ~~implementation plan,~~ the applicable federal requirements ~~of the~~
1545 ~~implementation plan~~ shall control.
1546 Section 30. Section 403.509, Florida Statutes, is amended
1547 to read:

1548 403.509 Final disposition of application.--
1549 (1)(a) If the administrative law judge has granted a
1550 request to cancel the certification hearing and has relinquished
1551 jurisdiction to the department under the provisions of s.
1552 403.508(6), within 40 days thereafter, the secretary of the
1553 department shall act upon the application by written order in
1554 accordance with the terms of this act, and state the reasons for
1555 issuance or denial.
1556 (b) If the administrative law judge has not granted a
1557 request to cancel the certification hearing under the provisions
1558 of s. 403.508(6), within 60 days after receipt of the designated
1559 administrative law judge's recommended order, the board shall
1560 act upon the application by written order, approving
1561 ~~certification~~ or denying certification ~~the issuance of a~~
1562 ~~certificate~~, in accordance with the terms of this act, and
1563 stating the reasons for issuance or denial. If certification ~~the~~
1564 ~~certificate~~ is denied, the board shall set forth in writing the
1565 action the applicant would have to take to secure the board's
1566 approval of the application.
1567 (2) The issues that may be raised in any hearing before
1568 the board shall be limited to those matters raised in the
1569 certification proceeding before the administrative law judge or
1570 raised in the recommended order. All parties, or their
1571 representatives, or persons who appear before the board shall be
1572 subject to the provisions of s. 120.66.
1573 (3) In determining whether an application should be
1574 approved in whole, approved with modifications or conditions, or
1575 denied, the board, or secretary when applicable, shall consider

1576 whether, and the extent to which, the location of electric power
1577 plant and directly associated facilities and their construction
1578 and operation will:
1579 (a) Provide reasonable assurance that operational
1580 safeguards are technically sufficient for the public welfare and
1581 protection.
1582 (b) Comply with applicable nonprocedural requirements of
1583 agencies.
1584 (c) Be consistent with applicable local government
1585 comprehensive plans and land development regulations.
1586 (d) Meet the electrical energy needs of the state in an
1587 orderly and timely fashion.
1588 (e) Provide a reasonable balance between the need for the
1589 facility as established pursuant to s. 403.519, and the impacts
1590 upon air and water quality, fish and wildlife, water resources,
1591 and other natural resources as a result of the construction and
1592 operation of the facility.
1593 ~~(3) Within 30 days after issuance of the certification,~~
1594 ~~the department shall issue and forward to the United States~~
1595 ~~Environmental Protection Agency a proposed operation permit for~~
1596 ~~a major source of air pollution and must issue or deny any other~~
1597 ~~license required pursuant to any federally delegated or approved~~
1598 ~~permit program. The department's action on the license and its~~
1599 ~~action on the proposed operation permit for a major source of~~
1600 ~~air pollution shall be based upon the record and recommended~~
1601 ~~order of the certification hearing. The department's actions on~~
1602 ~~a federally required new source review or prevention of~~
1603 ~~significant deterioration permit shall be based on the record~~

1604 ~~and recommended order of the certification hearing and of any~~
1605 ~~other proceeding held in connection with the application for a~~
1606 ~~new source review or prevention of significant deterioration~~
1607 ~~permit, on timely public comments received with respect to the~~
1608 ~~application or preliminary determination for such permit, and on~~
1609 ~~the provisions of the state implementation plan. The~~
1610 ~~department's action on a federally required new source review or~~
1611 ~~prevention of significant deterioration permit shall differ from~~
1612 ~~the actions taken by the siting board regarding the~~
1613 ~~certification if the federally approved state implementation~~
1614 ~~plan requires such a different action to be taken by the~~
1615 ~~department. Nothing in this part shall be construed to displace~~
1616 ~~the department's authority as the final permitting entity under~~
1617 ~~the federally approved permit program. Nothing in this part~~
1618 ~~shall be construed to authorize the issuance of a new source~~
1619 ~~review or prevention of significant deterioration permit which~~
1620 ~~does not conform to the requirements of the federally approved~~
1621 ~~state implementation plan. Any final operation permit for a~~
1622 ~~major source of air pollution must be issued in accordance with~~
1623 ~~the provisions of s. 403.0872. Unless the federally delegated or~~
1624 ~~approved permit program provides otherwise, licenses issued by~~
1625 ~~the department under this subsection shall be effective for the~~
1626 ~~term of the certification issued by the board. If renewal of any~~
1627 ~~license issued by the department pursuant to a federally~~
1628 ~~delegated or approved permit program is required, such renewal~~
1629 ~~shall not affect the certification issued by the board, except~~
1630 ~~as necessary to resolve inconsistencies pursuant to s.~~
1631 ~~403.516(1)(a).~~

1632 (4) In regard to the properties and works of any agency
1633 which is a party to the certification hearing, the board shall
1634 have the authority to decide issues relating to the use, the
1635 connection thereto, or the crossing thereof, for the electrical
1636 power plant and its directly associated facilities ~~site~~ and to
1637 direct any such agency to execute, within 30 days after the
1638 entry of certification, the necessary license or easement for
1639 such use, connection, or crossing, subject only to the
1640 conditions set forth in such certification.
1641 ~~(5) Except for the issuance of any operation permit for a~~
1642 ~~major source of air pollution pursuant to s. 403.0872, the~~
1643 ~~issuance or denial of the certification by the board and the~~
1644 ~~issuance or denial of any related department license required~~
1645 ~~pursuant to any federally delegated or approved permit program~~
1646 ~~shall be the final administrative action required as to that~~
1647 ~~application.~~
1648 ~~(6) All certified electrical power plants must apply for~~
1649 ~~and obtain a major source air-operation permit pursuant to s.~~
1650 ~~403.0872. Major source air-operation permit applications for~~
1651 ~~certified electrical power plants must be submitted pursuant to~~
1652 ~~a schedule developed by the department. To the extent that any~~
1653 ~~conflicting provision, limitation, or restriction under any~~
1654 ~~rule, regulation, or ordinance imposed by any political~~
1655 ~~subdivision of the state, or by any local pollution control~~
1656 ~~program, was superseded during the certification process~~
1657 ~~pursuant to s. 403.510(1), such rule, regulation, or ordinance~~
1658 ~~shall continue to be superseded for purposes of the major source~~
1659 ~~air-operation permit program under s. 403.0872.~~

1660 Section 31. Section 403.511, Florida Statutes, is amended
1661 to read:
1662 403.511 Effect of certification.--
1663 (1) Subject to the conditions set forth therein, any
1664 certification ~~signed by the Governor~~ shall constitute the sole
1665 license of the state and any agency as to the approval of the
1666 site and the construction and operation of the proposed
1667 electrical power plant, except for the issuance of department
1668 licenses required under any federally delegated or approved
1669 permit program and except as otherwise provided in subsection
1670 (4).
1671 (2)(a) The certification shall authorize the licensee
1672 ~~applicant~~ named therein to construct and operate the proposed
1673 electrical power plant, subject only to the conditions of
1674 certification set forth in such certification, and except for
1675 the issuance of department licenses or permits required under
1676 any federally delegated or approved permit program.
1677 (b)1. Except as provided in subsection (4), the
1678 certification may include conditions which constitute variances,
1679 exemptions, or exceptions from nonprocedural requirements of the
1680 department or any agency which were expressly considered during
1681 the proceeding unless waived by the agency as provided below and
1682 which otherwise would be applicable to the construction and
1683 operation of the proposed electrical power plant.
1684 2. No variance, exemption, exception, or other relief
1685 shall be granted from a state statute or rule for the protection
1686 of endangered or threatened species, aquatic preserves,
1687 Outstanding National Resource Waters, or Outstanding Florida

1688 Waters or for the disposal of hazardous waste, except to the
1689 extent authorized by the applicable statute or rule or except
1690 upon a finding in the certification order ~~by the siting board~~
1691 that the public interests set forth in s. 403.509(3) ~~403.502~~ in
1692 certifying the electrical power plant at the site proposed by
1693 the applicant overrides the public interest protected by the
1694 statute or rule from which relief is sought. ~~Each party shall~~
1695 ~~notify the applicant and other parties at least 60 days prior to~~
1696 ~~the certification hearing of any nonprocedural requirements not~~
1697 ~~specifically listed in the application from which a variance,~~
1698 ~~exemption, exception, or other relief is necessary in order for~~
1699 ~~the board to certify any electrical power plant proposed for~~
1700 ~~certification. Failure of such notification by an agency shall~~
1701 ~~be treated as a waiver from nonprocedural requirements of the~~
1702 ~~department or any other agency. However, no variance shall be~~
1703 ~~granted from standards or regulations of the department~~
1704 ~~applicable under any federally delegated or approved permit~~
1705 ~~program, except as expressly allowed in such program.~~
1706 (3) The certification shall be in lieu of any license,
1707 permit, certificate, or similar document required by any state,
1708 regional, or local agency pursuant to, but not limited to,
1709 chapter 125, chapter 161, chapter 163, chapter 166, chapter 186,
1710 chapter 253, chapter 298, chapter 370, chapter 373, chapter 376,
1711 chapter 380, chapter 381, chapter 387, chapter 403, except for
1712 permits issued pursuant to any federally delegated or approved
1713 permit program ~~s. 403.0885~~ and except as provided in ~~s.~~
1714 ~~403.509(3) and (6),~~ chapter 404~~,~~ or the Florida Transportation
1715 Code~~, or 33 U.S.C. s. 1341~~.

1716 (4) This act shall not affect in any way the ratemaking
1717 powers of the Public Service Commission under chapter 366; nor
1718 shall this act in any way affect the right of any local
1719 government to charge appropriate fees or require that
1720 construction be in compliance with applicable building
1721 construction codes.
1722 (5)(a) An electrical power plant certified pursuant to
1723 this act shall comply with rules adopted by the department
1724 subsequent to the issuance of the certification which prescribe
1725 new or stricter criteria, to the extent that the rules are
1726 applicable to electrical power plants. Except when express
1727 variances, exceptions, exemptions, or other relief have been
1728 granted, subsequently adopted rules which prescribe new or
1729 stricter criteria shall operate as automatic modifications to
1730 certifications.
1731 (b) Upon written notification to the department, any
1732 holder of a certification issued pursuant to this act may choose
1733 to operate the certified electrical power plant in compliance
1734 with any rule subsequently adopted by the department which
1735 prescribes criteria more lenient than the criteria required by
1736 the terms and conditions in the certification which are not
1737 site-specific.
1738 (c) No term or condition of certification shall be
1739 interpreted to preclude the postcertification exercise by any
1740 party of whatever procedural rights it may have under chapter
1741 120, including those related to rulemaking proceedings. This
1742 subsection shall apply to previously issued certifications.

1743 (6) No term or condition of a site certification shall be
1744 interpreted to supersede or control the provisions of a final
1745 operation permit for a major source of air pollution issued by
1746 the department pursuant to s. 403.0872 to such facility
1747 certified under this part.
1748 (7) No term or condition of a site certification shall be
1749 interpreted to supersede or control the provisions of a final
1750 operation permit for a major source of air pollution issued by
1751 the department pursuant to s. 403.0872, to a facility certified
1752 under this part.
1753 (8) Pursuant to s. 380.23, electrical power plants are
1754 subject to the federal coastal consistency review program.
1755 Issuance of certification shall constitute the state's
1756 certification of coastal zone consistency.
1757 Section 32. Section 403.5112, Florida Statutes, is created
1758 to read:
1759 403.5112 Filing of notice of certified corridor route.--
1760 (1) Within 60 days after certification of a directly
1761 associated linear facility pursuant to this act, the applicant
1762 shall file, in accordance with s. 28.222, with the department
1763 and the clerk of the circuit court for each county through which
1764 the corridor will pass, a notice of the certified route.
1765 (2) The notice shall consist of maps or aerial photographs
1766 in the scale of 1:24,000 which clearly show the location of the
1767 certified route and shall state that the certification of the
1768 corridor will result in the acquisition of rights-of-way within
1769 the corridor. Each clerk shall record the filing in the official
1770 record of the county for the duration of the certification or

1771 until such time as the applicant certifies to the department and
1772 the clerk that all lands required for the transmission line
1773 rights-of-way within the corridor have been acquired within such
1774 county, whichever is sooner.
1775 Section 33. Section 403.5113, Florida Statutes, is created
1776 to read:
1777 403.5113 Postcertification amendments.--
1778 (1) If a licensee proposes any material change to the
1779 application after certification, the licensee shall submit a
1780 written request for amendment and a description of the proposed
1781 change to the application to the department. Within 30 days
1782 after the receipt of the request for the amendment, the
1783 department shall determine whether the proposed change to the
1784 application requires a modification of the conditions of
1785 certification.
1786 (2) If the department concludes that the change would not
1787 require a modification of the conditions of certification, the
1788 department shall provide written notification of the approval of
1789 the proposed amendment to the licensee, all agencies, and all
1790 other interested parties.
1791 (3) If the department concludes that the change would
1792 require a modification of the conditions of certification, the
1793 department shall provide written notification to the licensee
1794 that the proposed change to the application requires a request
1795 for modification pursuant to s. 403.516.
1796 Section 34. Section 403.5115, Florida Statutes, is amended
1797 to read:
1798 403.5115 Public notice; costs of proceeding.--

1799 (1) The following notices are to be published by the
1800 applicant:
1801 (a) Notice ~~A notice~~ of the filing of a notice of intent
1802 under s. 403.5063, which shall be published within 21 days after
1803 the filing of the notice. The notice shall be published as
1804 specified by subsection (2), except that the newspaper notice
1805 shall be one-fourth page in size in a standard size newspaper or
1806 one-half page in size in a tabloid size newspaper.
1807 (b) Notice ~~A notice~~ of filing of the application, which
1808 shall include a description of the proceedings required by this
1809 act, within 21 days after the date of the application filing ~~be~~
1810 ~~published as specified in subsection (2), within 15 days after~~
1811 ~~the application has been determined complete~~. Such notice shall
1812 give notice of the provisions of s. 403.511(1) and (2) ~~and that~~
1813 ~~the application constitutes a request for a federally required~~
1814 ~~new source review or prevention of significant deterioration~~
1815 ~~permit~~.
1816 (c) Notice of the land use determination made pursuant to
1817 s. 403.50665(1) within 15 days after the determination is filed.
1818 (d) Notice of the land use hearing, which shall be
1819 published as specified in subsection (2), no later than 15 ~~45~~
1820 days before the hearing.
1821 (e) ~~(d)~~ Notice of the certification hearing and notice of
1822 the deadline for filing notice of intent to be a party, which
1823 shall be published as specified in subsection (2), at least 65
1824 days before the date set for the certification ~~no later than 45~~
1825 ~~days before the~~ hearing.

1826 (f) Notice of the cancellation of the certification
1827 hearing, if applicable, no later than 7 days before the date of
1828 the originally scheduled certification hearing.
1829 (g) ~~(e)~~ Notice of modification when required by the
1830 department, based on whether the requested modification of
1831 certification will significantly increase impacts to the
1832 environment or the public. Such notice shall be published as
1833 specified under subsection (2):
1834 1. Within 21 days after receipt of a request for
1835 modification. ~~, except that~~ The newspaper notice shall be of a
1836 size as directed by the department commensurate with the scope
1837 of the modification.
1838 2. If a hearing is to be conducted in response to the
1839 request for modification, then notice shall be published no
1840 later than 30 days before the hearing ~~provided as specified in~~
1841 ~~paragraph (d)~~.
1842 (h) ~~(f)~~ Notice of a supplemental application, which shall
1843 be published as specified in paragraph (1)(b) and subsection
1844 (2). ~~follows:~~
1845 ~~1. Notice of receipt of the supplemental application shall~~
1846 ~~be published as specified in paragraph (b).~~
1847 ~~2. Notice of the certification hearing shall be published~~
1848 ~~as specified in paragraph (d).~~
1849 (i) Notice of existing site certification pursuant to s.
1850 403.5175. Notices shall be published as specified in paragraph
1851 (1)(b) and subsection (2).
1852 (2) Notices provided by the applicant shall be published
1853 in newspapers of general circulation within the county or

1854 counties in which the proposed electrical power plant will be
1855 located. The newspaper notices shall be at least one-half page
1856 in size in a standard size newspaper or a full page in a tabloid
1857 size newspaper ~~and published in a section of the newspaper other~~
1858 ~~than the legal notices section~~. These notices shall include a
1859 map generally depicting the project and all associated
1860 facilities corridors. A newspaper of general circulation shall
1861 be the newspaper which has the largest daily circulation in that
1862 county and has its principal office in that county. If the
1863 newspaper with the largest daily circulation has its principal
1864 office outside the county, the notices shall appear in both the
1865 newspaper having the largest circulation in that county and in a
1866 newspaper authorized to publish legal notices in that county.
1867 (3) All notices published by the applicant shall be paid
1868 for by the applicant and shall be in addition to the application
1869 fee.
1870 (4) The department shall arrange for publication of the
1871 following notices in the manner specified by chapter 120 and
1872 provide copies of those notices to any persons who have
1873 requested to be placed on the departmental mailing list for this
1874 purpose:
1875 (a) Notice ~~Publish in the Florida Administrative Weekly~~
1876 ~~notices~~ of the filing of the notice of intent within 15 days
1877 after receipt of the notice.~~;~~
1878 (b) Notice of the filing of the application, no later than
1879 21 days after the application filing.~~;~~

1880 (c) Notice of the land use hearing before the
1881 administrative law judge, if applicable, no later than 15 days
1882 before the hearing.~~;~~
1883 (d) Notice of the land use hearing before the board, if
1884 applicable.
1885 (e) Notice of the certification hearing at least 65 days
1886 before the date set for the certification hearing.~~;~~
1887 (f) Notice of the hearing before the board, if
1888 applicable.~~;~~
1889 (h) Notice and of stipulations, proposed agency action, or
1890 petitions for modification.~~; and~~
1891 ~~(b) Provide copies of those notices to any persons who~~
1892 ~~have requested to be placed on the departmental mailing list for~~
1893 ~~this purpose.~~
1894 ~~(5) The applicant shall pay those expenses and costs~~
1895 ~~associated with the conduct of the hearings and the recording~~
1896 ~~and transcription of the proceedings.~~
1897 Section 35. Section 403.513, Florida Statutes, is amended
1898 to read:
1899 403.513 Review.--Proceedings under this act shall be
1900 subject to judicial review as provided in chapter 120. When
1901 possible, separate appeals of the certification order issued by
1902 the board and of any department permit issued pursuant to a
1903 federally delegated or approved permit program may ~~shall~~ be
1904 consolidated for purposes of judicial review.
1905 Section 36. Section 403.516, Florida Statutes, is amended
1906 to read:
1907 403.516 Modification of certification.--

1908 (1) A certification may be modified after issuance in any
1909 one of the following ways:
1910 (a) The board may delegate to the department the authority
1911 to modify specific conditions in the certification.
1912 (b)1. The department may modify specific conditions of a
1913 site certification which are inconsistent with the terms of any
1914 federally delegated or approved ~~final air pollution operation~~
1915 permit for the certified electrical power plant ~~issued by the~~
1916 ~~United States Environmental Protection Agency under the terms of~~
1917 ~~42 U.S.C. s. 7661d~~.
1918 2. Such modification may be made without further notice if
1919 the matter has been previously noticed under the requirements
1920 for any federally delegated or approved permit program.
1921 (c) The licensee may file a petition for modification with
1922 the department or the department may initiate the modification
1923 upon its own initiative.
1924 1. A petition for modification must set forth:
1925 a. The proposed modification.
1926 b. The factual reasons asserted for the modification.
1927 c. The anticipated environmental effects of the proposed
1928 modification.
1929 (d) ~~(b)~~ The department may modify the terms and conditions
1930 of the certification if no party to the certification hearing
1931 objects in writing to such modification within 45 days after
1932 notice by mail to such party's last address of record, and if no
1933 other person whose substantial interests will be affected by the
1934 modification objects in writing within 30 days after issuance of
1935 public notice.

1936 (e) If objections are raised or the department denies the
1937 request, the applicant or department may file a request ~~petition~~
1938 for a hearing on the modification with the department. Such
1939 request shall be handled pursuant to chapter 120 ~~paragraph (c)~~.
1940 ~~(c) A petition for modification may be filed by the~~
1941 ~~applicant or the department setting forth:~~
1942 ~~1. The proposed modification,~~
1943 ~~2. The factual reasons asserted for the modification, and~~
1944 ~~3. The anticipated effects of the proposed modification on~~
1945 ~~the applicant, the public, and the environment.~~
1946
1947 ~~The petition for modification shall be filed with the department~~
1948 ~~and the Division of Administrative Hearings.~~
1949 (f) Requests referred to the Division of Administrative
1950 Hearings shall be disposed of in the same manner as an
1951 application, but with time periods established by the
1952 administrative law judge commensurate with the significance of
1953 the modification requested.
1954 (g) ~~(d)~~ As required by s. 403.511(5).
1955 ~~(2) Petitions filed pursuant to paragraph (1)(c) shall be~~
1956 ~~disposed of in the same manner as an application, but with time~~
1957 ~~periods established by the administrative law judge commensurate~~
1958 ~~with the significance of the modification requested.~~
1959 (2) ~~(3)~~ Any agreement or modification under this section
1960 must be in accordance with the terms of this act. No
1961 modification to a certification shall be granted that
1962 constitutes a variance from standards or regulations of the

1963 department applicable under any federally delegated or approved
1964 permit program, except as expressly allowed in such program.
1965 Section 37. Section 403.517, Florida Statutes, is amended
1966 to read:
1967 403.517 Supplemental applications for sites certified for
1968 ultimate site capacity.--
1969 (1)(a) Supplemental ~~The department shall adopt rules~~
1970 ~~governing the processing of supplemental~~ applications may be
1971 submitted for certification of the construction and operation of
1972 electrical power plants to be located at sites which have been
1973 previously certified for an ultimate site capacity pursuant to
1974 this act. Supplemental applications shall be limited to
1975 electrical power plants using the fuel type previously certified
1976 for that site. Such applications shall include all new directly
1977 associated facilities that support the construction and
1978 operation of the electric power plant. ~~The rules adopted~~
1979 ~~pursuant to this section shall include provisions for:~~
1980 ~~1. Prompt appointment of a designated administrative law~~
1981 ~~judge.~~
1982 ~~2. The contents of the supplemental application.~~
1983 ~~3. Resolution of disputes as to the completeness and~~
1984 ~~sufficiency of supplemental applications by the designated~~
1985 ~~administrative law judge.~~
1986 ~~4. Public notice of the filing of the supplemental~~
1987 ~~applications.~~
1988 ~~5. Time limits for prompt processing of supplemental~~
1989 ~~applications.~~

1990 ~~6. Final disposition by the board within 215 days of the~~
1991 ~~filing of a complete supplemental application.~~
1992 (b) The time limits for processing of a complete
1993 supplemental application shall be designated by the department
1994 commensurate with the scope of the supplemental application, but
1995 shall not exceed any time limitation governing the review of
1996 initial applications for site certification pursuant to this
1997 act, it being the legislative intent to provide shorter time
1998 limitations for the processing of supplemental applications for
1999 electrical power plants to be constructed and operated at sites
2000 which have been previously certified for an ultimate site
2001 capacity.
2002 (c) Any time limitation in this section or in rules
2003 adopted pursuant to this section may be altered pursuant to s.
2004 403.5095 ~~by the designated administrative law judge upon~~
2005 ~~stipulation between the department and the applicant, unless~~
2006 ~~objected to by any party within 5 days after notice, or for good~~
2007 ~~cause shown by any party. The parties to the proceeding shall~~
2008 ~~adhere to the provisions of chapter 120 and this act in~~
2009 ~~considering and processing such supplemental applications~~.
2010 (2) ~~Supplemental applications shall be reviewed as~~
2011 ~~provided in ss. 403.507-403.511, except that the time limits~~
2012 ~~provided in this section shall apply to such supplemental~~
2013 ~~applications.~~
2014 ~~(3)~~ The land use and zoning consistency determination of
2015 s. 403.50665 ~~hearing requirements of s. 403.508(1) and (2)~~ shall
2016 not be applicable to the processing of supplemental applications
2017 pursuant to this section so long as:

2018 (a) The previously certified ultimate site capacity is not
2019 exceeded; and
2020 (b) The lands required for the construction or operation
2021 of the electrical power plant which is the subject of the
2022 supplemental application are within the boundaries of the
2023 previously certified site.
2024 ~~(4) For the purposes of this act, the term "ultimate site~~
2025 ~~capacity" means the maximum generating capacity for a site as~~
2026 ~~certified by the board.~~
2027 Section 38. Section 403.5175, Florida Statutes, is amended
2028 to read:
2029 403.5175 Existing electrical power plant site
2030 certification.--
2031 (1) An electric utility that owns or operates an existing
2032 electrical power plant as defined in s. 403.503(12) may apply
2033 for certification of an existing power plant and its site in
2034 order to obtain all agency licenses necessary to assure
2035 compliance with federal or state environmental laws and
2036 regulation using the centrally coordinated, one-stop licensing
2037 process established by this part. An application for site
2038 certification under this section must be in the form prescribed
2039 by department rule. Applications must be reviewed and processed
2040 using the same procedural steps and notices as for an
2041 application for a new facility ~~in accordance with ss. 403.5064-~~
2042 ~~403.5115~~, except that a determination of need by the Public
2043 Service Commission is not required.
2044 (2) An application for certification under this section
2045 must include:

2046 (a) A description of the site and existing power plant
2047 installations;
2048 (b) A description of all proposed changes or alterations
2049 to the site or electrical power plant, including all new
2050 associated facilities that are the subject of the application;
2051 (c) A description of the environmental and other impacts
2052 caused by the existing utilization of the site and directly
2053 associated facilities, and the operation of the electrical power
2054 plant that is the subject of the application, and of the
2055 environmental and other benefits, if any, to be realized as a
2056 result of the proposed changes or alterations if certification
2057 is approved and such other information as is necessary for the
2058 reviewing agencies to evaluate the proposed changes and the
2059 expected impacts;
2060 (d) The justification for the proposed changes or
2061 alterations;
2062 (e) Copies of all existing permits, licenses, and
2063 compliance plans authorizing utilization of the site and
2064 directly associated facilities or operation of the electrical
2065 power plant that is the subject of the application.
2066 (3) The land use and zoning determination ~~hearing~~
2067 requirements of s. 403.50665 ~~s. 403.508(1) and (2)~~ do not apply
2068 to an application under this section if the applicant does not
2069 propose to expand the boundaries of the existing site. If the
2070 applicant proposes to expand the boundaries of the existing site
2071 to accommodate portions of the plant or associated facilities, a
2072 land use and zoning determination shall be made ~~hearing must be~~
2073 ~~held~~ as specified in s. 403.50665 ~~s. 403.508(1) and (2)~~;

2074 provided, however, that the sole issue for determination ~~through~~
2075 ~~the land use hearing~~ is whether the proposed site expansion is
2076 consistent and in compliance with the existing land use plans
2077 and zoning ordinances.
2078 (4) In considering whether an application submitted under
2079 this section should be approved in whole, approved with
2080 appropriate conditions, or denied, the board shall consider
2081 whether, and to the extent to which the proposed changes to the
2082 electrical power plant and its continued operation under
2083 certification will:
2084 (a) Comply with the provisions of s. 403.509(3).
2085 ~~applicable nonprocedural requirements of agencies;~~
2086 (b) Result in environmental or other benefits compared to
2087 current utilization of the site and operations of the electrical
2088 power plant if the proposed changes or alterations are
2089 undertaken.~~;~~
2090 ~~(c) Minimize, through the use of reasonable and available~~
2091 ~~methods, the adverse effects on human health, the environment,~~
2092 ~~and the ecology of the land and its wildlife and the ecology of~~
2093 ~~state waters and their aquatic life; and~~
2094 ~~(d) Serve and protect the broad interests of the public.~~
2095 (5) An applicant's failure to receive approval for
2096 certification of an existing site or an electrical power plant
2097 under this section is without prejudice to continued operation
2098 of the electrical power plant or site under existing agency
2099 licenses.
2100 Section 39. Section 403.518, Florida Statutes, is amended
2101 to read:

2102 403.518 Fees; disposition.--
2103 (1) The department shall charge the applicant the
2104 following fees, as appropriate, which, unless otherwise
2105 specified, shall be paid into the Florida Permit Fee Trust Fund:
2106 (a) A fee for a notice of intent pursuant to s. 403.5063,
2107 in the amount of $2,500, to be submitted to the department at
2108 the time of filing of a notice of intent. The notice-of-intent
2109 fee shall be used and disbursed in the same manner as the
2110 application fee.
2111 (b) An application fee, which shall not exceed $200,000.
2112 The fee shall be fixed by rule on a sliding scale related to the
2113 size, type, ultimate site capacity, or increase in electric
2114 generating capacity proposed by the application~~, or the number~~
2115 ~~and size of local governments in whose jurisdiction the~~
2116 ~~electrical power plant is located~~.
2117 1. Sixty percent of the fee shall go to the department to
2118 cover any costs associated with coordinating the review
2119 ~~reviewing~~ and acting upon the application, to cover any field
2120 services associated with monitoring construction and operation
2121 of the facility, and to cover the costs of the public notices
2122 published by the department.
2123 2. The following percentages ~~Twenty percent of the fee or~~
2124 ~~$25,000, whichever is greater,~~ shall be transferred to the
2125 Administrative Trust Fund of the Division of Administrative
2126 Hearings of the Department of Management Services:~~.~~
2127 a. Five percent to compensate expenses from the initial
2128 exercise of duties associated with the filing of an application.
2129 b. An additional 5 percent if a land use hearing is held

2130 pursuant to s. 403.508.
2131 c. An additional 10 percent if a certification hearing is
2132 held pursuant to s. 403.508.
2133 3.a. Upon written request with proper itemized accounting
2134 within 90 days after final agency action by the board or
2135 withdrawal of the application, the agencies that prepared
2136 reports pursuant to s. 403.507 or participated in a hearing
2137 pursuant to s. 403.508, may submit a written request to the
2138 department for reimbursement of expenses incurred during the
2139 certification proceedings. The request shall contain an
2140 accounting of expenses incurred which may include time spent
2141 reviewing the application, ~~the department shall reimburse the~~
2142 ~~Department of Community Affairs, the Fish and Wildlife~~
2143 ~~Conservation Commission, and any water management district~~
2144 ~~created pursuant to chapter 373, regional planning council, and~~
2145 ~~local government in the jurisdiction of which the proposed~~
2146 ~~electrical power plant is to be located, and any other agency~~
2147 ~~from which the department requests special studies pursuant to~~
2148 ~~s. 403.507(2)(a)7. Such reimbursement shall be authorized for~~
2149 ~~the~~ preparation of any studies required of the agencies by this
2150 act, ~~and for~~ agency travel and per diem to attend any hearing
2151 held pursuant to this act, and for local government's or
2152 regional planning council's provision of additional notice of
2153 the informational public meetings ~~governments to participate in~~
2154 ~~the proceedings~~. The department shall review the request and
2155 verify that the expenses are valid. Valid expenses shall be
2156 reimbursed; however, in the event the amount of funds available
2157 for reimbursement ~~allocation~~ is insufficient to provide for full

2158 compensation ~~complete reimbursement~~ to the agencies requesting
2159 reimbursement, reimbursement shall be on a prorated basis.
2160 b. If the application review is held in abeyance for more
2161 than 1 year, the agencies may submit a request for
2162 reimbursement.
2163 4. If any sums are remaining, the department shall retain
2164 them for its use in the same manner as is otherwise authorized
2165 by this act; provided, however, that if the certification
2166 application is withdrawn, the remaining sums shall be refunded
2167 to the applicant within 90 days after withdrawal.
2168 (c)1. A certification modification fee, which shall not
2169 exceed $30,000. The department shall establish rules for
2170 determining such a fee based on the equipment redesign, change
2171 in site size, type, increase in generating capacity proposed, or
2172 change in an associated linear facility location.
2173 2. The fee shall be submitted to the department with a
2174 ~~formal~~ petition for modification ~~to the department~~ pursuant to
2175 s. 403.516. This fee shall be established, disbursed, and
2176 processed in the same manner as the application fee in paragraph
2177 (b), except that the Division of Administrative Hearings shall
2178 not receive a portion of the fee unless the petition for
2179 certification modification is referred to the Division of
2180 Administrative Hearings for hearing. If the petition is so
2181 referred, only $10,000 of the fee shall be transferred to the
2182 Administrative Trust Fund of the Division of Administrative
2183 Hearings of the Department of Management Services. ~~The fee for a~~
2184 ~~modification by agreement filed pursuant to s. 403.516(1)(b)~~
2185 ~~shall be $10,000 to be paid upon the filing of the request for~~

2186 ~~modification. Any sums remaining after payment of authorized~~
2187 ~~costs shall be refunded to the applicant within 90 days of~~
2188 ~~issuance or denial of the modification or withdrawal of the~~
2189 ~~request for modification.~~
2190 (d) A supplemental application fee, not to exceed $75,000,
2191 to cover all reasonable expenses and costs of the review,
2192 processing, and proceedings of a supplemental application. This
2193 fee shall be established, disbursed, and processed in the same
2194 manner as the certification application fee in paragraph (b)~~,~~
2195 ~~except that only $20,000 of the fee shall be transferred to the~~
2196 ~~Administrative Trust Fund of the Division of Administrative~~
2197 ~~Hearings of the Department of Management Services~~.
2198 (e) An existing site certification application fee, not to
2199 exceed $200,000, to cover all reasonable costs and expenses of
2200 the review processing and proceedings for certification of an
2201 existing power plant site under s. 403.5175. This fee must be
2202 established, disbursed, and processed in the same manner as the
2203 certification application fee in paragraph (b).
2204 ~~(2) Effective upon the date commercial operation begins,~~
2205 ~~the operator of an electrical power plant certified under this~~
2206 ~~part is required to pay to the department an annual operation~~
2207 ~~license fee as specified in s. 403.0872(11) to be deposited in~~
2208 ~~the Air Pollution Control Trust Fund.~~
2209 Section 40. Section 403.519, Florida Statutes, is amended
2210 to read:
2211 403.519 Exclusive forum for determination of need.--
2212 (1) On request by an applicant or on its own motion, the
2213 commission shall begin a proceeding to determine the need for an

2214 electrical power plant subject to the Florida Electrical Power
2215 Plant Siting Act.
2216 (2) The applicant ~~commission~~ shall publish a notice of the
2217 proceeding in a newspaper of general circulation in each county
2218 in which the proposed electrical power plant will be located.
2219 The notice shall be at least one-quarter of a page and published
2220 at least 21 ~~45~~ days prior to the scheduled date for the
2221 proceeding. The commission shall publish notice of the
2222 proceeding in the manner specified by chapter 120 at least 21
2223 days prior to the scheduled date for the proceeding.
2224 (3) The commission shall be the sole forum for the
2225 determination of this matter, which accordingly shall not be
2226 raised in any other forum or in the review of proceedings in
2227 such other forum. In making its determination, the commission
2228 shall take into account the need for electric system reliability
2229 and integrity, the need for adequate electricity at a reasonable
2230 cost, the need for fuel diversity and supply reliability, and
2231 whether the proposed plant is the most cost-effective
2232 alternative available. The commission shall also expressly
2233 consider the conservation measures taken by or reasonably
2234 available to the applicant or its members which might mitigate
2235 the need for the proposed plant and other matters within its
2236 jurisdiction which it deems relevant. The commission's
2237 determination of need for an electrical power plant shall create
2238 a presumption of public need and necessity and shall serve as
2239 the commission's report required by s. 403.407(2)(b)
2240 ~~403.507(2)(a)2~~. An order entered pursuant to this section
2241 constitutes final agency action.

2242 Section 41. This act shall take effect July 1, 2006.

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Utilities & Telecommunications
2 Committee
3 Representative Hasner offered the following:
4
5 **Amendment (with title amendment)**
6 Remove everything after the enacting clause and insert:
7 Section 1. Legislative findings and intent.--The
8 Legislature finds that advancing the development of renewable
9 energy technologies and energy efficiency is important for the
10 state's future, its energy stability, and the protection of its
11 citizens' public health and its environment. The Legislature
12 finds that the development of renewable energy technologies and
13 energy efficiency in the state will help to reduce demand for
14 foreign fuels, promote energy diversity, enhance system
15 reliability, reduce pollution, educate the public on the promise
16 of renewable energy technologies, and promote economic growth.
17 The Legislature finds that there is a need to assist in the
18 development of market demand that will advance the
19 commercialization and widespread application of renewable energy
20 technologies. The Legislature further finds that the state is
21 ideally positioned to stimulate economic development through
22 such renewable energy technologies due to its ongoing and

23 successful research and development track record in these areas,
24 an abundance of natural and renewable energy sources, an ability
25 to attract significant federal research and development funds,
26 and the need to find and secure renewable energy technologies
27 for the benefit of its citizens, visitors, and environment.
28 Section 2. Section 377.801, Florida Statutes, is created
29 to read:
30 377.801 Short title.--Sections 377.801-377.806 may be
31 cited as the "Florida Renewable Energy Technologies and Energy
32 Efficiency Act."
33 Section 3. Section 377.802, Florida Statutes, is created
34 to read:
35 377.802 Purpose.--This act is intended to provide matching
36 grants to stimulate capital investment in the state and to
37 enhance the market for and promote the statewide utilization of
38 renewable energy technologies. The targeted grants program is
39 designed to advance the already growing establishment of
40 renewable energy technologies in the state and encourage the use
41 of other incentives such as tax exemptions and regulatory
42 certainty to attract additional renewable energy technology
43 producers, developers, and users to the state. This act is also
44 intended to provide incentives for the purchase of energy
45 efficient appliances and rebates for solar energy equipment
46 installations for residential and commercial buildings.
47 Section 4. Section 377.803, Florida Statutes, is created
48 to read:
49 377.803 Definitions.--As used in this act, the term:
50 (1) "Act" means the Florida Renewable Energy Technologies
51 and Energy Efficiency Act.

52 (2) "Approved metering equipment" means a device capable
53 of measuring the energy output of a solar thermal system that
54 has been approved by the commission.
55 (3) "Commission" means the Florida Public Service
56 Commission.
57 (4) "Department" means the Department of Environmental
58 Protection.
59 (5) "Person" means an individual, partnership, joint
60 venture, private or public corporation, association, firm,
61 public service company, or any other public or private entity.
62 (6) "Renewable energy" means electrical, mechanical, or
63 thermal energy produced from a method that uses one or more of
64 the following fuels or energy sources: hydrogen, biomass, solar
65 energy, geothermal energy, wind energy, ocean energy, waste
66 heat, or hydroelectric power.
67 (7) "Renewable energy technology" means any technology
68 that generates or utilizes a renewable energy resource.
69 (8) "Solar energy system" means equipment that provides
70 for the collection and use of incident solar energy for water
71 heating, space heating or cooling, or other applications that
72 require a conventional source of energy such as petroleum
73 products, natural gas, or electricity that performs primarily
74 with solar energy. In other systems in which solar energy is
75 used in a supplemental way, only those components that collect
76 and transfer solar energy shall be included in this definition.
77 (9) "Solar photovoltaic system" means a device that
78 converts incident sunlight into electrical current.
79 (10) "Solar thermal system" means a device that traps heat
80 from incident sunlight in order to heat water.
81 Section 5. Section 377.804, Florida Statutes, is created
82 to read:

83 377.804 Renewable Energy Technologies Grants Program.--
84 (1) The Renewable Energy Technologies Grants Program is
85 established within the department to provide renewable energy
86 matching grants for demonstration, commercialization, research,
87 and development projects relating to renewable energy
88 technologies.
89 (2) Matching grants for renewable energy technology
90 demonstration, commercialization, research, and development
91 projects may be made to any of the following:
92 (a) Municipalities and county governments.
93 (b) Established for-profit companies licensed to do
94 business in the state.
95 (c) Universities and colleges in the state.
96 (d) Utilities located and operating within the state.
97 (e) Not-for-profit organizations.
98 (f) Other qualified persons, as determined by the
99 department.
100 (3) The department may adopt rules pursuant to ss.
101 120.536(1) and 120.54 to provide for application requirements,
102 provide for ranking of applications, and administer the awarding
103 of grants under this program.
104 (4) Factors the department shall consider in awarding
105 grants include, but are not limited to:
106 (a) The availability of matching funds or other in-kind
107 contributions applied to the total project from an applicant.
108 The department shall give greater preference to projects that
109 provide such matching funds or other in-kind contributions.
110 (b) The degree to which the project stimulates in-state
111 capital investment and economic development in metropolitan and
112 rural areas, including the creation of jobs and the future

113 development of a commercial market for renewable energy
114 technologies.
115 (c) The extent to which the proposed project has been
116 demonstrated to be technically feasible based on pilot project
117 demonstrations, laboratory testing, scientific modeling, or
118 engineering or chemical theory that supports the proposal.
119 (d) The degree to which the project incorporates an
120 innovative new technology or an innovative application of an
121 existing technology.
122 (e) The degree to which a project generates thermal,
123 mechanical, or electrical energy by means of a renewable energy
124 resource that has substantial long-term production potential.
125 (f) The degree to which a project demonstrates efficient
126 use of energy and material resources.
127 (g) The degree to which the project fosters overall
128 understanding and appreciation of renewable energy technologies.
129 (h) The ability to administer a complete project.
130 (i) Project duration and timeline for expenditures.
131 (j) The geographic area in which the project is to be
132 conducted in relation to other projects.
133 (k) The degree of public visibility and interaction.
134 (5) The department shall solicit the expertise of other
135 state agencies in evaluating project proposals. State agencies
136 shall cooperate with the Department of Environmental Protection
137 and provide such assistance as required.
138 Section 6. Section 377.805, Florida Statutes, is created
139 to read:
140 377.805 Energy Efficient Products Sales Tax Holiday.--
141 The tax levied under chapter 212, Florida Statutes, shall not be
142 collected on the sale of an energy efficient product having a
143 selling price of $1,500 or less per product during the period

144 from 12:01 a.m., October 5, through midnight, October 11, in
145 each year from 2006 to 2009. This exemption applies only when
146 the energy-efficient product is purchased for noncommercial home
147 or personal use and does not apply when the product is purchased
148 for trade, business, or resale. As used in this subsection, the
149 term "energy-efficient product" means a dishwasher, clothes
150 washer, air conditioner, ceiling fan, incandescent or florescent
151 light bulb, dehumidifier, programmable thermostat, or
152 refrigerator that has been designated by the United States
153 Environmental Protection Agency and by the United States
154 Department of Energy as meeting or exceeding each agency's
155 requirements for energy efficiency or that has been designated
156 as meeting or exceeding the requirements under the Energy Star
157 Program of either agency.
158 Section 7. Section 377.806, Florida Statutes, is created
159 to read:
160 377.806 Solar Energy System Incentives Program.--
161 (1) PURPOSE.--The Solar Energy System Incentives Program
162 is established within the department to provide for financial
163 incentives for the purchase and installation of solar energy
164 systems. Any resident of the state who purchases and installs a
165 new solar energy system of 2 kilowatts or larger for a solar
166 photovoltaic system, or a solar energy system that provides at
167 least 50 percent of a building's hot water consumption for a
168 solar thermal system from July 1, 2006, through June 30, 2010,
169 is eligible for a rebate on a portion of the purchase price of
170 that solar energy system.
171 (2) SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.--
172 (a) Eligibility requirements.--A solar photovoltaic system
173 qualifies for a rebate if:

174 1. The system is installed by a state-licensed master
175 electrician, electrical contractor, or solar contractor.
176 2. The system complies with state interconnection
177 standards as provided by the commission.
178 3. The system complies with all applicable building codes
179 as defined by the local jurisdictional authority.
180 (b) Rebate amounts.--The rebate amount shall be set at $4
181 per watt based on the total wattage rating of the system. The
182 maximum allowable rebate per solar photovoltaic system
183 installation shall be as follows:
184 1. $20,000 for a residence.
185 2. $100,000 for a place of business, a publicly owned or
186 operated facility, or a facility owned or operated by a private,
187 not-for-profit organization.
188 (3) SOLAR THERMAL SYSTEM INCENTIVE.--
189 (a) Eligibility requirements.--A solar thermal system
190 qualifies for a rebate if:
191 1. The system is installed by a state-licensed solar or
192 plumbing contractor.
193 2. The system complies with all applicable building codes
194 as defined by the local jurisdictional authority.
195 (b) Rebate amounts.--Authorized rebates for installation
196 of solar thermal systems shall be as follows:
197 1. $500 for a residence.
198 2. $15 per 1,000 Btu for a maximum of $5,000 for a place
199 of business, a publicly owned or operated facility, or a
200 facility owned or operated by a private, not-for-profit
201 organization. Btu must be verified by approved metering
202 equipment.
203

204 (4) APPLICATION.--Application for a rebate must be made
205 within 90 days after the purchase of the solar energy equipment.
206 (5) REBATE AVAILABILITY.--The department shall determine
207 and publish on a regular basis the amount of rebate funds
208 remaining in each fiscal year. The total dollar amount of all
209 rebates issued by the department is subject to the total amount
210 of appropriations in any fiscal year for this program. If funds
211 are insufficient during the current fiscal year, any requests
212 for rebates received during that fiscal year may be processed
213 during the following fiscal year. Requests for rebates that are
214 processed during the following fiscal year shall be given
215 priority over requests for rebates received during the current
216 fiscal year.
217 (6) RULES.--The department shall adopt rules pursuant to
218 ss. 120.536(1) and 120.54 to develop rebate applications and
219 administer the issuance of rebates.
220 Section 8. Section 377.901, Florida Statutes, is
221 created to read:
222 377.901 Florida Energy Council.--
223 (1) The Florida Energy Council is created within the
224 Department of Environmental Protection to provide advice and
225 counsel to the Governor, the President of the Senate, and the
226 Speaker of the House of Representatives on the energy policy of
227 the state. The council should advise the state on current and
228 projected energy issues including, but not limited to,
229 generation, transmission, and fuel supply issues. In developing
230 its recommendations, the commission shall be guided by the
231 principles of reliability, efficiency, affordability, and
232 diversity.
233 (2)(a) The council shall be comprised of a diversity of
234 stakeholders, and may include utility providers, researchers,

235 fuel suppliers, technology manufacturers, environmental
236 interests, and others.
237 (b) The council shall consist of nine voting members as
238 follows:
239 1. The Secretary of the Department of Environmental
240 Protection or his or her designee who shall serve as chair of
241 the council.
242 2. The Chair of the Public Service Commission or his or
243 her designee who shall serve as vice chair of the council.
244 3. One member shall be the Commissioner of the Department
245 of Agriculture and Consumer Services or his or her designee.
246 4. Two members shall be appointed by the Governor.
247 5. Two members shall be appointed by the President of the
248 Senate.
249 6. Two members shall be appointed by the Speaker of the
250 House of Representatives.
251 (c) All initial members shall be appointed prior to
252 September 1, 2006. Appointments made by the Governor, the
253 President of the Senate, and the Speaker of the House of
254 Representatives shall be for terms of 2 years each. Members
255 shall serve until their successors are appointed. Vacancies
256 shall be filled in the manner of the original appointment for
257 the remainder of the term that is vacated.
258 (d) Members shall serve without compensation, but shall be
259 entitled to travel reimbursement and per diem expenses related
260 to council duties and responsibilities pursuant to s. 112.061.
261 (3) The Department of Environmental Protection shall
262 provide primary staff support to the council and shall ensure
263 that council meetings are electronically recorded. Such
264 recording shall be preserved pursuant to chapters 119 and 257.

265 (4) The Department of Environmental Protection may adopt
266 rules pursuant to ss. 120.536 and 120.54 to implement the
267 provisions of this section.
268 Section 9. Paragraph (ccc) is added to subsection (7) of
269 section 212.08, Florida Statutes, to read:
270 212.08 Sales, rental, use, consumption, distribution, and
271 storage tax; specified exemptions.--The sale at retail, the
272 rental, the use, the consumption, the distribution, and the
273 storage to be used or consumed in this state of the following
274 are hereby specifically exempt from the tax imposed by this
275 chapter.
276 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
277 entity by this chapter do not inure to any transaction that is
278 otherwise taxable under this chapter when payment is made by a
279 representative or employee of the entity by any means,
280 including, but not limited to, cash, check, or credit card, even
281 when that representative or employee is subsequently reimbursed
282 by the entity. In addition, exemptions provided to any entity by
283 this subsection do not inure to any transaction that is
284 otherwise taxable under this chapter unless the entity has
285 obtained a sales tax exemption certificate from the department
286 or the entity obtains or provides other documentation as
287 required by the department. Eligible purchases or leases made
288 with such a certificate must be in strict compliance with this
289 subsection and departmental rules, and any person who makes an
290 exempt purchase with a certificate that is not in strict
291 compliance with this subsection and the rules is liable for and
292 shall pay the tax. The department may adopt rules to administer
293 this subsection.
294 (ccc) Equipment, machinery, and other materials for
295 renewable energy technologies.--

296 1. Definitions.--As used in this paragraph, the term:
297 a. "Biodiesel" means the mono-alkyl esters of long-chain
298 fatty acids derived from plant or animal matter for use as a
299 source of energy and meeting the specifications for biodiesel
300 and biodiesel blends with petroleum products as adopted by the
301 Department of Agriculture and Consumer Services. Biodiesel may
302 refer to biodiesel blends designated BXX, where XX represents
303 the volume percentage of biodiesel fuel in the blend.
304 b. "Ethanol" means nominally anhydrous denatured alcohol
305 produced by the fermentation of plant sugars meeting the
306 specifications for fuel ethanol and fuel ethanol blends with
307 petroleum products as adopted by the Department of Agriculture
308 and Consumer Services. Ethanol may refer to fuel ethanol blends
309 designated EXX, where XX represents the volume percentage of
310 fuel ethanol in the blend.
311 c. "Hydrogen fuel cells" means equipment using hydrogen or
312 a hydrogen rich fuel in an electrochemical process to generate
313 energy, electricity, or the transfer of heat.
314 2. The sale or use of the following in the state is exempt
315 from the tax imposed by this chapter:
316 a. Hydrogen-powered vehicles, materials incorporated into
317 hydrogen-powered vehicles, and hydrogen-fueling stations, up to
318 a limit of $2 million in tax each state fiscal year.
319 b. Commercial stationary hydrogen fuel cells, up to a
320 limit of $1 million in tax each state fiscal year.
321 c. Materials used in the distribution of biodiesel (B10-
322 B100) and ethanol (E10-E85), including fueling infrastructure,
323 transportation, and storage, up to a limit of $1 million in tax
324 each state fiscal year. Gasoline fueling station pump retrofits
325 for ethanol (E10-E100) distribution qualify for the exemption
326 provided by this subsection.

327 3. The Department of Environmental Protection shall
328 provide to the department a list of items eligible for the
329 exemption.
330 4.a. The exemption shall be available to a purchaser only
331 through a refund of previously paid taxes.
332 b. To be eligible to receive the exemption, a purchaser
333 shall file an application with the Department of Environmental
334 Protection. The application shall be developed by the Department
335 of Environmental Protection, in consultation with the
336 department, and shall require:
337 (I) The name and address of the person claiming the
338 refund.
339 (II) A specific description of the purchase for which a
340 refund is sought, including, when applicable, a serial number or
341 other permanent identification number.
342 (III) The sales invoice or other proof of purchase showing
343 the amount of sales tax paid, the date of purchase, and the name
344 and address of the sales tax dealer from whom the property was
345 purchased.
346 (IV) A sworn statement that the information provided is
347 accurate and that the requirements of this section have been
348 met.
349 c. Within 30 days after receipt of an application, the
350 Department of Environmental Protection shall review the
351 application and shall notify the applicant of any deficiencies.
352 Upon receipt of a completed application, the Department of
353 Environmental Protection shall evaluate the application for
354 exemption and issue a written certification that the applicant
355 is eligible for a refund or issue a written denial of such
356 certification within 60 days. The Department of Environmental

357 Protection shall provide the department with a copy of each
358 certification issued upon approval of an application.
359 d. Each certified applicant shall be responsible for
360 forwarding a certified copy of the application and copies of all
361 required documentation to the department within 6 months after
362 certification by the Department of Environmental Protection.
363 e. The provisions of s. 212.095 do not apply to any refund
364 application made pursuant to this paragraph. A refund approved
365 pursuant to this paragraph shall be made within 30 days after
366 formal approval by the department.
367 f. The department shall adopt rules governing the manner
368 and form of refund applications and may establish guidelines as
369 to the requisites for an affirmative showing of qualification
370 for exemption under this paragraph.
371 g. The Department of Environmental Protection shall be
372 responsible for ensuring that the exemptions do not exceed the
373 limits provided in subparagraph 2.
374 5. The Department of Environmental Protection shall
375 determine and publish on a regular basis the amount of sales tax
376 funds remaining in each fiscal year.
377 6. This exemption is repealed July 1, 2010.
378 Section 10. Paragraph (y) is added to subsection (7) of
379 section 213.053, Florida Statutes, to read:
380 213.053 Confidentiality and information sharing.--
381 (7) Notwithstanding any other provision of this section,
382 the department may provide:
383 (y) Information relative to ss. 212.08(7)(ccc) and 220.192
384 to the Department of Environmental Protection for use in the
385 conduct of its official business.
386

387 Disclosure of information under this subsection shall be
388 pursuant to a written agreement between the executive director
389 and the agency. Such agencies, governmental or nongovernmental,
390 shall be bound by the same requirements of confidentiality as
391 the Department of Revenue. Breach of confidentiality is a
392 misdemeanor of the first degree, punishable as provided by s.
393 775.082 or s. 775.083.
394 Section 11. Subsection (8) of section 220.02, Florida
395 Statutes, is amended to read:
396 220.02 Legislative intent.--
397 (8) It is the intent of the Legislature that credits
398 against either the corporate income tax or the franchise tax be
399 applied in the following order: those enumerated in s. 631.828,
400 those enumerated in s. 220.191, those enumerated in s. 220.181,
401 those enumerated in s. 220.183, those enumerated in s. 220.182,
402 those enumerated in s. 220.1895, those enumerated in s. 221.02,
403 those enumerated in s. 220.184, those enumerated in s. 220.186,
404 those enumerated in s. 220.1845, those enumerated in s. 220.19,
405 those enumerated in s. 220.185, ~~and~~ those enumerated in s.
406 220.187, and those enumerated in s. 220.192.
407 Section 12. Section 220.192, Florida Statutes, is created
408 to read:
409 220.192 Renewable energy technologies investment tax
410 credit.--
411 (1) DEFINITIONS.--For purposes of this section, the term:
412 (a) "Biodiesel" means biodiesel as defined in s.
413 212.08(7)(ccc).
414 (b) "Eligible costs" means:
415 1. Seventy-five percent of all capital costs, operation
416 and maintenance costs, and research and development costs
417 incurred between July 1, 2006, and June 30, 2010, up to a limit

418 of $3 million per state fiscal year for all taxpayers, in
419 connection with an investment in hydrogen powered vehicles and
420 hydrogen vehicle fueling stations in the state, including, but
421 not limited to, the costs of constructing, installing, and
422 equipping such technologies in the state.
423 2. Seventy-five percent of all capital costs, operation
424 and maintenance costs, and research and development costs
425 incurred between July 1, 2006, and June 30, 2010, up to a limit
426 of $1.5 million per state fiscal year for all taxpayers, and
427 limited to a maximum of $12,000 per fuel cell, in connection
428 with an investment in commercial stationary hydrogen fuel cells
429 in the state, including, but not limited to, the costs of
430 constructing, installing, and equipping such technologies in the
431 state.
432 3. Seventy-five percent of all capital costs, operation
433 and maintenance costs, and research and development costs
434 incurred between July 1, 2006, and June 30, 2010, up to a limit
435 of $6.5 million per state fiscal year for all tax payers, in
436 connection with an investment in the production, storage, and
437 distribution of biodiesel (B10-B100) and ethanol (E10-E100) in
438 the state, including the costs of constructing, installing, and
439 equipping such technologies in the state. Gasoline fueling
440 station pump retrofits for ethanol (E10-E100) distribution
441 qualify as an eligible cost under this subsection.
442 (c) "Ethanol" means ethanol as defined in s.
443 212.08(7)(ccc).
444 (d) "Hydrogen fuel cell" means hydrogen fuel cell as
445 defined in s. 212.08(7)(ccc).
446 (2) TAX CREDIT.--For tax years beginning on or after
447 January 1, 2007, a credit against the tax imposed by this
448 chapter shall be granted in an amount equal to the eligible

449 costs. Credits may be used in tax years beginning January 1,
450 2007, and ending December 31, 2010, after which the credit shall
451 expire. If the credit is not fully used in any one tax year
452 because of insufficient tax liability on the part of the
453 corporation, the unused amount may be carried forward and used
454 in tax years beginning January 1, 2007, and ending December 31,
455 2012, after which the credit carryover expires and may not be
456 used. A taxpayer that files a consolidated return in this state
457 as a member of an affiliated group under s. 220.131(1) may be
458 allowed the credit on a consolidated return basis up to the
459 amount of tax imposed upon the consolidated group. Any eligible
460 cost for which a credit is claimed and which is deducted or
461 otherwise reduces federal taxable income shall be added back in
462 computing adjusted federal income under s. 220.13.
463 (3) APPLICATION PROCESS.--Any corporation wishing to
464 obtain tax credits available under this section must submit to
465 the Department of Environmental Protection an application for
466 tax credit that includes a complete description of all eligible
467 costs for which the corporation is seeking a credit and a
468 description of the total amount of credits sought. The
469 Department of Environmental Protection shall make a
470 determination on the eligibility of the applicant for the
471 credits sought and certify the determination to the applicant
472 and the Department of Revenue. The corporation must attach the
473 Department of Environmental Protection's certification to the
474 tax return on which the credit is claimed. The Department of
475 Environmental Protection shall be responsible for ensuring that
476 the corporate income tax credits granted in each fiscal year do
477 not exceed the limits provided for in this section. The
478 Department of Environmental Protection is authorized to adopt

479 the necessary rules, guidelines, and application materials for
480 the application process.
481 (4) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
482 CREDITS.--
483 (a) In addition to its existing audit and investigation
484 authority, the Department of Revenue may perform any additional
485 financial and technical audits and investigations, including
486 examining the accounts, books, and records of the tax credit
487 applicant, that are necessary to verify the eligible costs
488 included in the tax credit return and to ensure compliance with
489 this section. The Department of Environmental Protection shall
490 provide technical assistance when requested by the Department of
491 Revenue on any technical audits or examinations performed
492 pursuant to this section.
493 (b) It is grounds for forfeiture of previously claimed and
494 received tax credits if the Department of Revenue determines, as
495 a result of either an audit or examination or from information
496 received from the Department of Environmental Protection, that a
497 taxpayer received tax credits pursuant to this section to which
498 the taxpayer was not entitled. The taxpayer is responsible for
499 returning forfeited tax credits to the Department of Revenue,
500 and such funds shall be paid into the General Revenue Fund of
501 the state.
502 (c) The Department of Environmental Protection may revoke
503 or modify any written decision granting eligibility for tax
504 credits under this section if it is discovered that the tax
505 credit applicant submitted any false statement, representation,
506 or certification in any application, record, report, plan, or
507 other document filed in an attempt to receive tax credits under
508 this section. The Department of Environmental Protection shall
509 immediately notify the Department of Revenue of any revoked or

510 modified orders affecting previously granted tax credits.
511 Additionally, the taxpayer must notify the Department of Revenue
512 of any change in its tax credit claimed.
513 (d) The taxpayer shall file with the Department of Revenue
514 an amended return or such other report as the Department of
515 Revenue prescribes by rule and shall pay any required tax and
516 interest within 60 days after the taxpayer receives notification
517 from the Department of Environmental Protection that previously
518 approved tax credits have been revoked or modified. If the
519 revocation or modification order is contested, the taxpayer
520 shall file as provided in this paragraph within 60 days after a
521 final order is issued following proceedings.
522 (e) A notice of deficiency may be issued by the Department
523 of Revenue at any time within 3 years after the taxpayer
524 receives formal notification from the Department of
525 Environmental Protection that previously approved tax credits
526 have been revoked or modified. If a taxpayer fails to notify the
527 Department of Revenue of any changes to its tax credit claimed,
528 a notice of deficiency may be issued at any time.
529 (5) RULES.--The Department of Revenue shall have the
530 authority to adopt rules relating to the forms required to claim
531 a tax credit under this section, the requirements and basis for
532 establishing an entitlement to a credit, and the examination and
533 audit procedures required to administer this section.
534 (6) PUBLICATION.--The Department of Environmental
535 Protection shall determine and publish on a regular basis the
536 amount of available tax credits remaining in each fiscal year.
537 Section 13. Paragraph (a) of subsection (1) of section
538 220.13, Florida Statutes, is amended to read:
539 220.13 "Adjusted federal income" defined.--

540 (1) The term "adjusted federal income" means an amount
541 equal to the taxpayer's taxable income as defined in subsection
542 (2), or such taxable income of more than one taxpayer as
543 provided in s. 220.131, for the taxable year, adjusted as
544 follows:
545 (a) Additions.--There shall be added to such taxable
546 income:
547 1. The amount of any tax upon or measured by income,
548 excluding taxes based on gross receipts or revenues, paid or
549 accrued as a liability to the District of Columbia or any state
550 of the United States which is deductible from gross income in
551 the computation of taxable income for the taxable year.
552 2. The amount of interest which is excluded from taxable
553 income under s. 103(a) of the Internal Revenue Code or any other
554 federal law, less the associated expenses disallowed in the
555 computation of taxable income under s. 265 of the Internal
556 Revenue Code or any other law, excluding 60 percent of any
557 amounts included in alternative minimum taxable income, as
558 defined in s. 55(b)(2) of the Internal Revenue Code, if the
559 taxpayer pays tax under s. 220.11(3).
560 3. In the case of a regulated investment company or real
561 estate investment trust, an amount equal to the excess of the
562 net long-term capital gain for the taxable year over the amount
563 of the capital gain dividends attributable to the taxable year.
564 4. That portion of the wages or salaries paid or incurred
565 for the taxable year which is equal to the amount of the credit
566 allowable for the taxable year under s. 220.181. The provisions
567 of this subparagraph shall expire and be void on June 30, 2005.
568 5. That portion of the ad valorem school taxes paid or
569 incurred for the taxable year which is equal to the amount of
570 the credit allowable for the taxable year under s. 220.182. The

571 provisions of this subparagraph shall expire and be void on June
572 30, 2005.
573 6. The amount of emergency excise tax paid or accrued as a
574 liability to this state under chapter 221 which tax is
575 deductible from gross income in the computation of taxable
576 income for the taxable year.
577 7. That portion of assessments to fund a guaranty
578 association incurred for the taxable year which is equal to the
579 amount of the credit allowable for the taxable year.
580 8. In the case of a nonprofit corporation which holds a
581 pari-mutuel permit and which is exempt from federal income tax
582 as a farmers' cooperative, an amount equal to the excess of the
583 gross income attributable to the pari-mutuel operations over the
584 attributable expenses for the taxable year.
585 9. The amount taken as a credit for the taxable year under
586 s. 220.1895.
587 10. Up to nine percent of the eligible basis of any
588 designated project which is equal to the credit allowable for
589 the taxable year under s. 220.185.
590 11. The amount taken as a credit for the taxable year
591 under s. 220.187.
592 <u>12. The amount taken as a credit for the taxable year</u>
593 <u>under s. 220.192.</u>
594 Section 14. Subsection (2) of section 186.801, Florida
595 Statutes, is amended to read:
596 186.801 Ten-year site plans.--
597 (2) Within 9 months after the receipt of the proposed
598 plan, the commission shall make a preliminary study of such plan
599 and classify it as "suitable" or "unsuitable." The commission
600 may suggest alternatives to the plan. All findings of the
601 commission shall be made available to the Department of

602 Environmental Protection for its consideration at any subsequent
603 electrical power plant site certification proceedings. It is
604 recognized that 10-year site plans submitted by an electric
605 utility are tentative information for planning purposes only and
606 may be amended at any time at the discretion of the utility upon
607 written notification to the commission. A complete application
608 for certification of an electrical power plant site under
609 chapter 403, when such site is not designated in the current 10-
610 year site plan of the applicant, shall constitute an amendment
611 to the 10-year site plan. In its preliminary study of each 10-
612 year site plan, the commission shall consider such plan as a
613 planning document and shall review:
614 (a) The need, including the need as determined by the
615 commission, for electrical power in the area to be served.
616 (b) The effect on fuel diversity within the state.
617 (c) ~~(b)~~ The anticipated environmental impact of each
618 proposed electrical power plant site.
619 (d) ~~(c)~~ Possible alternatives to the proposed plan.
620 (e) ~~(d)~~ The views of appropriate local, state, and federal
621 agencies, including the views of the appropriate water
622 management district as to the availability of water and its
623 recommendation as to the use by the proposed plant of salt water
624 or fresh water for cooling purposes.
625 (f) ~~(e)~~ The extent to which the plan is consistent with the
626 state comprehensive plan.
627 (g) ~~(f)~~ The plan with respect to the information of the
628 state on energy availability and consumption.
629 Section 15. Subsection (6) of section 366.04, Florida
630 Statutes, is amended to read:
631 366.04 Jurisdiction of commission.--

632 (6) The commission shall further have exclusive
633 jurisdiction to prescribe and enforce safety standards for
634 transmission and distribution facilities of all public electric
635 utilities, cooperatives organized under the Rural Electric
636 Cooperative Law, and electric utilities owned and operated by
637 municipalities. In adopting safety standards, the commission
638 shall, at a minimum:
639 (a) Adopt the 1984 edition of the National Electrical
640 Safety Code (ANSI C2) as initial standards; and
641 (b) Adopt, after review, any new edition of the National
642 Electrical Safety Code (ANSI C2).
643
644 The standards prescribed by the current 1984 edition of the
645 National Electrical Safety Code (ANSI C2) shall constitute
646 acceptable and adequate requirements for the protection of the
647 safety of the public, and compliance with the minimum
648 requirements of that code shall constitute good engineering
649 practice by the utilities. The administrative authority referred
650 to in the 1984 edition of the National Electrical Safety Code is
651 the commission. However, nothing herein shall be construed as
652 superseding, repealing, or amending the provisions of s.
653 403.523(1) and (10).
654 Section 16. Subsections (1) and (8) of section 366.05,
655 Florida Statutes, are amended to read:
656 366.05 Powers.--
657 (1) In the exercise of such jurisdiction, the commission
658 shall have power to prescribe fair and reasonable rates and
659 charges, classifications, standards of quality and measurements,
660 including the ability to adopt construction standards that
661 exceed the National Electrical Safety Code, for purposes of
662 ensuring the reliable provision of service and service rules and

663 regulations to be observed by each public utility; to require
664 repairs, improvements, additions, replacements, and extensions
665 to the plant and equipment of any public utility when reasonably
666 necessary to promote the convenience and welfare of the public
667 and secure adequate service or facilities for those reasonably
668 entitled thereto; to employ and fix the compensation for such
669 examiners and technical, legal, and clerical employees as it
670 deems necessary to carry out the provisions of this chapter; and
671 to adopt rules pursuant to ss. 120.536(1) and 120.54 to
672 implement and enforce the provisions of this chapter.
673 (8) If the commission determines that there is probable
674 cause to believe that inadequacies exist with respect to the
675 energy grids developed by the electric utility industry,
676 including inadequacies in fuel diversity or fuel supply
677 reliability, it shall have the power, after proceedings as
678 provided by law, and after a finding that mutual benefits will
679 accrue to the electric utilities involved, to require
680 installation or repair of necessary facilities, including
681 generating plants and transmission and distribution facilities,
682 with the costs to be distributed in proportion to the benefits
683 received, and to take all necessary steps to ensure compliance.
684 The electric utilities involved in any action taken or orders
685 issued pursuant to this subsection shall have full power and
686 authority, notwithstanding any general or special laws to the
687 contrary, to jointly plan, finance, build, operate, or lease
688 generating and transmission facilities and shall be further
689 authorized to exercise the powers granted to corporations in
690 chapter 361. This subsection shall not supersede or control any
691 provision of the Florida Electrical Power Plant Siting Act, ss.
692 403.501-403.518.

693 Section 17. The Florida Public Service Commission shall
694 direct a study of the electric transmission grid in the state.
695 The study shall look at electric system reliability to examine
696 the efficiency and reliability of power transfer and emergency
697 contingency conditions. In addition, the study shall examine the
698 hardening of infrastructure to address issues arising from the
699 2004 and 2005 hurricane seasons. A report of the results of the
700 study shall be provided to the Governor, the President of the
701 Senate, and the Speaker of the House of Representatives by
702 January 30, 2007.
703 Section 18. Subsections (5), (8), (9), (12), (18), (24),
704 and (27) of section 403.503, Florida Statutes, are amended,
705 subsections (16) through (28) are renumbered as (17) through
706 (29), respectively, and new subsection (16) is added to that
707 section, to read:
708 403.503 Definitions relating to Florida Electrical Power
709 Plant Siting Act.--As used in this act:
710 (5) "Application" means the documents required by the
711 department to be filed to initiate a certification review and
712 evaluation, including the initial document filing, amendments,
713 and responses to requests from the department for additional
714 data and information ~~proceeding and shall include the documents~~
715 ~~necessary for the department to render a decision on any permit~~
716 ~~required pursuant to any federally delegated or approved permit~~
717 ~~program~~.
718 (8) "Completeness" means that the application has
719 addressed all applicable sections of the prescribed application
720 format, and ~~but does not mean~~ that those sections are sufficient
721 in comprehensiveness of data or in quality of information
722 provided to allow the department to determine whether the

723 application provides the reviewing agencies adequate information
724 to prepare the reports required by s. 403.507.
725 (9) "Corridor" means the proposed area within which an
726 associated linear facility right-of-way is to be located. The
727 width of the corridor proposed for certification as an
728 associated facility, at the option of the applicant, may be the
729 width of the right-of-way or a wider boundary, not to exceed a
730 width of 1 mile. The area within the corridor in which a right-
731 of-way may be located may be further restricted by a condition
732 of certification. After all property interests required for the
733 right-of-way have been acquired by the licensee ~~applicant~~, the
734 boundaries of the area certified shall narrow to only that land
735 within the boundaries of the right-of-way.
736 (12) "Electrical power plant" means, for the purpose of
737 certification, any steam or solar electrical generating facility
738 using any process or fuel, including nuclear materials, except
739 that this term does not include any steam or solar electric
740 generating facility of less than 75 megawatts in capacity unless
741 the applicant for such a facility elects to apply for
742 certification under this act, or any unit capacity expansion of
743 35 megawatts or less of an existing exothermic reaction
744 cogeneration unit that was originally built under a power plant
745 siting act exemption. This exemption does not apply if the unit
746 uses oil or natural gas for purposes other than start-up. This
747 term ~~and~~ includes associated facilities to be owned by the
748 licensee which directly support the construction and operation
749 of the electrical power plant such as fuel unloading facilities,
750 pipelines necessary for transporting fuel for the operation of
751 the facility or other fuel transportation facilities, water or
752 wastewater transport pipelines, construction, maintenance and
753 access roads, railway lines necessary for transport of

754 construction equipment or fuel for the operation of the
755 facility, and those associated transmission lines owned by the
756 licensee which connect the electrical power plant to an existing
757 transmission network or rights-of-way to which the applicant
758 intends to connect~~, except that this term does not include any~~
759 ~~steam or solar electrical generating facility of less than 75~~
760 ~~megawatts in capacity unless the applicant for such a facility~~
761 ~~elects to apply for certification under this act. An associated~~
762 ~~transmission line~~ Associated facilities may include, at the
763 applicant's option, offsite associated facilities that will not
764 be owned by the applicant, and any proposed terminal or
765 intermediate substations or substation expansions connected to
766 the associated transmission line.
767 (16) "Licensee" means an applicant that has obtained a
768 certification order for the subject project.
769 (19)~~(18)~~ "Nonprocedural requirements of agencies" means
770 any agency's regulatory requirements established by statute,
771 rule, ordinance, zoning ordinance, land development code, or
772 comprehensive plan, excluding any provisions prescribing forms,
773 fees, procedures, or time limits for the review or processing of
774 information submitted to demonstrate compliance with such
775 regulatory requirements.
776 (25)~~(24)~~ "Right-of-way" means land necessary for the
777 construction and maintenance of a connected associated linear
778 facility, such as a railroad line, pipeline, or transmission
779 line as owned by or proposed to be certified by the applicant.
780 The typical width of the right-of-way shall be identified in the
781 application. The right-of-way shall be located within the
782 certified corridor and shall be identified by the applicant
783 subsequent to certification in documents filed with the
784 department prior to construction.

785 (28) ~~(27)~~ "Ultimate site capacity" means the maximum
786 generating capacity for a site as certified by the board.
787 ~~"Sufficiency" means that the application is not only complete~~
788 ~~but that all sections are sufficient in the comprehensiveness of~~
789 ~~data or in the quality of information provided to allow the~~
790 ~~department to determine whether the application provides the~~
791 ~~reviewing agencies adequate information to prepare the reports~~
792 ~~required by s. 403.507.~~
793 Section 19. Subsections (1), (7), (9), and (10) of section
794 403.504, Florida Statutes, are amended, and new subsections (9),
795 (10), (11), and (12) are added to that section, to read:
796 403.504 Department of Environmental Protection; powers and
797 duties enumerated.--The department shall have the following
798 powers and duties in relation to this act:
799 (1) To adopt rules pursuant to ss. 120.536(1) and 120.54
800 to implement the provisions of this act, including rules setting
801 forth environmental precautions to be followed in relation to
802 the location, construction, and operation of electrical power
803 plants.
804 (7) To conduct studies and prepare a project ~~written~~
805 analysis under s. 403.507.
806 (9) To issue final orders after receipt of the
807 administrative law judge's order relinquishing jurisdiction
808 pursuant to s. 403.508(6).
809 (10) To act as clerk for the siting board.
810 (11) To administer and manage the terms and conditions of
811 the certification order and supporting documents and records for
812 the life of the facility.
813 (12) To issue emergency orders on behalf of the board for
814 facilities licensed under this act.

815 ~~(9) To notify all affected agencies of the filing of a~~
816 ~~notice of intent within 15 days after receipt of the notice.~~
817 ~~(10) To issue, with the electrical power plant~~
818 ~~certification, any license required pursuant to any federally~~
819 ~~delegated or approved permit program.~~
820 Section 20. Section 403.5055, Florida Statutes, is amended
821 to read:
822 403.5055 Application for permits pursuant to s.
823 403.0885.--In processing applications for permits pursuant to s.
824 403.0885 that are associated with applications for electrical
825 power plant certification:
826 (1) The procedural requirements set forth in 40 C.F.R. s.
827 123.25, including public notice, public comments, and public
828 hearings, shall be closely coordinated with the certification
829 process established under this part. In the event of a conflict
830 between the certification process and federally required
831 procedures for NPDES permit issuance, the applicable federal
832 requirements shall control.
833 ~~(2) The department's proposed action pursuant to 40 C.F.R.~~
834 ~~s. 124.6, including any draft NPDES permit (containing the~~
835 ~~information required under 40 C.F.R. s. 124.6(d)), shall within~~
836 ~~130 days after the submittal of a complete application be~~
837 ~~publicly noticed and transmitted to the United States~~
838 ~~Environmental Protection Agency for its review pursuant to 33~~
839 ~~U.S.C. s. 1342(d).~~
840 (2)~~(3)~~ If available at the time the department issues its
841 project analysis pursuant to s. 403.507(3), the department shall
842 include in its project analysis ~~written analysis pursuant to s.~~
843 ~~403.507(3)~~ copies of the department's proposed action pursuant
844 to 40 C.F.R. s. 124.6 on any application for a NPDES permit; any
845 corresponding comments received from the United States

846 Environmental Protection Agency, the applicant, or the general
847 public; and the department's response to those comments.
848 (3) ~~(4)~~ The department shall not issue or deny the permit
849 pursuant to s. 403.0885 in advance of the issuance of the
850 electric power plant certification under this part unless
851 required to do so by the provisions of federal law. When
852 possible, any hearing on a permit issued pursuant to s.
853 403.0885, shall be conducted in conjunction with the
854 certification hearing held pursuant to this act. The
855 department's actions on an NPDES permit shall be based on the
856 record and recommended order of the certification hearing, if
857 the hearing on the NPDES was conducted in conjunction with the
858 certification hearing, and of any other proceeding held in
859 connection with the application for an NPDES permit, timely
860 public comments received with respect to the application, and
861 the provisions of federal law. The department's action on an
862 NPDES permit, if issued, shall differ from the actions taken by
863 the siting board regarding the certification order if federal
864 laws and regulations require different action to be taken to
865 ensure compliance with the Clean Water Act, as amended, and
866 implementing regulations. Nothing in this part shall be
867 construed to displace the department's authority as the final
868 permitting entity under the federally approved state NPDES
869 program. Nothing in this part shall be construed to authorize
870 the issuance of a state NPDES permit which does not conform to
871 the requirements of the federally approved state NPDES program.
872 ~~The permit, if issued, shall be valid for no more than 5 years.~~
873 ~~(5) The department's action on an NPDES permit renewal, if~~
874 ~~issued, shall differ from the actions taken by the siting board~~
875 ~~regarding the certification order if federal laws and~~
876 ~~regulations require different action to be taken to ensure~~

877 ~~compliance with the Clean Water Act, as amended, and~~
878 ~~implementing regulations.~~
879 Section 21. Section 403.506, Florida Statutes, is amended
880 to read:
881 403.506 Applicability, thresholds, and certification.--
882 (1) The provisions of this act shall apply to any
883 electrical power plant as defined herein, except that the
884 provisions of this act shall not apply to any electrical power
885 plant or steam generating plant of less than 75 megawatts in
886 capacity or to any substation to be constructed as part of an
887 associated transmission line unless the applicant has elected to
888 apply for certification of such plant or substation under this
889 act. The provisions of this act shall not apply to any unit
890 capacity expansion of 35 megawatts or less of an existing
891 exothermic reaction cogeneration unit that was exempt from this
892 act when it was originally built, however, this exemption shall
893 not apply if the unit uses oil or natural gas for purposes other
894 than unit start up. No construction of any new electrical power
895 plant or expansion in steam generating capacity as measured by
896 an increase in the maximum electrical generator rating of any
897 existing electrical power plant may be undertaken after October
898 1, 1973, without first obtaining certification in the manner as
899 herein provided, except that this act shall not apply to any
900 such electrical power plant which is presently operating or
901 under construction or which has, upon the effective date of
902 chapter 73-33, Laws of Florida, applied for a permit or
903 certification under requirements in force prior to the effective
904 date of such act.
905 (2) Except as provided in the certification, modification
906 of nonnuclear fuels, internal related hardware, including
907 increases in steam turbine efficiency, or operating conditions

908 not in conflict with certification which increase the electrical
909 output of a unit to no greater capacity than the maximum
910 electrical generator rating ~~operating capacity~~ of the existing
911 generator shall not constitute an alteration or addition to
912 generating capacity which requires certification pursuant to
913 this act.
914 ~~(3) The application for any related department license~~
915 ~~which is required pursuant to any federally delegated or~~
916 ~~approved permit program shall be processed within the time~~
917 ~~periods allowed by this act, in lieu of those specified in s.~~
918 ~~120.60. However, permits issued pursuant to s. 403.0885 shall be~~
919 ~~processed in accordance with 40 C.F.R. part 123.~~
920 Section 22. Section 403.5064, Florida Statutes, is amended
921 to read:
922 403.5064 Application ~~Distribution of application~~;
923 schedules.--
924 (1) The formal date of certification application filing
925 and commencement of the certification review process shall be
926 when the applicant submits:
927 (a) Copies of the certification application in a quantity
928 and format as prescribed by rule to the department and other
929 agencies identified in s. 403.507(2)(a).
930 (b) The application fee specified under s. 403.518 to the
931 department.
932 (2) ~~(1)~~ Within 7 days after the filing of an application,
933 the department shall provide to the applicant and the Division
934 of Administrative Hearings the names and addresses of any
935 additional ~~those affected or other~~ agencies or persons entitled
936 to notice and copies of the application and any amendments.
937 Copies of the application shall be distributed within 5 days by
938 the applicant to these additional agencies. This distribution

939 shall not be a basis for altering the schedule of dates for the
940 certification process.
941 (3) Any amendment to the application made prior to
942 certification shall be disposed of as part of the original
943 certification proceeding. Amendment of the application may be
944 considered good cause for alteration of time limits pursuant to
945 s. 403.5095.
946 (4) ~~(2)~~ Within 7 days after the application filing
947 ~~completeness has been determined~~, the department shall prepare a
948 proposed schedule of dates for determination of completeness,
949 submission of statements of issues, ~~determination of~~
950 ~~sufficiency, and~~ submittal of final reports, ~~from affected and~~
951 ~~other agencies~~ and other significant dates to be followed during
952 the certification process, including dates for filing notices of
953 appearance to be a party pursuant to s. 403.508(3) ~~(4)~~. This
954 schedule shall be timely provided by the department to the
955 applicant, the administrative law judge, all agencies identified
956 pursuant to subsection (2) ~~(1)~~, and all parties. Within 7 days
957 after the filing of this proposed schedule, the administrative
958 law judge shall issue an order establishing a schedule for the
959 matters addressed in the department's proposed schedule and
960 other appropriate matters, if any.
961 (5) ~~(3) Within 7 days after completeness has been~~
962 ~~determined, the applicant shall distribute copies of the~~
963 ~~application to all agencies identified by the department~~
964 ~~pursuant to subsection (1).~~ Copies of changes and amendments to
965 the application shall be timely distributed by the applicant to
966 all ~~affected~~ agencies and parties who have received a copy of
967 the application.
968 (6) Notice of the filing of the application shall be
969 published in accordance with the requirements of s. 403.5115.

970 Section 23. Section 403.5065, Florida Statutes, is amended
971 to read:
972 403.5065 Appointment of administrative law judge, powers
973 and duties.--
974 (1) Within 7 days after receipt of an application, ~~whether~~
975 ~~complete or not,~~ the department shall request the Division of
976 Administrative Hearings to designate an administrative law judge
977 to conduct the hearings required by this act. The division
978 director shall designate an administrative law judge within 7
979 days after receipt of the request from the department. In
980 designating an administrative law judge for this purpose, the
981 division director shall, whenever practicable, assign an
982 administrative law judge who has had prior experience or
983 training in electrical power plant site certification
984 proceedings. Upon being advised that an administrative law judge
985 has been appointed, the department shall immediately file a copy
986 of the application and all supporting documents with the
987 designated administrative law judge, who shall docket the
988 application.
989 (2) The administrative law judge shall have all powers and
990 duties granted to administrative law judges by chapter 120 and
991 by the laws and rules of the department.
992 Section 24. Section 403.5066, Florida Statutes, is amended
993 to read:
994 403.5066 Determination of completeness.--
995 (1)(a) Within 30 days after filing of an application,
996 affected agencies shall file a statement with the department
997 containing each agency's recommendations on the completeness of
998 the application.
999 (b) Within 40 ~~15~~ days after the filing ~~receipt~~ of an
1000 application, the department shall file a statement with the

1001 Division of Administrative Hearings, ~~and~~ with the applicant, and
1002 with all parties declaring its position with regard to the
1003 completeness~~, not the sufficiency,~~ of the application. The
1004 department's statement shall be based upon consultation with the
1005 affected agencies.
1006 (2) ~~(1)~~ If the department declares the application to be
1007 incomplete, the applicant, within 15 days after the filing of
1008 the statement by the department, shall file with the Division of
1009 Administrative Hearings, ~~and~~ with the department, and all
1010 parties ~~a statement~~:
1011 (a) A withdrawal of ~~Agreeing with the statement of the~~
1012 ~~department and withdrawing~~ the application;
1013 (b) A statement agreeing to supply the additional
1014 information necessary to make the application complete. Such
1015 additional information shall be provided within 30 days of the
1016 issuance of the department's statement on completeness of the
1017 application. The time schedules under this act shall not be
1018 tolled if the applicant makes the application complete within 30
1019 days of the issuance of the department's statement on
1020 completeness of the application. A subsequent finding by the
1021 department that the application remains incomplete, based upon
1022 the additional information submitted by the applicant or upon
1023 the failure of the applicant to timely submit the additional
1024 information, tolls the time schedules under this act until the
1025 application is determined complete; ~~Agreeing with the statement~~
1026 ~~of the department and agreeing to amend the application without~~
1027 ~~withdrawing it. The time schedules referencing a complete~~
1028 ~~application under this act shall not commence until the~~
1029 ~~application is determined complete; or~~

1030 (c) A statement contesting the department's determination
1031 of incompleteness; or ~~contesting the statement of the~~
1032 ~~department.~~
1033 (d) A statement agreeing with the department and
1034 requesting additional time beyond 30 days to provide the
1035 information necessary to make the application complete. If the
1036 applicant exercises this option, the time schedules under this
1037 act are tolled until the application is determined complete.
1038 (3)(a) ~~(2)~~ If the applicant contests the determination by
1039 the department that an application is incomplete, the
1040 administrative law judge shall schedule a hearing on the
1041 statement of completeness. The hearing shall be held as
1042 expeditiously as possible, but not later than 21 ~~30~~ days after
1043 the filing of the statement by the department. The
1044 administrative law judge shall render a decision within 7 ~~10~~
1045 days after the hearing.
1046 (b) Parties to a hearing on the issue of completeness
1047 shall include the applicant, the department, and any agency that
1048 has jurisdiction over the matter in dispute.
1049 (c) ~~(a)~~ If the administrative law judge determines that the
1050 application was not complete ~~as filed~~, the applicant shall
1051 withdraw the application or make such additional submittals as
1052 necessary to complete it. The time schedules referencing a
1053 complete application under this act shall not commence until the
1054 application is determined complete.
1055 (d) ~~(b)~~ If the administrative law judge determines that the
1056 application was complete at the time it was declared incomplete
1057 ~~filed~~, the time schedules referencing a complete application
1058 under this act shall commence upon such determination.
1059 (4) If the applicant provides additional information to
1060 address the issues identified in the determination of

1061 incompleteness, each affected agency may submit to the
1062 department, no later than 15 days after the applicant files the
1063 additional information, a recommendation on whether the agency
1064 believes the application is complete. Within 22 days after
1065 receipt of the additional information from the applicant
1066 submitted under paragraph (2)(b), paragraph (2)(d), or paragraph
1067 (3)(c), the department shall determine whether the additional
1068 information supplied by an applicant makes the application
1069 complete. If the department finds that the application is still
1070 incomplete, the applicant may exercise any of the options
1071 specified in subsection (2) as often as is necessary to resolve
1072 the dispute.
1073 Section 25. Section 403.50663, Florida Statutes, is
1074 created to read:
1075 403.50663 Informational public meetings.--
1076 (1) A local government within whose jurisdiction the power
1077 plant is proposed to be sited, may hold one informational public
1078 meeting in addition to the hearings specifically authorized by
1079 this act on any matter associated with the electric power plant
1080 proceeding. Such informational public meetings shall be held by
1081 the local government, or the regional planning council, if the
1082 local government does not hold such meeting within 70 days of
1083 the filing of the application. The purpose of an informational
1084 public meeting is for the local government or regional planning
1085 council to further inform the public about the proposed electric
1086 power plant or associated facilities, obtain comments from the
1087 public, and formulate its recommendation with respect to the
1088 proposed electric power plant.
1089 (2) Informational public meetings shall be held solely at
1090 the option of each local government or regional planning council
1091 if a public meeting is not held by the local government. It is

1092 the legislative intent that local governments or regional
1093 planning councils attempt to hold such public meetings. Parties
1094 to the proceedings under this act shall be encouraged to attend;
1095 however, no party other than the applicant and the department
1096 shall be required to attend such informational public meetings.
1097 (3) A local government or regional planning council that
1098 intends to conduct an informational public meeting must provide
1099 notice of the meeting to all parties not less than 5 days prior
1100 to the meeting.
1101 (4) The failure to hold an informational public meeting or
1102 the procedure used for the informational public meeting are not
1103 grounds for the alteration of any time limitation in this act
1104 under s. 403.5095 or grounds to deny or condition certification.
1105 Section 26. Section 403.50665, Florida Statutes, is
1106 created to read:
1107 403.50665 Land use consistency.--
1108 (1) The applicant shall include in the application a
1109 statement on the consistency of the site or any directly
1110 associated facilities with existing land use plans and zoning
1111 ordinances which were in effect on the date the application was
1112 filed, and a full description of such consistency.
1113 (2) Within 80 days of the filing of the application, each
1114 local government shall file a determination with the Department,
1115 the applicant, the administrative law judge, and all parties on
1116 the consistency of the site or any directly associated
1117 facilities with existing land use plans and zoning ordinances
1118 which were in effect on the date the application was filed,
1119 based on the information provided in the application. The
1120 applicant shall publish notice of the consistency determination
1121 in accordance with the requirements of s. 403.5115.

1122 (3) If any substantially affected person wishes to dispute
1123 the local government's determination, he or she shall file a
1124 petition with the department within 15 days of the publication
1125 of notice of the local government's determination. If a hearing
1126 is requested, the provisions of s. 403.508(1) shall apply.
1127 (4) The dates in this section may be altered upon
1128 agreement between the applicant, the local government, and the
1129 department pursuant to s. 403.5095.
1130 (5) If it is determined by the local government that the
1131 proposed site or directly associated facility does conform with
1132 existing land use plans and zoning ordinances in effect as of
1133 the date of the application and no petition has been filed, the
1134 responsible zoning or planning authority shall not thereafter
1135 change such land use plans or zoning ordinances so as to
1136 foreclose construction and operation of the proposed site or
1137 directly associated facilities unless certification is
1138 subsequently denied or withdrawn.
1139 Section 27. Section 403.5067, Florida Statutes, is
1140 repealed.
1141 Section 28. Section 403.507, Florida Statutes, is amended
1142 to read:
1143 403.507 Preliminary statements of issues, reports, project
1144 analyses, and studies.--
1145 (1) Each affected agency identified in paragraph (2)(a)
1146 shall submit a preliminary statement of issues to the
1147 department, ~~and~~ the applicant, and all parties no later than 40
1148 ~~60~~ days after the certification application has been determined
1149 ~~distribution of the~~ complete ~~application~~. The failure to raise
1150 an issue in this statement shall not preclude the issue from
1151 being raised in the agency's report.

1152 (2)(a) No later than 100 days after the certification
1153 application has been determined complete, the following
1154 agencies shall prepare reports as provided below and shall
1155 submit them to the department and the applicant ~~within 150 days~~
1156 ~~after distribution of the complete application~~:
1157 1. The Department of Community Affairs shall prepare a
1158 report containing recommendations which address the impact upon
1159 the public of the proposed electrical power plant, based on the
1160 degree to which the electrical power plant is consistent with
1161 the applicable portions of the state comprehensive plan,
1162 emergency management, and other such matters within its
1163 jurisdiction. The Department of Community Affairs may also
1164 comment on the consistency of the proposed electrical power
1165 plant with applicable strategic regional policy plans or local
1166 comprehensive plans and land development regulations.
1167 ~~2. The Public Service Commission shall prepare a report as~~
1168 ~~to the present and future need for the electrical generating~~
1169 ~~capacity to be supplied by the proposed electrical power plant.~~
1170 ~~The report shall include the commission's determination pursuant~~
1171 ~~to s. 403.519 and may include the commission's comments with~~
1172 ~~respect to any other matters within its jurisdiction.~~
1173 2.~~3.~~ The water management district shall prepare a report
1174 as to matters within its jurisdiction, including but not limited
1175 to, impact on water resources, impact on regional water supply
1176 planning, and impact on district-owned lands and works.
1177 3.~~4.~~ Each local government in whose jurisdiction the
1178 proposed electrical power plant is to be located shall prepare a
1179 report as to the consistency of the proposed electrical power
1180 plant with all applicable local ordinances, regulations,
1181 standards, or criteria that apply to the proposed electrical
1182 power plant, including ~~adopted local comprehensive plans, land~~

1183 ~~development regulations, and~~ any applicable local environmental
1184 regulations adopted pursuant to s. 403.182 or by other means.
1185 4.~~5.~~ The Fish and Wildlife Conservation Commission shall
1186 prepare a report as to matters within its jurisdiction.
1187 5.~~6.~~ Each ~~The~~ regional planning council shall prepare a
1188 report containing recommendations that address the impact upon
1189 the public of the proposed electrical power plant, based on the
1190 degree to which the electrical power plant is consistent with
1191 the applicable provisions of the strategic regional policy plan
1192 adopted pursuant to chapter 186 and other matters within its
1193 jurisdiction.
1194 6. The Department of Transportation shall address the
1195 impact of the proposed power plant on matters within its
1196 jurisdiction.
1197 (b)~~7.~~ Any other agency, if requested by the department,
1198 shall also perform studies or prepare reports as to matters
1199 within that agency's jurisdiction which may potentially be
1200 affected by the proposed electrical power plant.
1201 ~~(b) As needed to verify or supplement the studies made by~~
1202 ~~the applicant in support of the application, it shall be the~~
1203 ~~duty of the department to conduct, or contract for, studies of~~
1204 ~~the proposed electrical power plant and site, including, but not~~
1205 ~~limited to, the following, which shall be completed no later~~
1206 ~~than 210 days after the complete application is filed with the~~
1207 ~~department:~~
1208 ~~1. Cooling system requirements.~~
1209 ~~2. Construction and operational safeguards.~~
1210 ~~3. Proximity to transportation systems.~~
1211 ~~4. Soil and foundation conditions.~~
1212 ~~5. Impact on suitable present and projected water supplies~~
1213 ~~for this and other competing uses.~~

1214 ~~6. Impact on surrounding land uses.~~
1215 ~~7. Accessibility to transmission corridors.~~
1216 ~~8. Environmental impacts.~~
1217 ~~9. Requirements applicable under any federally delegated~~
1218 ~~or approved permit program.~~
1219 (3) ~~(c)~~ Each report described in subsection (2) ~~paragraphs~~
1220 ~~(a) and (b)~~ shall contain:
1221 (a) A notice of any nonprocedural requirements not
1222 specifically listed in the application from which a variance,
1223 exemption, exception, ~~all information on variances, exemptions,~~
1224 ~~exceptions,~~ or other relief is necessary in order for the
1225 proposed electric power plant to be certified. Failure of such
1226 notification by an agency shall be treated as a waiver from
1227 nonprocedural requirements of that agency. However, no variance
1228 shall be granted from standards or regulations of the department
1229 applicable under any federally delegated or approved permit
1230 program, except as expressly allowed in such program. ~~which may~~
1231 ~~be required by s. 403.511(2) and~~
1232 (b) A recommendation for approval or denial of the
1233 application.
1234 (c) Any proposed conditions of certification on matters
1235 within the jurisdiction of such agency. For each condition
1236 proposed by an agency in its report, the agency shall list the
1237 specific statute, rule, or ordinance which authorizes the
1238 proposed condition.
1239 (d) The agencies shall initiate the activities required by
1240 this section no later than 30 days after the complete
1241 application is distributed. The agencies shall keep the
1242 applicant and the department informed as to the progress of the
1243 studies and any issues raised thereby.

1244 ~~(3) No later than 60 days after the application for a~~
1245 ~~federally required new source review or prevention of~~
1246 ~~significant deterioration permit for the electrical power plant~~
1247 ~~is complete and sufficient, the department shall issue its~~
1248 ~~preliminary determination on such permit. Notice of such~~
1249 ~~determination shall be published as required by the department's~~
1250 ~~rules for notices of such permits. The department shall receive~~
1251 ~~public comments and comments from the United States~~
1252 ~~Environmental Protection Agency and other affected agencies on~~
1253 ~~the preliminary determination as provided for in the federally~~
1254 ~~approved state implementation plan. The department shall~~
1255 ~~maintain a record of all comments received and considered in~~
1256 ~~taking action on such permits. If a petition for an~~
1257 ~~administrative hearing on the department's preliminary~~
1258 ~~determination is filed by a substantially affected person, that~~
1259 ~~hearing shall be consolidated with the certification hearing.~~
1260 (4)(a) No later than 150 days after the application is
1261 filed, the Public Service Commission shall prepare a report as
1262 to the present and future need for electric generating capacity
1263 to be supplied by the proposed electrical power plant. The
1264 report shall include the commission's determination pursuant to
1265 s. 403.519 and may include the commission's comments with
1266 respect to any other matters within its jurisdiction.
1267 (b) Receipt of an affirmative determination of need by the
1268 submittal deadline under paragraph (a) and shall be a condition
1269 precedent to issuance of the department's project analysis and
1270 conduct of the certification hearing.
1271 (5) ~~(4)~~ The department shall prepare a project ~~written~~
1272 analysis, which shall be filed with the designated
1273 administrative law judge and served on all parties no later than
1274 130 ~~240~~ days after the ~~complete~~ application is determined

1275 complete ~~filed with the department, but no later than 60 days~~
1276 ~~prior to the hearing~~, and which shall include:
1277 (a) A statement indicating whether the proposed electrical
1278 power plant and proposed ultimate site capacity will be in
1279 compliance and consistent with matters within the department's
1280 standard jurisdiction, including ~~with~~ the rules of the
1281 department, as well as whether the proposed electrical power
1282 plant and proposed ultimate site capacity will be in compliance
1283 with the nonprocedural requirements of the affected agencies.
1284 (b) Copies of the studies and reports required by this
1285 section ~~and s. 403.519~~.
1286 (c) The comments received by the department from any other
1287 agency or person.
1288 (d) The recommendation of the department as to the
1289 disposition of the application, of variances, exemptions,
1290 exceptions, or other relief identified by any party, and of any
1291 proposed conditions of certification which the department
1292 believes should be imposed.
1293 (e) If available, the recommendation of the department
1294 regarding the issuance of any license required pursuant to a
1295 federally delegated or approved permit program.
1296 ~~(f) Copies of the department's draft of the operation~~
1297 ~~permit for a major source of air pollution, which must also be~~
1298 ~~provided to the United States Environmental Protection Agency~~
1299 ~~for review within 5 days after issuance of the written analysis.~~
1300 (6) ~~(5)~~ Except when good cause is shown, the failure of any
1301 agency to submit a preliminary statement of issues or a report,
1302 or to submit its preliminary statement of issues or report
1303 within the allowed time, shall not be grounds for the alteration
1304 of any time limitation in this act. Neither the failure to
1305 submit a preliminary statement of issues or a report nor the

1306 inadequacy of the preliminary statement of issues or report are
1307 ~~shall be~~ grounds to deny or condition certification.
1308 Section 29. Section 403.508, Florida Statutes, is amended
1309 to read:
1310 403.508 Land use and certification hearings ~~proceedings~~,
1311 parties, participants.--
1312 (1)(a) If a petition for a hearing on land use has been
1313 filed pursuant to s. 403.50665, the designated administrative
1314 law judge shall conduct a land use hearing in the county of the
1315 proposed site or directly associated facility, as applicable, as
1316 expeditiously as possible, but not later than 30 ~~within 90~~ days
1317 after the department's receipt of the petition ~~a complete~~
1318 ~~application for electrical power plant site certification by the~~
1319 ~~department~~. The place of such hearing shall be as close as
1320 possible to the proposed site or directly associated facility.
1321 If a petition is filed, the hearing shall be held regardless of
1322 the status of the completeness of the application. However,
1323 incompleteness of information necessary for a local government
1324 to evaluate an application may be claimed by the local
1325 government as cause for a statement of inconsistency with
1326 existing land use plans and zoning ordinances under s.
1327 403.50665.
1328 (b) Notice of the land use hearing shall be published in
1329 accordance with the requirements of s. 403.5115.
1330 (c)~~(2)~~ The sole issue for determination at the land use
1331 hearing shall be whether or not the proposed site is consistent
1332 and in compliance with existing land use plans and zoning
1333 ordinances. If the administrative law judge concludes that the
1334 proposed site is not consistent or in compliance with existing
1335 land use plans and zoning ordinances, the administrative law
1336 judge shall receive at the hearing evidence on, and address in

1337 the recommended order any changes to, or approvals or variances
1338 under the applicable land use plans or zoning ordinances which
1339 will render the proposed site consistent and in compliance with
1340 the local land use plans and zoning ordinances.
1341 (d) The designated administrative law judge's recommended
1342 order shall be issued within 30 days after completion of the
1343 hearing and shall be reviewed by the board within 60 ~~45~~ days
1344 after receipt of the recommended order by the board.
1345 (e) If it is determined by the board that the proposed
1346 site does conform with existing land use plans and zoning
1347 ordinances in effect as of the date of the application, or as
1348 otherwise provided by this act, the responsible zoning or
1349 planning authority shall not thereafter change such land use
1350 plans or zoning ordinances so as to foreclose construction and
1351 operation of ~~affect~~ the proposed power plant on the proposed
1352 site or directly associated facilities unless certification is
1353 subsequently denied or withdrawn.
1354 (f) If it is determined by the board that the proposed
1355 site does not conform, with existing land use plans and zoning
1356 ordinances, ~~it shall be the responsibility of the applicant to~~
1357 ~~make the necessary application for rezoning. Should the~~
1358 ~~application for rezoning be denied, the applicant may appeal~~
1359 ~~this decision to~~ the board~~, which may~~, if it determines after
1360 notice and hearing and upon consideration of the recommended
1361 order on land use and zoning issues that it is in the public
1362 interest to authorize the use of the land as a site for an
1363 electrical power plant, authorize an amendment, rezoning,
1364 variance, or other approval ~~a variance~~ to the adopted land use
1365 plan and zoning ordinances required to render the proposed site
1366 consistent with local land use plans and zoning ordinances. The
1367 board's action shall not be controlled by any other procedural

1368 requirements of law. In the event a variance or other approval
1369 is denied, by the board, it shall be the responsibility of the
1370 applicant to make the necessary application for any approvals
1371 determined by the board as required to make the proposed site
1372 consistent and in compliance with local land use plans and
1373 zoning ordinances. No further action may be taken on the
1374 complete application ~~by the department~~ until the proposed site
1375 conforms to the adopted land use plan or zoning ordinances or
1376 the board grants relief as provided under this act.
1377 (2)(a) ~~(3)~~ A certification hearing shall be held by the
1378 designated administrative law judge no later than 265 ~~300~~ days
1379 after the ~~complete~~ application is filed with the department~~;~~
1380 ~~however, an affirmative determination of need by the Public~~
1381 ~~Service Commission pursuant to s. 403.519 shall be a condition~~
1382 ~~precedent to the conduct of the certification hearing~~. The
1383 certification hearing shall be held at a location in proximity
1384 to the proposed site. ~~The certification hearing shall also~~
1385 ~~constitute the sole hearing allowed by chapter 120 to determine~~
1386 ~~the substantial interest of a party regarding any required~~
1387 ~~agency license or any related permit required pursuant to any~~
1388 ~~federally delegated or approved permit program.~~ At the
1389 conclusion of the certification hearing, the designated
1390 administrative law judge shall, after consideration of all
1391 evidence of record, submit to the board a recommended order no
1392 later than 45~~60~~ days after the filing of the hearing transcript.
1393 ~~In the event the administrative law judge fails to issue a~~
1394 ~~recommended order within 60 days after the filing of the hearing~~
1395 ~~transcript, the administrative law judge shall submit a report~~
1396 ~~to the board with a copy to all parties within 60 days after the~~
1397 ~~filing of the hearing transcript to advise the board of the~~

1398 ~~reason for the delay in the issuance of the recommended order~~
1399 ~~and of the date by which the recommended order will be issued.~~
1400 (b) Notice of the certification hearing and notice of the
1401 deadline for filing of notice of intent to be a party shall be
1402 made in accordance with the requirements of s. 403.5115.
1403 (3)(a) ~~(4)(a)~~ Parties to the proceeding shall include:
1404 1. The applicant.
1405 2. The Public Service Commission.
1406 3. The Department of Community Affairs.
1407 4. The Fish and Wildlife Conservation Commission.
1408 5. The water management district.
1409 6. The department.
1410 7. The regional planning council.
1411 8. The local government.
1412 9. The Department of Transportation.
1413 (b) Any party listed in paragraph (a) other than the
1414 department or the applicant may waive its right to participate
1415 in these proceedings. If such listed party fails to file a
1416 notice of its intent to be a party on or before the 90th day
1417 prior to the certification hearing, such party shall be deemed
1418 to have waived its right to be a party.
1419 (c) Notwithstanding the provisions of chapter 120 to the
1420 contrary, upon the filing with the administrative law judge of a
1421 notice of intent to be a party no later than 75 days after the
1422 application is filed ~~at least 15 days prior to the date of the~~
1423 ~~land use hearing~~, the following shall also be parties to the
1424 proceeding:
1425 1. Any agency not listed in paragraph (a) as to matters
1426 within its jurisdiction.
1427 2. Any domestic nonprofit corporation or association
1428 formed, in whole or in part, to promote conservation or natural

1429 beauty; to protect the environment, personal health, or other
1430 biological values; to preserve historical sites; to promote
1431 consumer interests; to represent labor, commercial, or
1432 industrial groups; or to promote comprehensive planning or
1433 orderly development of the area in which the proposed electrical
1434 power plant is to be located.
1435 (d) Notwithstanding paragraph (e), failure of an agency
1436 described in subparagraph (c)1. to file a notice of intent to be
1437 a party within the time provided herein shall constitute a
1438 waiver of the right of that agency to participate as a party in
1439 the proceeding.
1440 (e) Other parties may include any person, including those
1441 persons enumerated in paragraph (c) who have failed to timely
1442 file a notice of intent to be a party, whose substantial
1443 interests are affected and being determined by the proceeding
1444 and who timely file a motion to intervene pursuant to chapter
1445 120 and applicable rules. Intervention pursuant to this
1446 paragraph may be granted at the discretion of the designated
1447 administrative law judge and upon such conditions as he or she
1448 may prescribe any time prior to 30 days before the commencement
1449 of the certification hearing.
1450 (f) Any agency, including those whose properties or works
1451 are being affected pursuant to s. 403.509(4), shall be made a
1452 party upon the request of the department or the applicant.
1453 <u>(4)(a) The order of presentation at the certification</u>
1454 <u>hearing, unless otherwise changed by the administrative law</u>
1455 <u>judge to ensure the orderly presentation of witnesses and</u>
1456 <u>evidence, shall be:</u>
1457 <u>1. The applicant.</u>
1458 <u>2. The department.</u>
1459 <u>3. State agencies.</u>

1460 4. Regional agencies, including regional planning councils
1461 and water management districts.
1462 5. Local governments.
1463 6. Other parties.
1464 (b) ~~(5)~~ When appropriate, any person may be given an
1465 opportunity to present oral or written communications to the
1466 designated administrative law judge. If the designated
1467 administrative law judge proposes to consider such
1468 communications, then all parties shall be given an opportunity
1469 to cross-examine or challenge or rebut such communications.
1470 (5) At the conclusion of the certification hearing, the
1471 designated administrative law judge shall, after consideration
1472 of all evidence of record, submit to the board a recommended
1473 order no later than 45 days after the filing of the hearing
1474 transcript.
1475 (6)(a) No earlier than 29 days prior to the conduct of
1476 the certification hearing, the department or the applicant may
1477 request that the administrative law judge cancel the
1478 certification hearing and relinquish jurisdiction to the
1479 department if all parties to the proceeding stipulate that there
1480 are no disputed issues of fact or law to be raised at the
1481 certification hearing, and if sufficient time remains for the
1482 applicant and the department to publish public notices of the
1483 cancellation of the hearing at least 3 days prior to the
1484 scheduled date of the hearing.
1485 (b) The administrative law judge shall issue an order
1486 granting or denying the request within 5 days.
1487 (c) If the administrative law judge grants the request,
1488 the department and the applicant shall publish notices of the
1489 cancellation of the certification hearing, in accordance with s.
1490 403.5115.

1491 (d)1. If the administrative law judge grants the request,
1492 the department shall prepare and issue a final order in
1493 accordance with s. 403.509(1)(a).
1494 2. Parties may submit proposed recommended orders to the
1495 department no later than 10 days after the administrative law
1496 judge issues an order relinquishing jurisdiction.
1497 (7) The applicant shall pay those expenses and costs
1498 associated with the conduct of the hearings and the recording
1499 and transcription of the proceedings.
1500 ~~(6) The designated administrative law judge shall have all~~
1501 ~~powers and duties granted to administrative law judges by~~
1502 ~~chapter 120 and this chapter and by the rules of the department~~
1503 ~~and the Administration Commission, including the authority to~~
1504 ~~resolve disputes over the completeness and sufficiency of an~~
1505 ~~application for certification.~~
1506 ~~(7) The order of presentation at the certification~~
1507 ~~hearing, unless otherwise changed by the administrative law~~
1508 ~~judge to ensure the orderly presentation of witnesses and~~
1509 ~~evidence, shall be:~~
1510 ~~(a) The applicant.~~
1511 ~~(b) The department.~~
1512 ~~(c) State agencies.~~
1513 ~~(d) Regional agencies, including regional planning~~
1514 ~~councils and water management districts.~~
1515 ~~(e) Local governments.~~
1516 ~~(f) Other parties.~~
1517 (8) In issuing permits under the federally approved new
1518 source review or prevention of significant deterioration permit
1519 program, the department shall observe the procedures specified
1520 under the federally approved state implementation plan,
1521 including public notice, public comment, public hearing, and

1522 notice of applications and amendments to federal, state, and
1523 local agencies, to assure that all such permits issued in
1524 coordination with the certification of a power plant under this
1525 act are federally enforceable and are issued after opportunity
1526 for informed public participation regarding the terms and
1527 conditions thereof. When possible, any hearing on a federally
1528 approved or delegated program permit such as new source review,
1529 prevention of significant deterioration permit, or NPDES permit
1530 shall be conducted in conjunction with the certification hearing
1531 held under this act. ~~The department shall accept written comment~~
1532 ~~with respect to an application for, or the department's~~
1533 ~~preliminary determination on, a new source review or prevention~~
1534 ~~of significant deterioration permit for a period of no less than~~
1535 ~~30 days from the date notice of such action is published. Upon~~
1536 ~~request submitted within 30 days after published notice, the~~
1537 ~~department shall hold a public meeting, in the area affected,~~
1538 ~~for the purpose of receiving public comment on issues related to~~
1539 ~~the new source review or prevention of significant deterioration~~
1540 ~~permit. If requested following notice of the department's~~
1541 ~~preliminary determination, the public meeting to receive public~~
1542 ~~comment shall be held prior to the scheduled certification~~
1543 ~~hearing. The department shall also solicit comments from the~~
1544 ~~United States Environmental Protection Agency and other affected~~
1545 ~~federal agencies regarding the department's preliminary~~
1546 ~~determination for any federally required new source review or~~
1547 ~~prevention of significant deterioration permit.~~ It is the intent
1548 of the Legislature that the review, processing, and issuance of
1549 such federally delegated or approved permits be closely
1550 coordinated with the certification process established under
1551 this part. In the event of a conflict between the certification
1552 process and federally required procedures ~~contained in the state~~

1553 ~~implementation plan,~~ the applicable federal requirements ~~of the~~
1554 ~~implementation plan~~ shall control.
1555 Section 30. Section 403.509, Florida Statutes, is amended
1556 to read:
1557 403.509 Final disposition of application.--
1558 (1)(a) If the administrative law judge has granted a
1559 request to cancel the certification hearing and has relinquished
1560 jurisdiction to the department under the provisions of s.
1561 403.508(6), within 40 days thereafter, the secretary of the
1562 department shall act upon the application by written order in
1563 accordance with the terms of this act, and the stipulation of
1564 the parties in requesting cancellation of the certification
1565 hearing.
1566 (b) If the administrative law judge has not granted a
1567 request to cancel the certification hearing under the provisions
1568 of s. 403.508(6), within 60 days after receipt of the designated
1569 administrative law judge's recommended order, the board shall
1570 act upon the application by written order, approving
1571 ~~certification~~ or denying certification ~~the issuance of a~~
1572 ~~certificate~~, in accordance with the terms of this act, and
1573 stating the reasons for issuance or denial. If certification ~~the~~
1574 ~~certificate~~ is denied, the board shall set forth in writing the
1575 action the applicant would have to take to secure the board's
1576 approval of the application.
1577 (2) The issues that may be raised in any hearing before
1578 the board shall be limited to those matters raised in the
1579 certification proceeding before the administrative law judge or
1580 raised in the recommended order. All parties, or their
1581 representatives, or persons who appear before the board shall be
1582 subject to the provisions of s. 120.66.

1583 (3) In determining whether an application should be
1584 approved in whole, approved with modifications or conditions, or
1585 denied, the board, or secretary when applicable, shall consider
1586 whether, and the extent to which, the location of electric power
1587 plant and directly associated facilities and their construction
1588 and operation will:
1589 (a) Provide reasonable assurance that operational
1590 safeguards are technically sufficient for the public welfare and
1591 protection.
1592 (b) Comply with applicable nonprocedural requirements of
1593 agencies.
1594 (c) Be consistent with applicable local government
1595 comprehensive plans and land development regulations.
1596 (d) Meet the electrical energy needs of the state in an
1597 orderly and timely fashion.
1598 (e) Provide a reasonable balance between the need for the
1599 facility as established pursuant to s. 403.519, and the impacts
1600 upon air and water quality, fish and wildlife, water resources,
1601 and other natural resources of the state resulting from the
1602 construction and operation of the facility.
1603 (f) Minimize, through the use of reasonable and available
1604 methods, the adverse effects on human health, the environment,
1605 and the ecology of the land and its wildlife and the ecology of
1606 state waters and their aquatic life.
1607 (g) Serve and protect the broad interests of the public.
1608 ~~(3) Within 30 days after issuance of the certification,~~
1609 ~~the department shall issue and forward to the United States~~
1610 ~~Environmental Protection Agency a proposed operation permit for~~
1611 ~~a major source of air pollution and must issue or deny any other~~
1612 ~~license required pursuant to any federally delegated or approved~~
1613 ~~permit program. The department's action on the license and its~~

1614 ~~action on the proposed operation permit for a major source of~~
1615 ~~air pollution shall be based upon the record and recommended~~
1616 ~~order of the certification hearing. The department's actions on~~
1617 ~~a federally required new source review or prevention of~~
1618 ~~significant deterioration permit shall be based on the record~~
1619 ~~and recommended order of the certification hearing and of any~~
1620 ~~other proceeding held in connection with the application for a~~
1621 ~~new source review or prevention of significant deterioration~~
1622 ~~permit, on timely public comments received with respect to the~~
1623 ~~application or preliminary determination for such permit, and on~~
1624 ~~the provisions of the state implementation plan.~~
1625 (4) The department's action on a federally required new
1626 source review or prevention of significant deterioration permit
1627 shall differ from the actions taken by the siting board
1628 regarding the certification if the federally approved state
1629 implementation plan requires such a different action to be taken
1630 by the department. Nothing in this part shall be construed to
1631 displace the department's authority as the final permitting
1632 entity under the federally approved permit program. Nothing in
1633 this part shall be construed to authorize the issuance of a new
1634 source review or prevention of significant deterioration permit
1635 which does not conform to the requirements of the federally
1636 approved state implementation plan. ~~Any final operation permit~~
1637 ~~for a major source of air pollution must be issued in accordance~~
1638 ~~with the provisions of s. 403.0872. Unless the federally~~
1639 ~~delegated or approved permit program provides otherwise,~~
1640 ~~licenses issued by the department under this subsection shall be~~
1641 ~~effective for the term of the certification issued by the board.~~
1642 ~~If renewal of any license issued by the department pursuant to a~~
1643 ~~federally delegated or approved permit program is required, such~~
1644 ~~renewal shall not affect the certification issued by the board,~~

1645 ~~except as necessary to resolve inconsistencies pursuant to s.~~
1646 ~~403.516(1)(a).~~
1647 (4) In regard to the properties and works of any agency
1648 which is a party to the certification hearing, the board shall
1649 have the authority to decide issues relating to the use, the
1650 connection thereto, or the crossing thereof, for the electrical
1651 power plant and its directly associated facilities ~~site~~ and to
1652 direct any such agency to execute, within 30 days after the
1653 entry of certification, the necessary license or easement for
1654 such use, connection, or crossing, subject only to the
1655 conditions set forth in such certification. However, the
1656 applicant shall seek any necessary interest in state lands the
1657 title to which is vested in the Board of Trustees of the
1658 Internal Improvement Trust Fund from the Board of Trustees or
1659 from the governing board of the water management district
1660 created pursuant to chapter 373 before, during, or after the
1661 certification proceeding, and certification may be made
1662 contingent upon issuance of the appropriate interest. Neither
1663 the applicant nor any party to the certification proceeding may
1664 directly or indirectly raise or relitigate any matter that was
1665 or could have been an issue in the certification proceeding in
1666 any proceeding before the Board of Trustees of the Internal
1667 Improvement Trust Fund wherein the applicant is seeking
1668 necessary interest in state lands, but the information presented
1669 in the certification proceeding shall be available for review by
1670 the Board of Trustees and its staff.
1671 (6) ~~(5)~~ Except as specified in subsection (4), ~~for the~~
1672 ~~issuance of any operation permit for a major source of air~~
1673 ~~pollution pursuant to s. 403.0872,~~ the issuance or denial of the
1674 certification by the board or Secretary of the Department ~~and~~
1675 ~~the issuance or denial of any related department license~~

1676 ~~required pursuant to any federally delegated or approved permit~~
1677 ~~program~~ shall be the final administrative action required as to
1678 that application.
1679 ~~(6) All certified electrical power plants must apply for~~
1680 ~~and obtain a major source air-operation permit pursuant to s.~~
1681 ~~403.0872. Major source air-operation permit applications for~~
1682 ~~certified electrical power plants must be submitted pursuant to~~
1683 ~~a schedule developed by the department. To the extent that any~~
1684 ~~conflicting provision, limitation, or restriction under any~~
1685 ~~rule, regulation, or ordinance imposed by any political~~
1686 ~~subdivision of the state, or by any local pollution control~~
1687 ~~program, was superseded during the certification process~~
1688 ~~pursuant to s. 403.510(1), such rule, regulation, or ordinance~~
1689 ~~shall continue to be superseded for purposes of the major source~~
1690 ~~air-operation permit program under s. 403.0872.~~
1691 Section 31. Section 403.511, Florida Statutes, is amended
1692 to read:
1693 403.511 Effect of certification.--
1694 (1) Subject to the conditions set forth therein, any
1695 certification ~~signed by the Governor~~ shall constitute the sole
1696 license of the state and any agency as to the approval of the
1697 site and the construction and operation of the proposed
1698 electrical power plant, except for the issuance of department
1699 licenses required under any federally delegated or approved
1700 permit program and except as otherwise provided in subsection
1701 (4).
1702 (2)(a) The certification shall authorize the licensee
1703 ~~applicant~~ named therein to construct and operate the proposed
1704 electrical power plant, subject only to the conditions of
1705 certification set forth in such certification, and except for

1706 the issuance of department licenses or permits required under
1707 any federally delegated or approved permit program.
1708 (b)1. Except as provided in subsection (4), the
1709 certification may include conditions which constitute variances,
1710 exemptions, or exceptions from nonprocedural requirements of the
1711 department or any agency which were expressly considered during
1712 the proceeding, including but not limited to, any site specific
1713 criteria, standards, or limitations under local land use and
1714 zoning approvals which affect the proposed power plant or its
1715 site, unless waived by the agency as provided below and which
1716 otherwise would be applicable to the construction and operation
1717 of the proposed electrical power plant.
1718 2. No variance, exemption, exception, or other relief
1719 shall be granted from a state statute or rule for the protection
1720 of endangered or threatened species, aquatic preserves,
1721 Outstanding National Resource Waters, or Outstanding Florida
1722 Waters or for the disposal of hazardous waste, except to the
1723 extent authorized by the applicable statute or rule or except
1724 upon a finding in the certification order ~~by the siting board~~
1725 that the public interests set forth in s. 403.509(3) ~~403.502~~ in
1726 certifying the electrical power plant at the site proposed by
1727 the applicant overrides the public interest protected by the
1728 statute or rule from which relief is sought. ~~Each party shall~~
1729 ~~notify the applicant and other parties at least 60 days prior to~~
1730 ~~the certification hearing of any nonprocedural requirements not~~
1731 ~~specifically listed in the application from which a variance,~~
1732 ~~exemption, exception, or other relief is necessary in order for~~
1733 ~~the board to certify any electrical power plant proposed for~~
1734 ~~certification. Failure of such notification by an agency shall~~
1735 ~~be treated as a waiver from nonprocedural requirements of the~~
1736 ~~department or any other agency. However, no variance shall be~~

1737 ~~granted from standards or regulations of the department~~
1738 ~~applicable under any federally delegated or approved permit~~
1739 ~~program, except as expressly allowed in such program.~~
1740 (3) The certification and any order on land use and zoning
1741 issued under this act shall be in lieu of any license, permit,
1742 certificate, or similar document required by any state,
1743 regional, or local agency pursuant to, but not limited to,
1744 chapter 125, chapter 161, chapter 163, chapter 166, chapter 186,
1745 chapter 253, chapter 298, chapter 370, chapter 373, chapter 376,
1746 chapter 380, chapter 381, chapter 387, chapter 403, except for
1747 permits issued pursuant to any federally delegated or approved
1748 permit program ~~s. 403.0885~~ and except as provided in ~~s.~~
1749 ~~403.509(3) and (6),~~ chapter 404~~,~~ or the Florida Transportation
1750 Code~~, or 33 U.S.C. s. 1341~~.
1751 (4) This act shall not affect in any way the ratemaking
1752 powers of the Public Service Commission under chapter 366; nor
1753 shall this act in any way affect the right of any local
1754 government to charge appropriate fees or require that
1755 construction be in compliance with applicable building
1756 construction codes.
1757 (5)(a) An electrical power plant certified pursuant to
1758 this act shall comply with rules adopted by the department
1759 subsequent to the issuance of the certification which prescribe
1760 new or stricter criteria, to the extent that the rules are
1761 applicable to electrical power plants. Except when express
1762 variances, exceptions, exemptions, or other relief have been
1763 granted, subsequently adopted rules which prescribe new or
1764 stricter criteria shall operate as automatic modifications to
1765 certifications.
1766 (b) Upon written notification to the department, any
1767 holder of a certification issued pursuant to this act may choose

1768 to operate the certified electrical power plant in compliance
1769 with any rule subsequently adopted by the department which
1770 prescribes criteria more lenient than the criteria required by
1771 the terms and conditions in the certification which are not
1772 site-specific.
1773 (c) No term or condition of certification shall be
1774 interpreted to preclude the postcertification exercise by any
1775 party of whatever procedural rights it may have under chapter
1776 120, including those related to rulemaking proceedings. This
1777 subsection shall apply to previously issued certifications.
1778 (6) No term or condition of a site certification shall be
1779 interpreted to supersede or control the provisions of a final
1780 operation permit for a major source of air pollution issued by
1781 the department pursuant to s. 403.0872 to such facility
1782 certified under this part.
1783 (7) No term or condition of a site certification shall be
1784 interpreted to supersede or control the provisions of a final
1785 operation permit for a major source of air pollution issued by
1786 the department pursuant to s. 403.0872, to a facility certified
1787 under this part.
1788 (8) Pursuant to s. 380.23, electrical power plants are
1789 subject to the federal coastal consistency review program.
1790 Issuance of certification shall constitute the state's
1791 certification of coastal zone consistency.
1792 Section 32. Section 403.5112, Florida Statutes, is created
1793 to read:
1794 403.5112 Filing of notice of certified corridor route.--
1795 (1) Within 60 days after certification of a directly
1796 associated linear facility pursuant to this act, the applicant
1797 shall file, in accordance with s. 28.222, with the department

1798 and the clerk of the circuit court for each county through which
1799 the corridor will pass, a notice of the certified route.
1800 (2) The notice shall consist of maps or aerial photographs
1801 in the scale of 1:24,000 which clearly show the location of the
1802 certified route and shall state that the certification of the
1803 corridor will result in the acquisition of rights-of-way within
1804 the corridor. Each clerk shall record the filing in the official
1805 record of the county for the duration of the certification or
1806 until such time as the applicant certifies to the department and
1807 the clerk that all lands required for the transmission line
1808 rights-of-way within the corridor have been acquired within such
1809 county, whichever is sooner.
1810 Section 33. Section 403.5113, Florida Statutes, is created
1811 to read:
1812 403.5113 Postcertification amendments.--
1813 (1) If, subsequent to certification by the board, a
1814 licensee proposes any material change to the application and
1815 revisions or amendments thereto, as certified, the licensee
1816 shall submit a written request for amendment and a description
1817 of the proposed change to the application to the department.
1818 Within 30 days after the receipt of the request for the
1819 amendment, the department shall determine whether the proposed
1820 change to the application requires a modification of the
1821 conditions of certification.
1822 (2) If the department concludes that the change would not
1823 require a modification of the conditions of certification, the
1824 department shall provide written notification of the approval of
1825 the proposed amendment to the licensee, all agencies, and all
1826 other parties.
1827 (3) If the department concludes that the change would
1828 require a modification of the conditions of certification, the

1829 department shall provide written notification to the licensee
1830 that the proposed change to the application requires a request
1831 for modification pursuant to s. 403.516.
1832 Section 34. Section 403.5115, Florida Statutes, is amended
1833 to read:
1834 403.5115 Public notice; costs of proceeding.--
1835 (1) The following notices are to be published by the
1836 applicant:
1837 (a) Notice ~~A notice~~ of the filing of a notice of intent
1838 under s. 403.5063, which shall be published within 21 days after
1839 the filing of the notice. The notice shall be published as
1840 specified by subsection (2), except that the newspaper notice
1841 shall be one-fourth page in size in a standard size newspaper or
1842 one-half page in size in a tabloid size newspaper.
1843 (b) Notice ~~A notice~~ of filing of the application, which
1844 shall include a description of the proceedings required by this
1845 act, within 21 days after the date of the application filing ~~be~~
1846 ~~published as specified in subsection (2), within 15 days after~~
1847 ~~the application has been determined complete~~. Such notice shall
1848 give notice of the provisions of s. 403.511(1) and (2) ~~and that~~
1849 ~~the application constitutes a request for a federally required~~
1850 ~~new source review or prevention of significant deterioration~~
1851 ~~permit~~.
1852 (c) Notice of the land use determination made pursuant to
1853 s. 403.50665(1) within 15 days after the determination is filed.
1854 (d) Notice of the land use hearing, which shall be
1855 published as specified in subsection (2), no later than 15 ~~45~~
1856 days before the hearing.
1857 (e) ~~(d)~~ Notice of the certification hearing and notice of
1858 the deadline for filing notice of intent to be a party, which
1859 shall be published as specified in subsection (2), at least 65

1860 days before the date set for the certification ~~no later than 45~~
1861 ~~days before the~~ hearing.
1862 (f) Notice of the cancellation of the certification
1863 hearing, if applicable, no later than 3 days before the date of
1864 the originally scheduled certification hearing.
1865 (g) ~~(e)~~ Notice of modification when required by the
1866 department, based on whether the requested modification of
1867 certification will significantly increase impacts to the
1868 environment or the public. Such notice shall be published as
1869 specified under subsection (2):
1870 1. Within 21 days after receipt of a request for
1871 modification. ~~, except that~~ The newspaper notice shall be of a
1872 size as directed by the department commensurate with the scope
1873 of the modification.
1874 2. If a hearing is to be conducted in response to the
1875 request for modification, then notice shall be published no
1876 later than 30 days before the hearing ~~provided as specified in~~
1877 ~~paragraph (d)~~.
1878 (h) ~~(f)~~ Notice of a supplemental application, which shall
1879 be published as specified in paragraph (1)(b) and subsection
1880 (2). ~~follows:~~
1881 ~~1. Notice of receipt of the supplemental application shall~~
1882 ~~be published as specified in paragraph (b).~~
1883 ~~2. Notice of the certification hearing shall be published~~
1884 ~~as specified in paragraph (d).~~
1885 (i) Notice of existing site certification pursuant to s.
1886 403.5175. Notices shall be published as specified in paragraph
1887 (1)(b) and subsection (2).
1888 (2) Notices provided by the applicant shall be published
1889 in newspapers of general circulation within the county or
1890 counties in which the proposed electrical power plant will be

1891 located. The newspaper notices shall be at least one-half page
1892 in size in a standard size newspaper or a full page in a tabloid
1893 size newspaper ~~and published in a section of the newspaper other~~
1894 ~~than the legal notices section~~. These notices shall include a
1895 map generally depicting the project and all associated
1896 facilities corridors. A newspaper of general circulation shall
1897 be the newspaper which has the largest daily circulation in that
1898 county and has its principal office in that county. If the
1899 newspaper with the largest daily circulation has its principal
1900 office outside the county, the notices shall appear in both the
1901 newspaper having the largest circulation in that county and in a
1902 newspaper authorized to publish legal notices in that county.
1903 (3) All notices published by the applicant shall be paid
1904 for by the applicant and shall be in addition to the application
1905 fee.
1906 (4) The department shall arrange for publication of the
1907 following notices in the manner specified by chapter 120 and
1908 provide copies of those notices to any persons who have
1909 requested to be placed on the departmental mailing list for this
1910 purpose:
1911 (a) Notice ~~Publish in the Florida Administrative Weekly~~
1912 ~~notices~~ of the filing of the notice of intent within 15 days
1913 after receipt of the notice.~~;~~
1914 (b) Notice of the filing of the application, no later than
1915 21 days after the application filing.~~;~~
1916 (c) Notice of the land use determination made pursuant to
1917 s. 403.50665(1) within 15 days after the determination is filed.
1918 (d) Notice of the land use hearing before the
1919 administrative law judge, if applicable, no later than 15 days
1920 before the hearing.~~;~~

1921 (e) Notice of the land use hearing before the board, if
1922 applicable.
1923 (f) Notice of the certification hearing at least 45 days
1924 before the date set for the certification hearing.~~;~~
1925 (g) Notice of the cancellation of the certification
1926 hearing, if applicable, no later than 3 days prior to the date
1927 of the originally scheduled certification hearing.
1928 (h) Notice of the hearing before the board, if
1929 applicable.~~;~~
1930 (i) Notice and of stipulations, proposed agency action, or
1931 petitions for modification.~~; and~~
1932 ~~(b) Provide copies of those notices to any persons who~~
1933 ~~have requested to be placed on the departmental mailing list for~~
1934 ~~this purpose.~~
1935 ~~(5) The applicant shall pay those expenses and costs~~
1936 ~~associated with the conduct of the hearings and the recording~~
1937 ~~and transcription of the proceedings.~~
1938 Section 35. Section 403.513, Florida Statutes, is amended
1939 to read:
1940 403.513 Review.--Proceedings under this act shall be
1941 subject to judicial review as provided in chapter 120. When
1942 possible, separate appeals of the certification order issued by
1943 the board and of any department permit issued pursuant to a
1944 federally delegated or approved permit program may ~~shall~~ be
1945 consolidated for purposes of judicial review.
1946 Section 36. Section 403.516, Florida Statutes, is amended
1947 to read:
1948 403.516 Modification of certification.--
1949 (1) A certification may be modified after issuance in any
1950 one of the following ways:

1951 (a) The board may delegate to the department the authority
1952 to modify specific conditions in the certification.
1953 (b)1. The department may modify specific conditions of a
1954 site certification which are inconsistent with the terms of any
1955 federally delegated or approved ~~final air pollution operation~~
1956 permit for the certified electrical power plant ~~issued by the~~
1957 ~~United States Environmental Protection Agency under the terms of~~
1958 ~~42 U.S.C. s. 7661d~~.
1959 2. Such modification may be made without further notice if
1960 the matter has been previously noticed under the requirements
1961 for any federally delegated or approved permit program.
1962 (c) The licensee may file a petition for modification with
1963 the department or the department may initiate the modification
1964 upon its own initiative.
1965 1. A petition for modification must set forth:
1966 a. The proposed modification.
1967 b. The factual reasons asserted for the modification.
1968 c. The anticipated environmental effects of the proposed
1969 modification.
1970 2.~~(b)~~ The department may modify the terms and conditions
1971 of the certification if no party to the certification hearing
1972 objects in writing to such modification within 45 days after
1973 notice by mail to such party's last address of record, and if no
1974 other person whose substantial interests will be affected by the
1975 modification objects in writing within 30 days after issuance of
1976 public notice.
1977 3. If objections are raised or the department denies the
1978 request, the applicant or department may file a request ~~petition~~
1979 for a hearing on the modification with the department. Such
1980 request shall be handled pursuant to chapter 120 ~~paragraph (c)~~.

1981 ~~(c) A petition for modification may be filed by the~~
1982 ~~applicant or the department setting forth:~~
1983 ~~1. The proposed modification,~~
1984 ~~2. The factual reasons asserted for the modification, and~~
1985 ~~3. The anticipated effects of the proposed modification on~~
1986 ~~the applicant, the public, and the environment.~~
1987
1988 ~~The petition for modification shall be filed with the department~~
1989 ~~and the Division of Administrative Hearings.~~
1990 4. Requests referred to the Division of Administrative
1991 Hearings shall be disposed of in the same manner as an
1992 application, but with time periods established by the
1993 administrative law judge commensurate with the significance of
1994 the modification requested.
1995 (d) As required by s. 403.511(5).
1996 ~~(2) Petitions filed pursuant to paragraph (1)(c) shall be~~
1997 ~~disposed of in the same manner as an application, but with time~~
1998 ~~periods established by the administrative law judge commensurate~~
1999 ~~with the significance of the modification requested.~~
2000 (2) ~~(3)~~ Any agreement or modification under this section
2001 must be in accordance with the terms of this act. No
2002 modification to a certification shall be granted that
2003 constitutes a variance from standards or regulations of the
2004 department applicable under any federally delegated or approved
2005 permit program, except as expressly allowed in such program.
2006 Section 37. Section 403.517, Florida Statutes, is amended
2007 to read:
2008 403.517 Supplemental applications for sites certified for
2009 ultimate site capacity.--
2010 (1)(a) Supplemental ~~The department shall adopt rules~~
2011 ~~governing the processing of supplemental~~ applications may be

2012 submitted for certification of the construction and operation of
2013 electrical power plants to be located at sites which have been
2014 previously certified for an ultimate site capacity pursuant to
2015 this act. Supplemental applications shall be limited to
2016 electrical power plants using the fuel type previously certified
2017 for that site. Such applications shall include all new directly
2018 associated facilities that support the construction and
2019 operation of the electric power plant. ~~The rules adopted~~
2020 ~~pursuant to this section shall include provisions for:~~
2021 ~~1. Prompt appointment of a designated administrative law~~
2022 ~~judge.~~
2023 ~~2. The contents of the supplemental application.~~
2024 ~~3. Resolution of disputes as to the completeness and~~
2025 ~~sufficiency of supplemental applications by the designated~~
2026 ~~administrative law judge.~~
2027 ~~4. Public notice of the filing of the supplemental~~
2028 ~~applications.~~
2029 ~~5. Time limits for prompt processing of supplemental~~
2030 ~~applications.~~
2031 ~~6. Final disposition by the board within 215 days of the~~
2032 ~~filing of a complete supplemental application.~~
2033 (b) The review shall use the same procedural steps and
2034 notices as for an initial application.
2035 (c) The time limits for processing of a complete
2036 supplemental application shall be designated by the department
2037 commensurate with the scope of the supplemental application, but
2038 shall not exceed any time limitation governing the review of
2039 initial applications for site certification pursuant to this
2040 act, it being the legislative intent to provide shorter time
2041 limitations for the processing of supplemental applications for
2042 electrical power plants to be constructed and operated at sites

2043 which have been previously certified for an ultimate site
2044 capacity.
2045 (d) ~~(c)~~ Any time limitation in this section or in rules
2046 adopted pursuant to this section may be altered pursuant to s.
2047 403.5095 ~~by the designated administrative law judge upon~~
2048 ~~stipulation between the department and the applicant, unless~~
2049 ~~objected to by any party within 5 days after notice, or for good~~
2050 ~~cause shown by any party. The parties to the proceeding shall~~
2051 ~~adhere to the provisions of chapter 120 and this act in~~
2052 ~~considering and processing such supplemental applications~~.
2053 (2) ~~Supplemental applications shall be reviewed as~~
2054 ~~provided in ss. 403.507-403.511, except that the time limits~~
2055 ~~provided in this section shall apply to such supplemental~~
2056 ~~applications.~~
2057 ~~(3)~~ The land use and zoning consistency determination of
2058 s. 403.50665 ~~hearing requirements of s. 403.508(1) and (2)~~ shall
2059 not be applicable to the processing of supplemental applications
2060 pursuant to this section so long as:
2061 (a) The previously certified ultimate site capacity is not
2062 exceeded; and
2063 (b) The lands required for the construction or operation
2064 of the electrical power plant which is the subject of the
2065 supplemental application are within the boundaries of the
2066 previously certified site.
2067 ~~(4) For the purposes of this act, the term "ultimate site~~
2068 ~~capacity" means the maximum generating capacity for a site as~~
2069 ~~certified by the board.~~
2070 Section 38. Section 403.5175, Florida Statutes, is amended
2071 to read:
2072 403.5175 Existing electrical power plant site
2073 certification.--

2074 (1) An electric utility that owns or operates an existing
2075 electrical power plant as defined in s. 403.503(12) may apply
2076 for certification of an existing power plant and its site in
2077 order to obtain all agency licenses necessary to assure
2078 compliance with federal or state environmental laws and
2079 regulation using the centrally coordinated, one-stop licensing
2080 process established by this part. An application for site
2081 certification under this section must be in the form prescribed
2082 by department rule. Applications must be reviewed and processed
2083 using the same procedural steps and notices as for an
2084 application for a new facility ~~in accordance with ss. 403.5064-~~
2085 ~~403.5115~~, except that a determination of need by the Public
2086 Service Commission is not required.
2087 (2) An application for certification under this section
2088 must include:
2089 (a) A description of the site and existing power plant
2090 installations;
2091 (b) A description of all proposed changes or alterations
2092 to the site or electrical power plant, including all new
2093 associated facilities that are the subject of the application;
2094 (c) A description of the environmental and other impacts
2095 caused by the existing utilization of the site and directly
2096 associated facilities, and the operation of the electrical power
2097 plant that is the subject of the application, and of the
2098 environmental and other benefits, if any, to be realized as a
2099 result of the proposed changes or alterations if certification
2100 is approved and such other information as is necessary for the
2101 reviewing agencies to evaluate the proposed changes and the
2102 expected impacts;
2103 (d) The justification for the proposed changes or
2104 alterations;

2105 (e) Copies of all existing permits, licenses, and
2106 compliance plans authorizing utilization of the site and
2107 directly associated facilities or operation of the electrical
2108 power plant that is the subject of the application.
2109 (3) The land use and zoning determination ~~hearing~~
2110 requirements of s. 403.50665 ~~s. 403.508(1) and (2)~~ do not apply
2111 to an application under this section if the applicant does not
2112 propose to expand the boundaries of the existing site. If the
2113 applicant proposes to expand the boundaries of the existing site
2114 to accommodate portions of the plant or associated facilities, a
2115 land use and zoning determination shall be made ~~hearing must be~~
2116 ~~held~~ as specified in s. 403.50665 ~~s. 403.508(1) and (2)~~;
2117 provided, however, that the sole issue for determination ~~through~~
2118 ~~the land use hearing~~ is whether the proposed site expansion is
2119 consistent and in compliance with the existing land use plans
2120 and zoning ordinances.
2121 (4) In considering whether an application submitted under
2122 this section should be approved in whole, approved with
2123 appropriate conditions, or denied, the board shall consider
2124 whether, and to the extent to which the proposed changes to the
2125 electrical power plant and its continued operation under
2126 certification will:
2127 (a) Comply with the provisions of s. 403.509(3).
2128 ~~applicable nonprocedural requirements of agencies;~~
2129 (b) Result in environmental or other benefits compared to
2130 current utilization of the site and operations of the electrical
2131 power plant if the proposed changes or alterations are
2132 undertaken.~~;~~
2133 ~~(c) Minimize, through the use of reasonable and available~~
2134 ~~methods, the adverse effects on human health, the environment,~~

2135 ~~and the ecology of the land and its wildlife and the ecology of~~
2136 ~~state waters and their aquatic life; and~~
2137 ~~(d) Serve and protect the broad interests of the public.~~
2138 (5) An applicant's failure to receive approval for
2139 certification of an existing site or an electrical power plant
2140 under this section is without prejudice to continued operation
2141 of the electrical power plant or site under existing agency
2142 licenses.
2143 Section 39. Section 403.518, Florida Statutes, is amended
2144 to read:
2145 403.518 Fees; disposition.--
2146 (1) The department shall charge the applicant the
2147 following fees, as appropriate, which, unless otherwise
2148 specified, shall be paid into the Florida Permit Fee Trust Fund:
2149 (a) A fee for a notice of intent pursuant to s. 403.5063,
2150 in the amount of $2,500, to be submitted to the department at
2151 the time of filing of a notice of intent. The notice-of-intent
2152 fee shall be used and disbursed in the same manner as the
2153 application fee.
2154 (b) An application fee, which shall not exceed $200,000.
2155 The fee shall be fixed by rule on a sliding scale related to the
2156 size, type, ultimate site capacity, or increase in electric
2157 generating capacity proposed by the application~~, or the number~~
2158 ~~and size of local governments in whose jurisdiction the~~
2159 ~~electrical power plant is located~~.
2160 1. Sixty percent of the fee shall go to the department to
2161 cover any costs associated with coordinating the review
2162 ~~reviewing~~ and acting upon the application, to cover any field
2163 services associated with monitoring construction and operation
2164 of the facility, and to cover the costs of the public notices
2165 published by the department.

2166 2. The following percentages ~~Twenty percent of the fee or~~
2167 ~~$25,000, whichever is greater,~~ shall be transferred to the
2168 Administrative Trust Fund of the Division of Administrative
2169 Hearings of the Department of Management Services:~~.~~
2170 a. Five percent to compensate expenses from the initial
2171 exercise of duties associated with the filing of an application.
2172 b. An additional 5 percent if a land use hearing is held
2173 pursuant to s. 403.508.
2174 c. An additional 10 percent if a certification hearing is
2175 held pursuant to s. 403.508.
2176 3.a. Upon written request with proper itemized accounting
2177 within 90 days after final agency action by the board or
2178 withdrawal of the application, the agencies that prepared
2179 reports pursuant to s. 403.507 or participated in a hearing
2180 pursuant to s. 403.508, may submit a written request to the
2181 department for reimbursement of expenses incurred during the
2182 certification proceedings. The request shall contain an
2183 accounting of expenses incurred which may include time spent
2184 reviewing the application, ~~the department shall reimburse the~~
2185 ~~Department of Community Affairs, the Fish and Wildlife~~
2186 ~~Conservation Commission, and any water management district~~
2187 ~~created pursuant to chapter 373, regional planning council, and~~
2188 ~~local government in the jurisdiction of which the proposed~~
2189 ~~electrical power plant is to be located, and any other agency~~
2190 ~~from which the department requests special studies pursuant to~~
2191 ~~s. 403.507(2)(a)7. Such reimbursement shall be authorized for~~
2192 ~~the~~ preparation of any studies required of the agencies by this
2193 act, ~~and for~~ agency travel and per diem to attend any hearing
2194 held pursuant to this act, and for any agency or local
2195 government's provision of notice of public meetings or hearings
2196 required as a result of the application for certification

2197 ~~governments to participate in the proceedings~~. The department
2198 shall review the request and verify that the expenses are valid.
2199 Valid expenses shall be reimbursed; however, in the event the
2200 amount of funds available for reimbursement ~~allocation~~ is
2201 insufficient to provide for full compensation ~~complete~~
2202 ~~reimbursement~~ to the agencies requesting reimbursement,
2203 reimbursement shall be on a prorated basis.
2204 b. If the application review is held in abeyance for more
2205 than 1 year, the agencies may submit a request for
2206 reimbursement.
2207 4. If any sums are remaining, the department shall retain
2208 them for its use in the same manner as is otherwise authorized
2209 by this act; provided, however, that if the certification
2210 application is withdrawn, the remaining sums shall be refunded
2211 to the applicant within 90 days after withdrawal.
2212 (c)1. A certification modification fee, which shall not
2213 exceed $30,000. The department shall establish rules for
2214 determining such a fee based on the equipment redesign, change
2215 in site size, type, increase in generating capacity proposed, or
2216 change in an associated linear facility location.
2217 2. The fee shall be submitted to the department with a
2218 ~~formal~~ petition for modification ~~to the department~~ pursuant to
2219 s. 403.516. This fee shall be established, disbursed, and
2220 processed in the same manner as the application fee in paragraph
2221 (b), except that the Division of Administrative Hearings shall
2222 not receive a portion of the fee unless the petition for
2223 certification modification is referred to the Division of
2224 Administrative Hearings for hearing. If the petition is so
2225 referred, only $10,000 of the fee shall be transferred to the
2226 Administrative Trust Fund of the Division of Administrative
2227 Hearings of the Department of Management Services. ~~The fee for a~~

2228 ~~modification by agreement filed pursuant to s. 403.516(1)(b)~~
2229 ~~shall be $10,000 to be paid upon the filing of the request for~~
2230 ~~modification. Any sums remaining after payment of authorized~~
2231 ~~costs shall be refunded to the applicant within 90 days of~~
2232 ~~issuance or denial of the modification or withdrawal of the~~
2233 ~~request for modification.~~
2234 (d) A supplemental application fee, not to exceed $75,000,
2235 to cover all reasonable expenses and costs of the review,
2236 processing, and proceedings of a supplemental application. This
2237 fee shall be established, disbursed, and processed in the same
2238 manner as the certification application fee in paragraph (b)~~,~~
2239 ~~except that only $20,000 of the fee shall be transferred to the~~
2240 ~~Administrative Trust Fund of the Division of Administrative~~
2241 ~~Hearings of the Department of Management Services~~.
2242 (e) An existing site certification application fee, not to
2243 exceed $200,000, to cover all reasonable costs and expenses of
2244 the review processing and proceedings for certification of an
2245 existing power plant site under s. 403.5175. This fee must be
2246 established, disbursed, and processed in the same manner as the
2247 certification application fee in paragraph (b).
2248 ~~(2) Effective upon the date commercial operation begins,~~
2249 ~~the operator of an electrical power plant certified under this~~
2250 ~~part is required to pay to the department an annual operation~~
2251 ~~license fee as specified in s. 403.0872(11) to be deposited in~~
2252 ~~the Air Pollution Control Trust Fund.~~
2253 Section 40. Any application for power plant certification
2254 filed pursuant to ss. 403.501-403.518, Florida Statutes shall be
2255 processed under the provisions of the law applicable at the time
2256 the application was filed, except that the provisions related to
2257 cancellation of the certification hearing under s. 403.508(6),
2258 Florida Statutes the provisions related to the final disposition

2259 of the application and issuance of the written order by the
2260 secretary under s. 403.509(1)(a), Florida Statutes and notice of
2261 the cancellation of the certification hearing under s. 403.5115,
2262 Florida Statutes may apply to any application for power plant
2263 certification.
2264 Section 41. Section 403.519, Florida Statutes, is amended
2265 to read:
2266 403.519 Exclusive forum for determination of need.--
2267 (1) On request by an applicant or on its own motion, the
2268 commission shall begin a proceeding to determine the need for an
2269 electrical power plant subject to the Florida Electrical Power
2270 Plant Siting Act.
2271 (2) The applicant ~~commission~~ shall publish a notice of the
2272 proceeding in a newspaper of general circulation in each county
2273 in which the proposed electrical power plant will be located.
2274 The notice shall be at least one-quarter of a page and published
2275 at least 21 ~~45~~ days prior to the scheduled date for the
2276 proceeding. The commission shall publish notice of the
2277 proceeding in the manner specified by chapter 120 at least 21
2278 days prior to the scheduled date for the proceeding.
2279 (3) The commission shall be the sole forum for the
2280 determination of this matter, which accordingly shall not be
2281 raised in any other forum or in the review of proceedings in
2282 such other forum. In making its determination, the commission
2283 shall take into account the need for electric system reliability
2284 and integrity, the need for adequate electricity at a reasonable
2285 cost, the need for fuel diversity and supply reliability, and
2286 whether the proposed plant is the most cost-effective
2287 alternative available. The commission shall also expressly
2288 consider the conservation measures taken by or reasonably
2289 available to the applicant or its members which might mitigate

2290 the need for the proposed plant and other matters within its
2291 jurisdiction which it deems relevant. The commission's
2292 determination of need for an electrical power plant shall create
2293 a presumption of public need and necessity and shall serve as
2294 the commission's report required by s. 403.407(2)(b)
2295 ~~403.507(2)(a)2~~. An order entered pursuant to this section
2296 constitutes final agency action.
2297 Section 42. This act shall take effect upon becoming a
2298 law.
2299
2300 ========== T I T L E A M E N D M E N T ==========
2301 Remove the entire title and insert:
2302 An act relating to energy; providing legislative findings
2303 and intent; creating s. 377.801, F.S.; creating the
2304 "Florida Renewable Energy Technologies and Energy
2305 Efficiency Act"; creating s. 377.802, F.S.; stating the
2306 purpose of the act; creating s. 377.803, F.S.; providing
2307 definitions; creating s. 377.804, F.S.; creating the
2308 Renewable Energy Technologies Grants Program; providing
2309 program requirements and procedures, including matching
2310 funds; creating s. 377.805, F.S.; creating the Energy
2311 Efficient Appliance Rebate Program; providing program
2312 requirements, procedures, and limitations; creating s.
2313 377.806, F.S.; creating the Solar Energy System Incentives
2314 Program; providing program requirements, procedures, and
2315 limitations; requiring the Department of Environmental
2316 Protection to adopt rules; creating s. 377.901, F.S.;
2317 creating the Florida Energy Council within the Department
2318 of Environmental Protection; providing purpose and
2319 composition; providing for appointment of members and
2320 their terms; providing for reimbursement for travel and

2321 per diem; requiring the department to provide certain
2322 services to the council; providing rulemaking authority;
2323 amending s. 212.08, F.S.; providing definitions for the
2324 terms "biodiesel" and "ethanol"; providing tax exemptions
2325 for the sale or use of certain energy efficient products;
2326 providing eligibility requirements and tax credit limits;
2327 directing the department to adopt rules; directing the
2328 department to determine and publish certain information
2329 relating to such exemptions; amending s. 213.053, F.S.;
2330 authorizing the Department of Revenue to share certain
2331 information with the Department of Environmental
2332 Protection for specified purposes; amending s. 220.02,
2333 F.S.; providing the order of application of the renewable
2334 energy technologies investment tax credit; creating s.
2335 220.192, F.S.; establishing a corporate tax credit for
2336 certain costs related to renewable energy technologies;
2337 providing eligibility requirements and credit limits;
2338 providing certain authority to the Department of
2339 Environmental Protection and the Department of Revenue;
2340 directing the Department of Environmental Protection to
2341 determine and publish certain information; providing for
2342 repeal of the tax credit; amending s. 220.13, F.S.;
2343 providing an addition to the definition of "adjusted
2344 federal income"; amending s. 186.801, F.S.; revising the
2345 provisions of electric utility 10-year site plans to
2346 include the effect on fuel diversity; amending s. 366.04,
2347 F.S.; revising the safety standards for public utilities;
2348 amending s. 366.05, F.S.; authorizing the Public Service
2349 Commission to adopt certain construction standards and
2350 make certain determinations; directing the commission to
2351 conduct a study and provide a report by a certain date;

2352 amending s. 403.503, F.S.; revising and providing
2353 definitions applicable to the Florida Electrical Power
2354 Plant Siting Act; amending s. 403.504, F.S.; providing the
2355 Department of Environmental Protection with additional
2356 powers and duties relating to the Florida Electrical Power
2357 Plant Siting Act; amending s. 403.5055, F.S.; revising
2358 provisions for certain permits associated with
2359 applications for electrical power plant certification;
2360 amending s. 403.506, F.S.; revising provisions relating to
2361 applicability and certification of certain power plants;
2362 amending s. 403.5064, F.S.; revising provisions for
2363 distribution of applications and schedules relating to
2364 certification; amending s. 403.5065, F.S.; revising
2365 provisions relating to the appointment of administrative
2366 law judges; amending s. 403.5066, F.S.; revising
2367 provisions relating to the determination of completeness
2368 for certain applications; creating s. 403.50663, F.S.;
2369 authorizing certain local governments and regional
2370 planning councils to hold an informational public meeting;
2371 providing requirements and procedures therefor; creating
2372 s. 403.50665, F.S.; requiring local governments to file
2373 certain land use determinations; providing requirements
2374 and procedures therefor; repealing s. 403.5067, F.S.;
2375 relating to the determination of sufficiency for certain
2376 applications; amending s. 403.507, F.S.; revising required
2377 statement provisions for affected agencies; amending s.
2378 403.508, F.S.; revising provisions related to land use and
2379 certification proceedings; requiring certain notice;
2380 amending s. 403.509, F.S.; revising provisions related to
2381 the final disposition of certain applications; providing
2382 requirements and provisions with respect thereto; amending

2383 s. 403.511, F.S.; revising provisions related to the
2384 effect of certification for the construction and operation
2385 of proposed power plants; providing that issuance of
2386 certification meets certain consistency requirements;
2387 creating s. 403.5112, F.S.; requiring filing of notice for
2388 certified corridor routes; providing requirements and
2389 procedures with respect thereto; creating s. 403.5113,
2390 F.S.; authorizing postcertification amendments for power
2391 plant site certification applications; providing
2392 requirements and procedures with respect thereto; amending
2393 s. 403.5115, F.S.; requiring certain public notice for
2394 activities related to power plant site application,
2395 certification, and land use determination; providing
2396 requirements and procedures with respect thereto;
2397 directing the Department of Environmental Protection to
2398 maintain certain lists and provide copies to of certain
2399 publications; amending s. 403.513, F.S.; revising
2400 provisions for judicial review of appeals related to power
2401 plant site certification; amending s. 403.516, F.S.;
2402 revising provisions relating to modification of
2403 certification for power plant sites; amending s. 403.517,
2404 F.S.; revising the provisions relating to supplemental
2405 applications for certain power plant sites; amending s.
2406 403.5175, F.S.; revising provisions relating to existing
2407 power plant site certification; revising the procedure for
2408 reviewing and processing applications; requiring
2409 additional information to be included in certain
2410 applications; amending s. 403.518, F.S.; revising the
2411 allocation of proceeds from certain fees collected;
2412 providing for reimbursement of certain expenses; directing
2413 the Department of Environmental Protection to establish

2414 rules for determination of certain fees; eliminating
2415 certain operational license fees; providing for the
2416 application, processing, approval, and cancellation of
2417 power plant certification; amending s. 403.519, F.S.;
2418 directing the Public Service Commission to consider fuel
2419 diversity and reliability in certain determinations;
2420 providing an effective date.

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	_____	

---

1 Council/Committee hearing bill:
2 Representative(s) offered the following:
3
4 **Amendment to Strike-All Amendment (with directory and title**
5 **amendments)**
6 Remove line(s) 168 and insert:
7
8 solar thermal system, or a solar thermal pool heater, from July
9 1, 2006 through June 30, 2010
10
11
12
13 ========== T I T L E A M E N D M E N T ==========
14 Remove line(s) and insert:
15

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

---

1 Council/Committee hearing bill:
2 Representative(s) offered the following:
3
4 **Amendment to Strike-All Amendment (with directory and title**
5 **amendments)**
6 Remove line(s) 203 and insert:
7
8 (4) SOLAR THERMAL POOL HEATER INCENTIVES.—
9
10 (a) Eligibility requirements. - A solar thermal pool heater
11 qualifies for a rebate if: 1. The system is installed by a
12 state-licensed solar or plumbing contractor. 2. The system
13 complies with all applicable building codes as defined by the
14 local jurisdictional authority.
15 (b) Rebate amounts. - Authorized rebates for installation of
16 solar thermal pool heaters shall by $100 per installation.
17
18
19 And renumber all subsequent paragraphs in the section
20 accordingly
21

22

23 ========== T I T L E A M E N D M E N T ==========

24 Remove line(s) and insert:

25

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill:
2 Representative(s) offered the following:
3
4 **Amendment to Strike-All Amendment (with directory and title**
5 **amendments)**
6 Remove line(s) 141 and insert:
7
8 The period from 12:01 a.m., October 5, through midnight, October
9 11, in each year from 2006 to 2009, shall be designated Energy
10 Efficient Week. The tax levied under Chapter 212, Florida
11 Statutes, may not be
12
13
14
15 ========== T I T L E A M E N D M E N T ==========
16 Remove line(s) 2310 - 2312 and insert:
17
18 Funds; creating s. 377.805, F.S., creating the Energy Efficient
19 Products Sales Tax Holiday; providing a designation; specifying
20 a period during which the sale of energy-efficient product is
21 exempt from such tax; providing a limitation; providing a
22 definition; creating s.
23

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill:
2 Representative(s) offered the following:
3
4 **Amendment to Strike-All Amendment (with directory and title**
5 **amendments)**
6 Remove line(s) 187 and insert:
7
8 not-for-profit organization, including condominiums or apartment
9 buildings.
10
11
12
13
14 ========== T I T L E A M E N D M E N T ==========
15 Remove line(s) and insert:
16

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill:
2 Representative(s) offered the following:
3
4 **Amendment to Strike-All Amendment (with directory and title**
5 **amendments)**
6 Remove line(s) 227 - 229 and insert:
7
8 the state. The council should advise the state on current and
9 projected energy issues including, but not limited to,
10 transportation, generation, transmission, distributed
11 generation, fuel supply issues, emerging technologies,
12 efficiency and conservation. In developing
13
14
15
16 ========== T I T L E A M E N D M E N T ==========
17 Remove line(s) and insert:
18

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill:
2 Representative(s) offered the following:
3
4 **Amendment to Strike-All Amendment (with directory and title**
5 **amendments)**
6 Remove line(s) 234 - 235 and insert:
7
8 stakeholders, and may include utility providers, alternative
9 energy providers, researchers, environmental scientists, fuel
10 suppliers, technology manufacturers, environmental, consumer and
11 public health
12
13
14
15
16
17 ========== T I T L E A M E N D M E N T ==========
18 Remove line(s) and insert:
19

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill:
2 Representative(s) offered the following:
3
4 **Amendment to Strike-All Amendment (with directory and title**
5 **amendments)**
6 Remove line(s) 213 - 216 and insert:
7
8 during the following fiscal year. Requests for rebates that are
9 received in a fiscal year that are processed during the
10 following fiscal year shall be given priority over requests for
11 rebates received during that following fiscal year.
12
13
14
15
16
17 ========== T I T L E A M E N D M E N T ==========
18 Remove line(s) and insert:
19

Committee on Utilities & Telecommunications

Wednesday, April 5, 2006
3:30 p.m. - 5:30 p.m.
404 HOB

Amendment Package A

Allan G. Bense
Speaker

Ken Littlefield
Chair

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **1191**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Utilities & Telecommunications
2 Committee
3 Representatives Littlefield and Farkas offered the following:
4
5 **Amendment (with title amendment)**
6 Remove everything after the enacting clause and insert:
7 Section 1. Subsections (5), (6), and (7) of section
8 364.051, Florida Statutes, are amended to read:
9 364.051 Price regulation.--
10 (5) NONBASIC SERVICES.--Price regulation of nonbasic
11 services shall consist of the following:
12 (a) Each company subject to this section shall, at its
13 option, maintain tariffs with the commission or otherwise
14 publicly publish ~~containing~~ the terms, conditions, and rates for
15 each of its nonbasic services, and may set or change, on 1 day's
16 ~~15 days'~~ notice, the rate for each of its nonbasic services,
17 except that a price increase for any nonbasic service category
18 shall not exceed 6 percent within a 12-month period until there
19 is another provider providing local telecommunications service
20 in an exchange area at which time the price for any nonbasic
21 service category may be increased in an amount not to exceed 20
22 percent within a 12-month period, and the rate shall be

53 (b) The commission shall have continuing regulatory
54 oversight of nonbasic services for purposes of ensuring
55 resolution of service complaints, preventing cross-subsidization
56 of nonbasic services with revenues from basic services, and
57 ensuring that all providers are treated fairly in the
58 telecommunications market. The cost standard for determining
59 cross-subsidization is whether the total revenue from a nonbasic
60 service is less than the total long-run incremental cost of the
61 service. Total long-run incremental cost means service-specific
62 volume and nonvolume-sensitive costs.
63 (c) The price charged to a consumer for a nonbasic service
64 shall cover the direct costs of providing the service and shall,
65 to the extent a cost is not included in the direct cost, include
66 as an imputed cost the price charged by the company to
67 competitors for any monopoly component used by a competitor in
68 the provision of its same or functionally equivalent service.
69 (6) After a local exchange telecommunications company that
70 has more than 1 million access lines in service has reduced its
71 intrastate switched network access rates to parity, as defined
72 in s. 364.164(5), the local exchange telecommunications
73 company's ~~basic local telecommunications service may, at the~~
74 ~~company's election, be subject to the same regulatory treatment~~
75 ~~as its nonbasic services. The company's~~ retail service quality
76 requirements that are not already equal to the service quality
77 requirements imposed upon the competitive local exchange
78 telecommunications companies shall <u>at the company's request to</u>
79 <u>the commission</u> ~~thereafter~~ be no greater than those imposed upon
80 competitive local exchange telecommunications companies unless
81 the commission, within 120 days after the company's <u>request</u>
82 ~~election~~, determines otherwise. In such event, the commission
83 may grant some reductions in service quality requirements in

115 ~~competitive local exchange telecommunications companies are then~~
116 ~~being regulated.~~ The commission may not increase the level of
117 regulation for competitive local exchange telecommunications
118 companies to a level greater than that which exists on the date
119 the local exchange telecommunications company files its
120 petition.
121 Section 2. This act shall take effect upon becoming a law.
122
123 ========== T I T L E A M E N D M E N T ==========
124 Remove the entire title and insert:
125 A bill to be entitled
126 An act relating to telecommunications services; amending
127 s. 364.051, F.S., relating to price regulation; allowing
128 certain local exchange telecommunications companies to
129 publish terms, conditions, and rates for nonbasic services
130 in lieu of maintaining tariffs with the Public Service
131 Commission; revising the notice requirement for price
132 changes to nonbasic services; removing a provision that
133 allows a company to elect that its basic services be
134 subject to the same regulatory treatment as its nonbasic
135 services; providing for a request from a company to the
136 Public Service Commission to make certain reductions in
137 its retail service quality requirements; revising criteria
138 for granting a petition to change regulatory treatment of
139 retail services; providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

[redacted] 2

Bill No. **1191**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Utilities & Telecommunications
2 Committee
3 Representative(s) Littlefield offered the following:
4
5 **Amendment to the Strike-All Amendment by Representatives**
6 **Littlefield and Farkas (with title amendment)**
7 Between lines 6 and 7, insert:
8 Section 1. Subsection (1) of section 350.042, Florida
9 Statutes, is amended to read:
10 350.042 Ex parte communications.--
11 (1) A commissioner should accord to every person who is
12 legally interested in a proceeding, or the person's lawyer, full
13 right to be heard according to law, and, except as <u>otherwise</u>
14 authorized by law, <u>or specifically allowed in ss. 120.80(13)(d)</u>
15 <u>and 364.017, a commissioner</u> shall neither initiate nor consider
16 ex parte communications concerning the merits, threat, or offer
17 of reward in any proceeding other than a proceeding under s.
18 120.54 or s. 120.565, workshops, or internal affairs meetings.
19 No individual shall discuss ex parte with a commissioner the
20 merits of any issue that he or she knows will be filed with the
21 commission within 90 days. The provisions of this subsection
22 shall not apply to commission staff.

55 or arguments not already reflected in that person's written
56 comments, memoranda, or other filings in that proceeding shall,
57 no later than the next business day after the presentation,
58 submit to the commission's clerk an original and one copy of a
59 memorandum which summarizes the new data or arguments. A copy of
60 the memorandum must also be submitted to the commissioners or
61 commission employees involved in the oral presentation. Any such
62 memoranda must contain a summary of the substance of the ex
63 parte presentation and not merely a listing of the subjects
64 discussed.
65 (4) The commission's clerk shall place in the public file
66 or record of the proceeding written ex parte presentations and
67 memoranda reflecting oral ex parte presentations. The clerk
68 shall issue a public notice listing any written ex parte
69 presentations or written summaries of oral ex parte
70 presentations received by his or her office relating to any
71 permit-but-disclose proceeding. Such public notices should
72 generally be released at least twice per week.
73 (5) For purposes of this section, the following
74 definitions shall apply:
75 (a) "Decisionmaking personnel" means any member, officer,
76 or employee of the commission who is or may reasonably be
77 expected to be involved in formulating a substantive
78 recommendation or decision, rule, or order in a proceeding. Any
79 person who has been made a party to a proceeding or who
80 otherwise has been excluded from the decisionmaking process
81 shall not be treated as a decisionmaker with respect to that
82 proceeding, and any person designated as part of a separate
83 trial staff shall not be considered a decisionmaking person in
84 the designated proceeding.
85 (b) "Ex parte presentation" means any presentation that,
86 if written, is not served on the parties of record to the

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Utilities & Telecommunications
2 Committee
3 Representative Hasner offered the following:
4
5 **Amendment (with title amendment)**
6 Remove everything after the enacting clause and insert:
7 Section 1. Legislative findings and intent.--The
8 Legislature finds that advancing the development of renewable
9 energy technologies and energy efficiency is important for the
10 state's future, its energy stability, and the protection of its
11 citizens' public health and its environment. The Legislature
12 finds that the development of renewable energy technologies and
13 energy efficiency in the state will help to reduce demand for
14 foreign fuels, promote energy diversity, enhance system
15 reliability, reduce pollution, educate the public on the promise
16 of renewable energy technologies, and promote economic growth.
17 The Legislature finds that there is a need to assist in the
18 development of market demand that will advance the
19 commercialization and widespread application of renewable energy
20 technologies. The Legislature further finds that the state is
21 ideally positioned to stimulate economic development through
22 such renewable energy technologies due to its ongoing and

52 (2) "Approved metering equipment" means a device capable
53 of measuring the energy output of a solar thermal system that
54 has been approved by the commission.
55 (3) "Commission" means the Florida Public Service
56 Commission.
57 (4) "Department" means the Department of Environmental
58 Protection.
59 (5) "Person" means an individual, partnership, joint
60 venture, private or public corporation, association, firm,
61 public service company, or any other public or private entity.
62 (6) "Renewable energy" means electrical, mechanical, or
63 thermal energy produced from a method that uses one or more of
64 the following fuels or energy sources: hydrogen, biomass, solar
65 energy, geothermal energy, wind energy, ocean energy, waste
66 heat, or hydroelectric power.
67 (7) "Renewable energy technology" means any technology
68 that generates or utilizes a renewable energy resource.
69 (8) "Solar energy system" means equipment that provides
70 for the collection and use of incident solar energy for water
71 heating, space heating or cooling, or other applications that
72 require a conventional source of energy such as petroleum
73 products, natural gas, or electricity that performs primarily
74 with solar energy. In other systems in which solar energy is
75 used in a supplemental way, only those components that collect
76 and transfer solar energy shall be included in this definition.
77 (9) "Solar photovoltaic system" means a device that
78 converts incident sunlight into electrical current.
79 (10) "Solar thermal system" means a device that traps heat
80 from incident sunlight in order to heat water.
81 Section 5. Section 377.804, Florida Statutes, is created
82 to read:

113 development of a commercial market for renewable energy
114 technologies.
115 (c) The extent to which the proposed project has been
116 demonstrated to be technically feasible based on pilot project
117 demonstrations, laboratory testing, scientific modeling, or
118 engineering or chemical theory that supports the proposal.
119 (d) The degree to which the project incorporates an
120 innovative new technology or an innovative application of an
121 existing technology.
122 (e) The degree to which a project generates thermal,
123 mechanical, or electrical energy by means of a renewable energy
124 resource that has substantial long-term production potential.
125 (f) The degree to which a project demonstrates efficient
126 use of energy and material resources.
127 (g) The degree to which the project fosters overall
128 understanding and appreciation of renewable energy technologies.
129 (h) The ability to administer a complete project.
130 (i) Project duration and timeline for expenditures.
131 (j) The geographic area in which the project is to be
132 conducted in relation to other projects.
133 (k) The degree of public visibility and interaction.
134 (5) The department shall solicit the expertise of other
135 state agencies in evaluating project proposals. State agencies
136 shall cooperate with the Department of Environmental Protection
137 and provide such assistance as required.
138 Section 6. Section 377.805, Florida Statutes, is created
139 to read:
140 377.805 Energy Efficient Products Sales Tax Holiday.--
141 The tax levied under chapter 212, Florida Statutes, shall not be
142 collected on the sale of an energy efficient product having a
143 selling price of $1,500 or less per product during the period

174 1. The system is installed by a state-licensed master
175 electrician, electrical contractor, or solar contractor.
176 2. The system complies with state interconnection
177 standards as provided by the commission.
178 3. The system complies with all applicable building codes
179 as defined by the local jurisdictional authority.
180 (b) Rebate amounts.--The rebate amount shall be set at $4
181 per watt based on the total wattage rating of the system. The
182 maximum allowable rebate per solar photovoltaic system
183 installation shall be as follows:
184 1. $20,000 for a residence.
185 2. $100,000 for a place of business, a publicly owned or
186 operated facility, or a facility owned or operated by a private,
187 not-for-profit organization.
188 (3) SOLAR THERMAL SYSTEM INCENTIVE.--
189 (a) Eligibility requirements.--A solar thermal system
190 qualifies for a rebate if:
191 1. The system is installed by a state-licensed solar or
192 plumbing contractor.
193 2. The system complies with all applicable building codes
194 as defined by the local jurisdictional authority.
195 (b) Rebate amounts.--Authorized rebates for installation
196 of solar thermal systems shall be as follows:
197 1. $500 for a residence.
198 2. $15 per 1,000 Btu for a maximum of $5,000 for a place
199 of business, a publicly owned or operated facility, or a
200 facility owned or operated by a private, not-for-profit
201 organization. Btu must be verified by approved metering
202 equipment.
203

235 fuel suppliers, technology manufacturers, environmental
236 interests, and others.
237 (b) The council shall consist of nine voting members as
238 follows:
239 1. The Secretary of the Department of Environmental
240 Protection or his or her designee who shall serve as chair of
241 the council.
242 2. The Chair of the Public Service Commission or his or
243 her designee who shall serve as vice chair of the council.
244 3. One member shall be the Commissioner of the Department
245 of Agriculture and Consumer Services or his or her designee.
246 4. Two members shall be appointed by the Governor.
247 5. Two members shall be appointed by the President of the
248 Senate.
249 6. Two members shall be appointed by the Speaker of the
250 House of Representatives.
251 (c) All initial members shall be appointed prior to
252 September 1, 2006. Appointments made by the Governor, the
253 President of the Senate, and the Speaker of the House of
254 Representatives shall be for terms of 2 years each. Members
255 shall serve until their successors are appointed. Vacancies
256 shall be filled in the manner of the original appointment for
257 the remainder of the term that is vacated.
258 (d) Members shall serve without compensation, but shall be
259 entitled to travel reimbursement and per diem expenses related
260 to council duties and responsibilities pursuant to s. 112.061.
261 (3) The Department of Environmental Protection shall
262 provide primary staff support to the council and shall ensure
263 that council meetings are electronically recorded. Such
264 recording shall be preserved pursuant to chapters 119 and 257.

296 1. Definitions.--As used in this paragraph, the term:
297 a. "Biodiesel" means the mono-alkyl esters of long-chain
298 fatty acids derived from plant or animal matter for use as a
299 source of energy and meeting the specifications for biodiesel
300 and biodiesel blends with petroleum products as adopted by the
301 Department of Agriculture and Consumer Services. Biodiesel may
302 refer to biodiesel blends designated BXX, where XX represents
303 the volume percentage of biodiesel fuel in the blend.
304 b. "Ethanol" means nominally anhydrous denatured alcohol
305 produced by the fermentation of plant sugars meeting the
306 specifications for fuel ethanol and fuel ethanol blends with
307 petroleum products as adopted by the Department of Agriculture
308 and Consumer Services. Ethanol may refer to fuel ethanol blends
309 designated EXX, where XX represents the volume percentage of
310 fuel ethanol in the blend.
311 c. "Hydrogen fuel cells" means equipment using hydrogen or
312 a hydrogen rich fuel in an electrochemical process to generate
313 energy, electricity, or the transfer of heat.
314 2. The sale or use of the following in the state is exempt
315 from the tax imposed by this chapter:
316 a. Hydrogen-powered vehicles, materials incorporated into
317 hydrogen-powered vehicles, and hydrogen-fueling stations, up to
318 a limit of $2 million in tax each state fiscal year.
319 b. Commercial stationary hydrogen fuel cells, up to a
320 limit of $1 million in tax each state fiscal year.
321 c. Materials used in the distribution of biodiesel (B10-
322 B100) and ethanol (E10-E85), including fueling infrastructure,
323 transportation, and storage, up to a limit of $1 million in tax
324 each state fiscal year. Gasoline fueling station pump retrofits
325 for ethanol (E10-E100) distribution qualify for the exemption
326 provided by this subsection.

357 Protection shall provide the department with a copy of each
358 certification issued upon approval of an application.
359 d. Each certified applicant shall be responsible for
360 forwarding a certified copy of the application and copies of all
361 required documentation to the department within 6 months after
362 certification by the Department of Environmental Protection.
363 e. The provisions of s. 212.095 do not apply to any refund
364 application made pursuant to this paragraph. A refund approved
365 pursuant to this paragraph shall be made within 30 days after
366 formal approval by the department.
367 f. The department shall adopt rules governing the manner
368 and form of refund applications and may establish guidelines as
369 to the requisites for an affirmative showing of qualification
370 for exemption under this paragraph.
371 g. The Department of Environmental Protection shall be
372 responsible for ensuring that the exemptions do not exceed the
373 limits provided in subparagraph 2.
374 5. The Department of Environmental Protection shall
375 determine and publish on a regular basis the amount of sales tax
376 funds remaining in each fiscal year.
377 6. This exemption is repealed July 1, 2010.
378 Section 10. Paragraph (y) is added to subsection (7) of
379 section 213.053, Florida Statutes, to read:
380 213.053 Confidentiality and information sharing.--
381 (7) Notwithstanding any other provision of this section,
382 the department may provide:
383 (y) Information relative to ss. 212.08(7)(ccc) and 220.192
384 to the Department of Environmental Protection for use in the
385 conduct of its official business.
386

Committee on Utilities & Telecommunications

Wednesday, April 5, 2006
3:30 p.m. - 5:30 p.m.
404 HOB

Amendment Package A

Allan G. Bense
Speaker

Ken Littlefield
Chair

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **1191**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Utilities & Telecommunications
2 Committee
3 Representatives Littlefield and Farkas offered the following:
4
5 **Amendment (with title amendment)**
6 Remove everything after the enacting clause and insert:
7 Section 1. Subsections (5), (6), and (7) of section
8 364.051, Florida Statutes, are amended to read:
9 364.051 Price regulation.--
10 (5) NONBASIC SERVICES.--Price regulation of nonbasic
11 services shall consist of the following:
12 (a) Each company subject to this section shall, at its
13 option, maintain tariffs with the commission or otherwise
14 publicly publish ~~containing~~ the terms, conditions, and rates for
15 each of its nonbasic services, and may set or change, on 1 day's
16 ~~15 days'~~ notice, the rate for each of its nonbasic services,
17 except that a price increase for any nonbasic service category
18 shall not exceed 6 percent within a 12-month period until there
19 is another provider providing local telecommunications service
20 in an exchange area at which time the price for any nonbasic
21 service category may be increased in an amount not to exceed 20
22 percent within a 12-month period, and the rate shall be

23 presumptively valid. However, for purposes of this subsection,
24 the prices of:
25 1. A voice-grade, flat-rate, multi-line business local
26 exchange service, including multiple individual lines, centrex
27 lines, private branch exchange trunks, and any associated
28 hunting services, that provides dial tone and local usage
29 necessary to place a call within a local exchange calling area;
30 and
31 2. Telecommunications services provided under contract
32 service arrangements to the SUNCOM Network, as defined in
33 chapter 282,
34
35 shall be capped at the rates in effect on July 1, 1995, and such
36 rates shall not be increased prior to January 1, 2000; provided,
37 however, that a petition to increase such rates may be filed
38 pursuant to subsection (4) utilizing the standards set forth
39 therein. There shall be a flat-rate pricing option for multi-
40 line business local exchange service, and mandatory measured
41 service for multi-line business local exchange service shall not
42 be imposed. Nothing contained in this section shall prevent the
43 local exchange telecommunications company from meeting offerings
44 by any competitive provider of the same, or functionally
45 equivalent, nonbasic services in a specific geographic market or
46 to a specific customer by deaveraging the price of any nonbasic
47 service, packaging nonbasic services together or with basic
48 services, using volume discounts and term discounts, and
49 offering individual contracts. However, the local exchange
50 telecommunications company shall not engage in any
51 anticompetitive act or practice, nor unreasonably discriminate
52 among similarly situated customers.

53 (b) The commission shall have continuing regulatory
54 oversight of nonbasic services for purposes of ensuring
55 resolution of service complaints, preventing cross-subsidization
56 of nonbasic services with revenues from basic services, and
57 ensuring that all providers are treated fairly in the
58 telecommunications market. The cost standard for determining
59 cross-subsidization is whether the total revenue from a nonbasic
60 service is less than the total long-run incremental cost of the
61 service. Total long-run incremental cost means service-specific
62 volume and nonvolume-sensitive costs.
63 (c) The price charged to a consumer for a nonbasic service
64 shall cover the direct costs of providing the service and shall,
65 to the extent a cost is not included in the direct cost, include
66 as an imputed cost the price charged by the company to
67 competitors for any monopoly component used by a competitor in
68 the provision of its same or functionally equivalent service.
69 (6) After a local exchange telecommunications company that
70 has more than 1 million access lines in service has reduced its
71 intrastate switched network access rates to parity, as defined
72 in s. 364.164(5), the local exchange telecommunications
73 company's ~~basic local telecommunications service may, at the~~
74 ~~company's election, be subject to the same regulatory treatment~~
75 ~~as its nonbasic services. The company's~~ retail service quality
76 requirements that are not already equal to the service quality
77 requirements imposed upon the competitive local exchange
78 telecommunications companies shall <u>at the company's request to</u>
79 <u>the commission</u> ~~thereafter~~ be no greater than those imposed upon
80 competitive local exchange telecommunications companies unless
81 the commission, within 120 days after the company's <u>request</u>
82 ~~election~~, determines otherwise. In such event, the commission
83 may grant some reductions in service quality requirements in

84 some or all of the company's local calling areas. The commission
85 may not impose retail service quality requirements on
86 competitive local exchange telecommunications companies greater
87 than those existing on January 1, 2003.
88 (7) After ~~If~~ a local exchange telecommunications company
89 that has more than 1 million access lines in service has reduced
90 its intrastate switched network access rates to parity, as
91 defined in s. 364.164(5) ~~elects, pursuant to subsection (6), to~~
92 ~~subject its retail basic local telecommunications services to~~
93 ~~the same regulatory treatment as its nonbasic services~~, the
94 local exchange telecommunications company may petition the
95 commission for regulatory treatment of its retail services at a
96 level no greater than that imposed by the commission upon
97 competitive local exchange telecommunications companies. The
98 local exchange telecommunications company shall:
99 (a) Show that granting the petition is in the public
100 interest;
101 (b) Demonstrate that the competition faced by the company
102 is sufficient and sustainable to allow such competition to
103 supplant regulation by the commission.
104 (c) ~~(b)~~ Reduce its intrastate switched network access rates
105 to its local reciprocal interconnection rate upon the grant of
106 the petition.
107
108 The commission shall act upon such a petition within 9 months
109 after its filing with the commission. ~~In making its~~
110 ~~determination to either grant or deny the petition, the~~
111 ~~commission shall determine the extent to which the level of~~
112 ~~competition faced by the local exchange telecommunications~~
113 ~~company permits and will continue to permit the company to have~~
114 ~~its retail services regulated no differently than the~~

115 ~~competitive local exchange telecommunications companies are then~~
116 ~~being regulated.~~ The commission may not increase the level of
117 regulation for competitive local exchange telecommunications
118 companies to a level greater than that which exists on the date
119 the local exchange telecommunications company files its
120 petition.
121 Section 2. This act shall take effect upon becoming a law.
122
123 ========== T I T L E A M E N D M E N T ==========
124 Remove the entire title and insert:
125 A bill to be entitled
126 An act relating to telecommunications services; amending
127 s. 364.051, F.S., relating to price regulation; allowing
128 certain local exchange telecommunications companies to
129 publish terms, conditions, and rates for nonbasic services
130 in lieu of maintaining tariffs with the Public Service
131 Commission; revising the notice requirement for price
132 changes to nonbasic services; removing a provision that
133 allows a company to elect that its basic services be
134 subject to the same regulatory treatment as its nonbasic
135 services; providing for a request from a company to the
136 Public Service Commission to make certain reductions in
137 its retail service quality requirements; revising criteria
138 for granting a petition to change regulatory treatment of
139 retail services; providing an effective date.

Bill No. **1191**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Utilities & Telecommunications
2 Committee
3 Representative(s) Littlefield offered the following:
4
5 **Amendment to the Strike-All Amendment by Representatives**
6 **Littlefield and Farkas (with title amendment)**
7 Between lines 6 and 7, insert:
8 Section 1. Subsection (1) of section 350.042, Florida
9 Statutes, is amended to read:
10 350.042 Ex parte communications.--
11 (1) A commissioner should accord to every person who is
12 legally interested in a proceeding, or the person's lawyer, full
13 right to be heard according to law, and, except as <u>otherwise</u>
14 authorized by law, <u>or specifically allowed in ss. 120.80(13)(d)</u>
15 <u>and 364.017, a commissioner</u> shall neither initiate nor consider
16 ex parte communications concerning the merits, threat, or offer
17 of reward in any proceeding other than a proceeding under s.
18 120.54 or s. 120.565, workshops, or internal affairs meetings.
19 No individual shall discuss ex parte with a commissioner the
20 merits of any issue that he or she knows will be filed with the
21 commission within 90 days. The provisions of this subsection
22 shall not apply to commission staff.

23 Section 2. Section 364.017, Florida Statutes, is created
24 to read:
25 364.017 Ex parte communications.--
26 (1) To ensure the fairness and integrity of its
27 decisionmaking, the commission shall prescribe rules to regulate
28 ex parte presentations in commission proceedings. The rules
29 shall specify exempt proceedings in which ex parte presentations
30 may be made freely; permit-but-disclose proceedings in which ex
31 parte presentations to commission decisionmaking personnel are
32 permissible but subject to certain disclosure requirements; and
33 restricted proceedings in which ex parte presentations to and
34 from commission decisionmaking personnel are generally
35 prohibited.
36 (2) In all proceedings, there shall be designated a period
37 of time prior to the date established for making a decision
38 during which all presentations or correspondence to commission
39 decisionmaking staff are prohibited. Exceptions to this
40 requirement shall be any presentation or correspondence
41 otherwise allowed by statute; any presentation that relates to
42 emergency situations involving public health, safety, and
43 welfare; and any presentation involving classified security
44 information.
45 (3) A person who makes a written ex parte presentation
46 subject to this section shall, no later than the next business
47 day after the presentation, submit two copies of the
48 presentation to the commission's clerk under separate cover for
49 inclusion in the public record. The presentation and cover
50 letter shall clearly identify the proceeding to which it
51 relates, including the docket number, if any; shall indicate
52 that two copies have been submitted to the clerk; and must be
53 labeled as an ex parte presentation. A person who makes an oral
54 ex parte presentation subject to this section that presents data

55 or arguments not already reflected in that person's written
56 comments, memoranda, or other filings in that proceeding shall,
57 no later than the next business day after the presentation,
58 submit to the commission's clerk an original and one copy of a
59 memorandum which summarizes the new data or arguments. A copy of
60 the memorandum must also be submitted to the commissioners or
61 commission employees involved in the oral presentation. Any such
62 memoranda must contain a summary of the substance of the ex
63 parte presentation and not merely a listing of the subjects
64 discussed.
65 (4) The commission's clerk shall place in the public file
66 or record of the proceeding written ex parte presentations and
67 memoranda reflecting oral ex parte presentations. The clerk
68 shall issue a public notice listing any written ex parte
69 presentations or written summaries of oral ex parte
70 presentations received by his or her office relating to any
71 permit-but-disclose proceeding. Such public notices should
72 generally be released at least twice per week.
73 (5) For purposes of this section, the following
74 definitions shall apply:
75 (a) "Decisionmaking personnel" means any member, officer,
76 or employee of the commission who is or may reasonably be
77 expected to be involved in formulating a substantive
78 recommendation or decision, rule, or order in a proceeding. Any
79 person who has been made a party to a proceeding or who
80 otherwise has been excluded from the decisionmaking process
81 shall not be treated as a decisionmaker with respect to that
82 proceeding, and any person designated as part of a separate
83 trial staff shall not be considered a decisionmaking person in
84 the designated proceeding.
85 (b) "Ex parte presentation" means any presentation that,
86 if written, is not served on the parties of record to the

87 proceeding; or, if oral, is made without advance notice to the
88 parties and without opportunity for the parties to be present.
89 (c) "Presentation" means a communication directed to the
90 merits or outcome of a proceeding, including any attachments to
91 a written communication or documents shown in connection with an
92 oral presentation directed to the merits or outcome of a
93 proceeding. Excluded from this definition are inquiries
94 concerning compliance with procedural requirements if the
95 procedural matter is not an area of controversy in the
96 proceeding, statements made by decisionmakers that are limited
97 to providing publicly available information about pending
98 proceedings, and inquiries relating solely to the status of a
99 proceeding.
100
101 ========== T I T L E A M E N D M E N T ==========
102 Remove line 126 and insert:
103 An act relating to telecommunications service regulation;
104 amending s. 350.042, F.S.; specifying provisions for ex parte
105 communications procedures; creating s. 364.017, F.S.; providing
106 for ex parte communications relating to Public Service
107 Commission proceedings; directing the commission to adopt rules
108 to regulate such communications; amending

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Utilities & Telecommunications
2 Committee
3 Representative Hasner offered the following:
4
5 **Amendment (with title amendment)**
6 Remove everything after the enacting clause and insert:
7 Section 1. Legislative findings and intent.--The
8 Legislature finds that advancing the development of renewable
9 energy technologies and energy efficiency is important for the
10 state's future, its energy stability, and the protection of its
11 citizens' public health and its environment. The Legislature
12 finds that the development of renewable energy technologies and
13 energy efficiency in the state will help to reduce demand for
14 foreign fuels, promote energy diversity, enhance system
15 reliability, reduce pollution, educate the public on the promise
16 of renewable energy technologies, and promote economic growth.
17 The Legislature finds that there is a need to assist in the
18 development of market demand that will advance the
19 commercialization and widespread application of renewable energy
20 technologies. The Legislature further finds that the state is
21 ideally positioned to stimulate economic development through
22 such renewable energy technologies due to its ongoing and

23 successful research and development track record in these areas,
24 an abundance of natural and renewable energy sources, an ability
25 to attract significant federal research and development funds,
26 and the need to find and secure renewable energy technologies
27 for the benefit of its citizens, visitors, and environment.
28 Section 2. Section 377.801, Florida Statutes, is created
29 to read:
30 377.801 Short title.--Sections 377.801-377.806 may be
31 cited as the "Florida Renewable Energy Technologies and Energy
32 Efficiency Act."
33 Section 3. Section 377.802, Florida Statutes, is created
34 to read:
35 377.802 Purpose.--This act is intended to provide matching
36 grants to stimulate capital investment in the state and to
37 enhance the market for and promote the statewide utilization of
38 renewable energy technologies. The targeted grants program is
39 designed to advance the already growing establishment of
40 renewable energy technologies in the state and encourage the use
41 of other incentives such as tax exemptions and regulatory
42 certainty to attract additional renewable energy technology
43 producers, developers, and users to the state. This act is also
44 intended to provide incentives for the purchase of energy
45 efficient appliances and rebates for solar energy equipment
46 installations for residential and commercial buildings.
47 Section 4. Section 377.803, Florida Statutes, is created
48 to read:
49 377.803 Definitions.--As used in this act, the term:
50 (1) "Act" means the Florida Renewable Energy Technologies
51 and Energy Efficiency Act.

52 (2) "Approved metering equipment" means a device capable
53 of measuring the energy output of a solar thermal system that
54 has been approved by the commission.
55 (3) "Commission" means the Florida Public Service
56 Commission.
57 (4) "Department" means the Department of Environmental
58 Protection.
59 (5) "Person" means an individual, partnership, joint
60 venture, private or public corporation, association, firm,
61 public service company, or any other public or private entity.
62 (6) "Renewable energy" means electrical, mechanical, or
63 thermal energy produced from a method that uses one or more of
64 the following fuels or energy sources: hydrogen, biomass, solar
65 energy, geothermal energy, wind energy, ocean energy, waste
66 heat, or hydroelectric power.
67 (7) "Renewable energy technology" means any technology
68 that generates or utilizes a renewable energy resource.
69 (8) "Solar energy system" means equipment that provides
70 for the collection and use of incident solar energy for water
71 heating, space heating or cooling, or other applications that
72 require a conventional source of energy such as petroleum
73 products, natural gas, or electricity that performs primarily
74 with solar energy. In other systems in which solar energy is
75 used in a supplemental way, only those components that collect
76 and transfer solar energy shall be included in this definition.
77 (9) "Solar photovoltaic system" means a device that
78 converts incident sunlight into electrical current.
79 (10) "Solar thermal system" means a device that traps heat
80 from incident sunlight in order to heat water.
81 Section 5. Section 377.804, Florida Statutes, is created
82 to read:

83 377.804 Renewable Energy Technologies Grants Program.--
84 (1) The Renewable Energy Technologies Grants Program is
85 established within the department to provide renewable energy
86 matching grants for demonstration, commercialization, research,
87 and development projects relating to renewable energy
88 technologies.
89 (2) Matching grants for renewable energy technology
90 demonstration, commercialization, research, and development
91 projects may be made to any of the following:
92 (a) Municipalities and county governments.
93 (b) Established for-profit companies licensed to do
94 business in the state.
95 (c) Universities and colleges in the state.
96 (d) Utilities located and operating within the state.
97 (e) Not-for-profit organizations.
98 (f) Other qualified persons, as determined by the
99 department.
100 (3) The department may adopt rules pursuant to ss.
101 120.536(1) and 120.54 to provide for application requirements,
102 provide for ranking of applications, and administer the awarding
103 of grants under this program.
104 (4) Factors the department shall consider in awarding
105 grants include, but are not limited to:
106 (a) The availability of matching funds or other in-kind
107 contributions applied to the total project from an applicant.
108 The department shall give greater preference to projects that
109 provide such matching funds or other in-kind contributions.
110 (b) The degree to which the project stimulates in-state
111 capital investment and economic development in metropolitan and
112 rural areas, including the creation of jobs and the future

113 development of a commercial market for renewable energy
114 technologies.
115 (c) The extent to which the proposed project has been
116 demonstrated to be technically feasible based on pilot project
117 demonstrations, laboratory testing, scientific modeling, or
118 engineering or chemical theory that supports the proposal.
119 (d) The degree to which the project incorporates an
120 innovative new technology or an innovative application of an
121 existing technology.
122 (e) The degree to which a project generates thermal,
123 mechanical, or electrical energy by means of a renewable energy
124 resource that has substantial long-term production potential.
125 (f) The degree to which a project demonstrates efficient
126 use of energy and material resources.
127 (g) The degree to which the project fosters overall
128 understanding and appreciation of renewable energy technologies.
129 (h) The ability to administer a complete project.
130 (i) Project duration and timeline for expenditures.
131 (j) The geographic area in which the project is to be
132 conducted in relation to other projects.
133 (k) The degree of public visibility and interaction.
134 (5) The department shall solicit the expertise of other
135 state agencies in evaluating project proposals. State agencies
136 shall cooperate with the Department of Environmental Protection
137 and provide such assistance as required.
138 Section 6. Section 377.805, Florida Statutes, is created
139 to read:
140 377.805 Energy Efficient Products Sales Tax Holiday.--
141 The tax levied under chapter 212, Florida Statutes, shall not be
142 collected on the sale of an energy efficient product having a
143 selling price of $1,500 or less per product during the period

144 from 12:01 a.m., October 5, through midnight, October 11, in
145 each year from 2006 to 2009. This exemption applies only when
146 the energy-efficient product is purchased for noncommercial home
147 or personal use and does not apply when the product is purchased
148 for trade, business, or resale. As used in this subsection, the
149 term "energy-efficient product" means a dishwasher, clothes
150 washer, air conditioner, ceiling fan, incandescent or florescent
151 light bulb, dehumidifier, programmable thermostat, or
152 refrigerator that has been designated by the United States
153 Environmental Protection Agency and by the United States
154 Department of Energy as meeting or exceeding each agency's
155 requirements for energy efficiency or that has been designated
156 as meeting or exceeding the requirements under the Energy Star
157 Program of either agency.
158 Section 7. Section 377.806, Florida Statutes, is created
159 to read:
160 377.806 Solar Energy System Incentives Program.--
161 (1) PURPOSE.--The Solar Energy System Incentives Program
162 is established within the department to provide for financial
163 incentives for the purchase and installation of solar energy
164 systems. Any resident of the state who purchases and installs a
165 new solar energy system of 2 kilowatts or larger for a solar
166 photovoltaic system, or a solar energy system that provides at
167 least 50 percent of a building's hot water consumption for a
168 solar thermal system from July 1, 2006, through June 30, 2010,
169 is eligible for a rebate on a portion of the purchase price of
170 that solar energy system.
171 (2) SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.--
172 (a) Eligibility requirements.--A solar photovoltaic system
173 qualifies for a rebate if:

174 1. The system is installed by a state-licensed master
175 electrician, electrical contractor, or solar contractor.
176 2. The system complies with state interconnection
177 standards as provided by the commission.
178 3. The system complies with all applicable building codes
179 as defined by the local jurisdictional authority.
180 (b) Rebate amounts.--The rebate amount shall be set at $4
181 per watt based on the total wattage rating of the system. The
182 maximum allowable rebate per solar photovoltaic system
183 installation shall be as follows:
184 1. $20,000 for a residence.
185 2. $100,000 for a place of business, a publicly owned or
186 operated facility, or a facility owned or operated by a private,
187 not-for-profit organization.
188 (3) SOLAR THERMAL SYSTEM INCENTIVE.--
189 (a) Eligibility requirements.--A solar thermal system
190 qualifies for a rebate if:
191 1. The system is installed by a state-licensed solar or
192 plumbing contractor.
193 2. The system complies with all applicable building codes
194 as defined by the local jurisdictional authority.
195 (b) Rebate amounts.--Authorized rebates for installation
196 of solar thermal systems shall be as follows:
197 1. $500 for a residence.
198 2. $15 per 1,000 Btu for a maximum of $5,000 for a place
199 of business, a publicly owned or operated facility, or a
200 facility owned or operated by a private, not-for-profit
201 organization. Btu must be verified by approved metering
202 equipment.
203

204 (4) APPLICATION.--Application for a rebate must be made
205 within 90 days after the purchase of the solar energy equipment.
206 (5) REBATE AVAILABILITY.--The department shall determine
207 and publish on a regular basis the amount of rebate funds
208 remaining in each fiscal year. The total dollar amount of all
209 rebates issued by the department is subject to the total amount
210 of appropriations in any fiscal year for this program. If funds
211 are insufficient during the current fiscal year, any requests
212 for rebates received during that fiscal year may be processed
213 during the following fiscal year. Requests for rebates that are
214 processed during the following fiscal year shall be given
215 priority over requests for rebates received during the current
216 fiscal year.
217 (6) RULES.--The department shall adopt rules pursuant to
218 ss. 120.536(1) and 120.54 to develop rebate applications and
219 administer the issuance of rebates.
220 Section 8. Section 377.901, Florida Statutes, is
221 created to read:
222 377.901 Florida Energy Council.--
223 (1) The Florida Energy Council is created within the
224 Department of Environmental Protection to provide advice and
225 counsel to the Governor, the President of the Senate, and the
226 Speaker of the House of Representatives on the energy policy of
227 the state. The council should advise the state on current and
228 projected energy issues including, but not limited to,
229 generation, transmission, and fuel supply issues. In developing
230 its recommendations, the commission shall be guided by the
231 principles of reliability, efficiency, affordability, and
232 diversity.
233 (2)(a) The council shall be comprised of a diversity of
234 stakeholders, and may include utility providers, researchers,

235 fuel suppliers, technology manufacturers, environmental
236 interests, and others.
237 (b) The council shall consist of nine voting members as
238 follows:
239 1. The Secretary of the Department of Environmental
240 Protection or his or her designee who shall serve as chair of
241 the council.
242 2. The Chair of the Public Service Commission or his or
243 her designee who shall serve as vice chair of the council.
244 3. One member shall be the Commissioner of the Department
245 of Agriculture and Consumer Services or his or her designee.
246 4. Two members shall be appointed by the Governor.
247 5. Two members shall be appointed by the President of the
248 Senate.
249 6. Two members shall be appointed by the Speaker of the
250 House of Representatives.
251 (c) All initial members shall be appointed prior to
252 September 1, 2006. Appointments made by the Governor, the
253 President of the Senate, and the Speaker of the House of
254 Representatives shall be for terms of 2 years each. Members
255 shall serve until their successors are appointed. Vacancies
256 shall be filled in the manner of the original appointment for
257 the remainder of the term that is vacated.
258 (d) Members shall serve without compensation, but shall be
259 entitled to travel reimbursement and per diem expenses related
260 to council duties and responsibilities pursuant to s. 112.061.
261 (3) The Department of Environmental Protection shall
262 provide primary staff support to the council and shall ensure
263 that council meetings are electronically recorded. Such
264 recording shall be preserved pursuant to chapters 119 and 257.

265 (4) The Department of Environmental Protection may adopt
266 rules pursuant to ss. 120.536 and 120.54 to implement the
267 provisions of this section.
268 Section 9. Paragraph (ccc) is added to subsection (7) of
269 section 212.08, Florida Statutes, to read:
270 212.08 Sales, rental, use, consumption, distribution, and
271 storage tax; specified exemptions.--The sale at retail, the
272 rental, the use, the consumption, the distribution, and the
273 storage to be used or consumed in this state of the following
274 are hereby specifically exempt from the tax imposed by this
275 chapter.
276 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
277 entity by this chapter do not inure to any transaction that is
278 otherwise taxable under this chapter when payment is made by a
279 representative or employee of the entity by any means,
280 including, but not limited to, cash, check, or credit card, even
281 when that representative or employee is subsequently reimbursed
282 by the entity. In addition, exemptions provided to any entity by
283 this subsection do not inure to any transaction that is
284 otherwise taxable under this chapter unless the entity has
285 obtained a sales tax exemption certificate from the department
286 or the entity obtains or provides other documentation as
287 required by the department. Eligible purchases or leases made
288 with such a certificate must be in strict compliance with this
289 subsection and departmental rules, and any person who makes an
290 exempt purchase with a certificate that is not in strict
291 compliance with this subsection and the rules is liable for and
292 shall pay the tax. The department may adopt rules to administer
293 this subsection.
294 (ccc) Equipment, machinery, and other materials for
295 renewable energy technologies.--

296 1. Definitions.--As used in this paragraph, the term:
297 a. "Biodiesel" means the mono-alkyl esters of long-chain
298 fatty acids derived from plant or animal matter for use as a
299 source of energy and meeting the specifications for biodiesel
300 and biodiesel blends with petroleum products as adopted by the
301 Department of Agriculture and Consumer Services. Biodiesel may
302 refer to biodiesel blends designated BXX, where XX represents
303 the volume percentage of biodiesel fuel in the blend.
304 b. "Ethanol" means nominally anhydrous denatured alcohol
305 produced by the fermentation of plant sugars meeting the
306 specifications for fuel ethanol and fuel ethanol blends with
307 petroleum products as adopted by the Department of Agriculture
308 and Consumer Services. Ethanol may refer to fuel ethanol blends
309 designated EXX, where XX represents the volume percentage of
310 fuel ethanol in the blend.
311 c. "Hydrogen fuel cells" means equipment using hydrogen or
312 a hydrogen rich fuel in an electrochemical process to generate
313 energy, electricity, or the transfer of heat.
314 2. The sale or use of the following in the state is exempt
315 from the tax imposed by this chapter:
316 a. Hydrogen-powered vehicles, materials incorporated into
317 hydrogen-powered vehicles, and hydrogen-fueling stations, up to
318 a limit of $2 million in tax each state fiscal year.
319 b. Commercial stationary hydrogen fuel cells, up to a
320 limit of $1 million in tax each state fiscal year.
321 c. Materials used in the distribution of biodiesel (B10-
322 B100) and ethanol (E10-E85), including fueling infrastructure,
323 transportation, and storage, up to a limit of $1 million in tax
324 each state fiscal year. Gasoline fueling station pump retrofits
325 for ethanol (E10-E100) distribution qualify for the exemption
326 provided by this subsection.

327 3. The Department of Environmental Protection shall
328 provide to the department a list of items eligible for the
329 exemption.
330 4.a. The exemption shall be available to a purchaser only
331 through a refund of previously paid taxes.
332 b. To be eligible to receive the exemption, a purchaser
333 shall file an application with the Department of Environmental
334 Protection. The application shall be developed by the Department
335 of Environmental Protection, in consultation with the
336 department, and shall require:
337 (I) The name and address of the person claiming the
338 refund.
339 (II) A specific description of the purchase for which a
340 refund is sought, including, when applicable, a serial number or
341 other permanent identification number.
342 (III) The sales invoice or other proof of purchase showing
343 the amount of sales tax paid, the date of purchase, and the name
344 and address of the sales tax dealer from whom the property was
345 purchased.
346 (IV) A sworn statement that the information provided is
347 accurate and that the requirements of this section have been
348 met.
349 c. Within 30 days after receipt of an application, the
350 Department of Environmental Protection shall review the
351 application and shall notify the applicant of any deficiencies.
352 Upon receipt of a completed application, the Department of
353 Environmental Protection shall evaluate the application for
354 exemption and issue a written certification that the applicant
355 is eligible for a refund or issue a written denial of such
356 certification within 60 days. The Department of Environmental

357 Protection shall provide the department with a copy of each
358 certification issued upon approval of an application.
359 d. Each certified applicant shall be responsible for
360 forwarding a certified copy of the application and copies of all
361 required documentation to the department within 6 months after
362 certification by the Department of Environmental Protection.
363 e. The provisions of s. 212.095 do not apply to any refund
364 application made pursuant to this paragraph. A refund approved
365 pursuant to this paragraph shall be made within 30 days after
366 formal approval by the department.
367 f. The department shall adopt rules governing the manner
368 and form of refund applications and may establish guidelines as
369 to the requisites for an affirmative showing of qualification
370 for exemption under this paragraph.
371 g. The Department of Environmental Protection shall be
372 responsible for ensuring that the exemptions do not exceed the
373 limits provided in subparagraph 2.
374 5. The Department of Environmental Protection shall
375 determine and publish on a regular basis the amount of sales tax
376 funds remaining in each fiscal year.
377 6. This exemption is repealed July 1, 2010.
378 Section 10. Paragraph (y) is added to subsection (7) of
379 section 213.053, Florida Statutes, to read:
380 213.053 Confidentiality and information sharing.--
381 (7) Notwithstanding any other provision of this section,
382 the department may provide:
383 (y) Information relative to ss. 212.08(7)(ccc) and 220.192
384 to the Department of Environmental Protection for use in the
385 conduct of its official business.
386

387 Disclosure of information under this subsection shall be
388 pursuant to a written agreement between the executive director
389 and the agency. Such agencies, governmental or nongovernmental,
390 shall be bound by the same requirements of confidentiality as
391 the Department of Revenue. Breach of confidentiality is a
392 misdemeanor of the first degree, punishable as provided by s.
393 775.082 or s. 775.083.
394 Section 11. Subsection (8) of section 220.02, Florida
395 Statutes, is amended to read:
396 220.02 Legislative intent.--
397 (8) It is the intent of the Legislature that credits
398 against either the corporate income tax or the franchise tax be
399 applied in the following order: those enumerated in s. 631.828,
400 those enumerated in s. 220.191, those enumerated in s. 220.181,
401 those enumerated in s. 220.183, those enumerated in s. 220.182,
402 those enumerated in s. 220.1895, those enumerated in s. 221.02,
403 those enumerated in s. 220.184, those enumerated in s. 220.186,
404 those enumerated in s. 220.1845, those enumerated in s. 220.19,
405 those enumerated in s. 220.185, ~~and~~ those enumerated in s.
406 220.187, and those enumerated in s. 220.192.
407 Section 12. Section 220.192, Florida Statutes, is created
408 to read:
409 220.192 Renewable energy technologies investment tax
410 credit.--
411 (1) DEFINITIONS.--For purposes of this section, the term:
412 (a) "Biodiesel" means biodiesel as defined in s.
413 212.08(7)(ccc).
414 (b) "Eligible costs" means:
415 1. Seventy-five percent of all capital costs, operation
416 and maintenance costs, and research and development costs
417 incurred between July 1, 2006, and June 30, 2010, up to a limit

418 of $3 million per state fiscal year for all taxpayers, in
419 connection with an investment in hydrogen powered vehicles and
420 hydrogen vehicle fueling stations in the state, including, but
421 not limited to, the costs of constructing, installing, and
422 equipping such technologies in the state.
423 2. Seventy-five percent of all capital costs, operation
424 and maintenance costs, and research and development costs
425 incurred between July 1, 2006, and June 30, 2010, up to a limit
426 of $1.5 million per state fiscal year for all taxpayers, and
427 limited to a maximum of $12,000 per fuel cell, in connection
428 with an investment in commercial stationary hydrogen fuel cells
429 in the state, including, but not limited to, the costs of
430 constructing, installing, and equipping such technologies in the
431 state.
432 3. Seventy-five percent of all capital costs, operation
433 and maintenance costs, and research and development costs
434 incurred between July 1, 2006, and June 30, 2010, up to a limit
435 of $6.5 million per state fiscal year for all tax payers, in
436 connection with an investment in the production, storage, and
437 distribution of biodiesel (B10-B100) and ethanol (E10-E100) in
438 the state, including the costs of constructing, installing, and
439 equipping such technologies in the state. Gasoline fueling
440 station pump retrofits for ethanol (E10-E100) distribution
441 qualify as an eligible cost under this subsection.
442 (c) "Ethanol" means ethanol as defined in s.
443 212.08(7)(ccc).
444 (d) "Hydrogen fuel cell" means hydrogen fuel cell as
445 defined in s. 212.08(7)(ccc).
446 (2) TAX CREDIT.--For tax years beginning on or after
447 January 1, 2007, a credit against the tax imposed by this
448 chapter shall be granted in an amount equal to the eligible

449 costs. Credits may be used in tax years beginning January 1,
450 2007, and ending December 31, 2010, after which the credit shall
451 expire. If the credit is not fully used in any one tax year
452 because of insufficient tax liability on the part of the
453 corporation, the unused amount may be carried forward and used
454 in tax years beginning January 1, 2007, and ending December 31,
455 2012, after which the credit carryover expires and may not be
456 used. A taxpayer that files a consolidated return in this state
457 as a member of an affiliated group under s. 220.131(1) may be
458 allowed the credit on a consolidated return basis up to the
459 amount of tax imposed upon the consolidated group. Any eligible
460 cost for which a credit is claimed and which is deducted or
461 otherwise reduces federal taxable income shall be added back in
462 computing adjusted federal income under s. 220.13.
463 (3) APPLICATION PROCESS.--Any corporation wishing to
464 obtain tax credits available under this section must submit to
465 the Department of Environmental Protection an application for
466 tax credit that includes a complete description of all eligible
467 costs for which the corporation is seeking a credit and a
468 description of the total amount of credits sought. The
469 Department of Environmental Protection shall make a
470 determination on the eligibility of the applicant for the
471 credits sought and certify the determination to the applicant
472 and the Department of Revenue. The corporation must attach the
473 Department of Environmental Protection's certification to the
474 tax return on which the credit is claimed. The Department of
475 Environmental Protection shall be responsible for ensuring that
476 the corporate income tax credits granted in each fiscal year do
477 not exceed the limits provided for in this section. The
478 Department of Environmental Protection is authorized to adopt

479 the necessary rules, guidelines, and application materials for
480 the application process.
481 (4) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
482 CREDITS.--
483 (a) In addition to its existing audit and investigation
484 authority, the Department of Revenue may perform any additional
485 financial and technical audits and investigations, including
486 examining the accounts, books, and records of the tax credit
487 applicant, that are necessary to verify the eligible costs
488 included in the tax credit return and to ensure compliance with
489 this section. The Department of Environmental Protection shall
490 provide technical assistance when requested by the Department of
491 Revenue on any technical audits or examinations performed
492 pursuant to this section.
493 (b) It is grounds for forfeiture of previously claimed and
494 received tax credits if the Department of Revenue determines, as
495 a result of either an audit or examination or from information
496 received from the Department of Environmental Protection, that a
497 taxpayer received tax credits pursuant to this section to which
498 the taxpayer was not entitled. The taxpayer is responsible for
499 returning forfeited tax credits to the Department of Revenue,
500 and such funds shall be paid into the General Revenue Fund of
501 the state.
502 (c) The Department of Environmental Protection may revoke
503 or modify any written decision granting eligibility for tax
504 credits under this section if it is discovered that the tax
505 credit applicant submitted any false statement, representation,
506 or certification in any application, record, report, plan, or
507 other document filed in an attempt to receive tax credits under
508 this section. The Department of Environmental Protection shall
509 immediately notify the Department of Revenue of any revoked or

510 modified orders affecting previously granted tax credits.
511 Additionally, the taxpayer must notify the Department of Revenue
512 of any change in its tax credit claimed.
513 (d) The taxpayer shall file with the Department of Revenue
514 an amended return or such other report as the Department of
515 Revenue prescribes by rule and shall pay any required tax and
516 interest within 60 days after the taxpayer receives notification
517 from the Department of Environmental Protection that previously
518 approved tax credits have been revoked or modified. If the
519 revocation or modification order is contested, the taxpayer
520 shall file as provided in this paragraph within 60 days after a
521 final order is issued following proceedings.
522 (e) A notice of deficiency may be issued by the Department
523 of Revenue at any time within 3 years after the taxpayer
524 receives formal notification from the Department of
525 Environmental Protection that previously approved tax credits
526 have been revoked or modified. If a taxpayer fails to notify the
527 Department of Revenue of any changes to its tax credit claimed,
528 a notice of deficiency may be issued at any time.
529 (5) RULES.--The Department of Revenue shall have the
530 authority to adopt rules relating to the forms required to claim
531 a tax credit under this section, the requirements and basis for
532 establishing an entitlement to a credit, and the examination and
533 audit procedures required to administer this section.
534 (6) PUBLICATION.--The Department of Environmental
535 Protection shall determine and publish on a regular basis the
536 amount of available tax credits remaining in each fiscal year.
537 Section 13. Paragraph (a) of subsection (1) of section
538 220.13, Florida Statutes, is amended to read:
539 220.13 "Adjusted federal income" defined.--

540 (1) The term "adjusted federal income" means an amount
541 equal to the taxpayer's taxable income as defined in subsection
542 (2), or such taxable income of more than one taxpayer as
543 provided in s. 220.131, for the taxable year, adjusted as
544 follows:
545 (a) Additions.--There shall be added to such taxable
546 income:
547 1. The amount of any tax upon or measured by income,
548 excluding taxes based on gross receipts or revenues, paid or
549 accrued as a liability to the District of Columbia or any state
550 of the United States which is deductible from gross income in
551 the computation of taxable income for the taxable year.
552 2. The amount of interest which is excluded from taxable
553 income under s. 103(a) of the Internal Revenue Code or any other
554 federal law, less the associated expenses disallowed in the
555 computation of taxable income under s. 265 of the Internal
556 Revenue Code or any other law, excluding 60 percent of any
557 amounts included in alternative minimum taxable income, as
558 defined in s. 55(b)(2) of the Internal Revenue Code, if the
559 taxpayer pays tax under s. 220.11(3).
560 3. In the case of a regulated investment company or real
561 estate investment trust, an amount equal to the excess of the
562 net long-term capital gain for the taxable year over the amount
563 of the capital gain dividends attributable to the taxable year.
564 4. That portion of the wages or salaries paid or incurred
565 for the taxable year which is equal to the amount of the credit
566 allowable for the taxable year under s. 220.181. The provisions
567 of this subparagraph shall expire and be void on June 30, 2005.
568 5. That portion of the ad valorem school taxes paid or
569 incurred for the taxable year which is equal to the amount of
570 the credit allowable for the taxable year under s. 220.182. The

571 provisions of this subparagraph shall expire and be void on June
572 30, 2005.
573 6. The amount of emergency excise tax paid or accrued as a
574 liability to this state under chapter 221 which tax is
575 deductible from gross income in the computation of taxable
576 income for the taxable year.
577 7. That portion of assessments to fund a guaranty
578 association incurred for the taxable year which is equal to the
579 amount of the credit allowable for the taxable year.
580 8. In the case of a nonprofit corporation which holds a
581 pari-mutuel permit and which is exempt from federal income tax
582 as a farmers' cooperative, an amount equal to the excess of the
583 gross income attributable to the pari-mutuel operations over the
584 attributable expenses for the taxable year.
585 9. The amount taken as a credit for the taxable year under
586 s. 220.1895.
587 10. Up to nine percent of the eligible basis of any
588 designated project which is equal to the credit allowable for
589 the taxable year under s. 220.185.
590 11. The amount taken as a credit for the taxable year
591 under s. 220.187.
592 <u>12. The amount taken as a credit for the taxable year</u>
593 <u>under s. 220.192.</u>
594 Section 14. Subsection (2) of section 186.801, Florida
595 Statutes, is amended to read:
596 186.801 Ten-year site plans.--
597 (2) Within 9 months after the receipt of the proposed
598 plan, the commission shall make a preliminary study of such plan
599 and classify it as "suitable" or "unsuitable." The commission
600 may suggest alternatives to the plan. All findings of the
601 commission shall be made available to the Department of

602 Environmental Protection for its consideration at any subsequent
603 electrical power plant site certification proceedings. It is
604 recognized that 10-year site plans submitted by an electric
605 utility are tentative information for planning purposes only and
606 may be amended at any time at the discretion of the utility upon
607 written notification to the commission. A complete application
608 for certification of an electrical power plant site under
609 chapter 403, when such site is not designated in the current 10-
610 year site plan of the applicant, shall constitute an amendment
611 to the 10-year site plan. In its preliminary study of each 10-
612 year site plan, the commission shall consider such plan as a
613 planning document and shall review:
614 (a) The need, including the need as determined by the
615 commission, for electrical power in the area to be served.
616 (b) The effect on fuel diversity within the state.
617 (c) ~~(b)~~ The anticipated environmental impact of each
618 proposed electrical power plant site.
619 (d) ~~(c)~~ Possible alternatives to the proposed plan.
620 (e) ~~(d)~~ The views of appropriate local, state, and federal
621 agencies, including the views of the appropriate water
622 management district as to the availability of water and its
623 recommendation as to the use by the proposed plant of salt water
624 or fresh water for cooling purposes.
625 (f) ~~(e)~~ The extent to which the plan is consistent with the
626 state comprehensive plan.
627 (g) ~~(f)~~ The plan with respect to the information of the
628 state on energy availability and consumption.
629 Section 15. Subsection (6) of section 366.04, Florida
630 Statutes, is amended to read:
631 366.04 Jurisdiction of commission.--

632 (6) The commission shall further have exclusive
633 jurisdiction to prescribe and enforce safety standards for
634 transmission and distribution facilities of all public electric
635 utilities, cooperatives organized under the Rural Electric
636 Cooperative Law, and electric utilities owned and operated by
637 municipalities. In adopting safety standards, the commission
638 shall, at a minimum:
639 (a) Adopt the 1984 edition of the National Electrical
640 Safety Code (ANSI C2) as initial standards; and
641 (b) Adopt, after review, any new edition of the National
642 Electrical Safety Code (ANSI C2).
643
644 The standards prescribed by the current 1984 edition of the
645 National Electrical Safety Code (ANSI C2) shall constitute
646 acceptable and adequate requirements for the protection of the
647 safety of the public, and compliance with the minimum
648 requirements of that code shall constitute good engineering
649 practice by the utilities. The administrative authority referred
650 to in the 1984 edition of the National Electrical Safety Code is
651 the commission. However, nothing herein shall be construed as
652 superseding, repealing, or amending the provisions of s.
653 403.523(1) and (10).
654 Section 16. Subsections (1) and (8) of section 366.05,
655 Florida Statutes, are amended to read:
656 366.05 Powers.--
657 (1) In the exercise of such jurisdiction, the commission
658 shall have power to prescribe fair and reasonable rates and
659 charges, classifications, standards of quality and measurements,
660 including the ability to adopt construction standards that
661 exceed the National Electrical Safety Code, for purposes of
662 ensuring the reliable provision of service and service rules and

663 regulations to be observed by each public utility; to require
664 repairs, improvements, additions, replacements, and extensions
665 to the plant and equipment of any public utility when reasonably
666 necessary to promote the convenience and welfare of the public
667 and secure adequate service or facilities for those reasonably
668 entitled thereto; to employ and fix the compensation for such
669 examiners and technical, legal, and clerical employees as it
670 deems necessary to carry out the provisions of this chapter; and
671 to adopt rules pursuant to ss. 120.536(1) and 120.54 to
672 implement and enforce the provisions of this chapter.
673 (8) If the commission determines that there is probable
674 cause to believe that inadequacies exist with respect to the
675 energy grids developed by the electric utility industry,
676 including inadequacies in fuel diversity or fuel supply
677 reliability, it shall have the power, after proceedings as
678 provided by law, and after a finding that mutual benefits will
679 accrue to the electric utilities involved, to require
680 installation or repair of necessary facilities, including
681 generating plants and transmission and distribution facilities,
682 with the costs to be distributed in proportion to the benefits
683 received, and to take all necessary steps to ensure compliance.
684 The electric utilities involved in any action taken or orders
685 issued pursuant to this subsection shall have full power and
686 authority, notwithstanding any general or special laws to the
687 contrary, to jointly plan, finance, build, operate, or lease
688 generating and transmission facilities and shall be further
689 authorized to exercise the powers granted to corporations in
690 chapter 361. This subsection shall not supersede or control any
691 provision of the Florida Electrical Power Plant Siting Act, ss.
692 403.501-403.518.

693 Section 17. The Florida Public Service Commission shall
694 direct a study of the electric transmission grid in the state.
695 The study shall look at electric system reliability to examine
696 the efficiency and reliability of power transfer and emergency
697 contingency conditions. In addition, the study shall examine the
698 hardening of infrastructure to address issues arising from the
699 2004 and 2005 hurricane seasons. A report of the results of the
700 study shall be provided to the Governor, the President of the
701 Senate, and the Speaker of the House of Representatives by
702 January 30, 2007.
703 Section 18. Subsections (5), (8), (9), (12), (18), (24),
704 and (27) of section 403.503, Florida Statutes, are amended,
705 subsections (16) through (28) are renumbered as (17) through
706 (29), respectively, and new subsection (16) is added to that
707 section, to read:
708 403.503 Definitions relating to Florida Electrical Power
709 Plant Siting Act.--As used in this act:
710 (5) "Application" means the documents required by the
711 department to be filed to initiate a certification review and
712 evaluation, including the initial document filing, amendments,
713 and responses to requests from the department for additional
714 data and information ~~proceeding and shall include the documents~~
715 ~~necessary for the department to render a decision on any permit~~
716 ~~required pursuant to any federally delegated or approved permit~~
717 ~~program~~.
718 (8) "Completeness" means that the application has
719 addressed all applicable sections of the prescribed application
720 format, and ~~but does not mean~~ that those sections are sufficient
721 in comprehensiveness of data or in quality of information
722 provided to allow the department to determine whether the

723 application provides the reviewing agencies adequate information
724 to prepare the reports required by s. 403.507.
725 (9) "Corridor" means the proposed area within which an
726 associated linear facility right-of-way is to be located. The
727 width of the corridor proposed for certification as an
728 associated facility, at the option of the applicant, may be the
729 width of the right-of-way or a wider boundary, not to exceed a
730 width of 1 mile. The area within the corridor in which a right-
731 of-way may be located may be further restricted by a condition
732 of certification. After all property interests required for the
733 right-of-way have been acquired by the licensee ~~applicant~~, the
734 boundaries of the area certified shall narrow to only that land
735 within the boundaries of the right-of-way.
736 (12) "Electrical power plant" means, for the purpose of
737 certification, any steam or solar electrical generating facility
738 using any process or fuel, including nuclear materials, except
739 that this term does not include any steam or solar electric
740 generating facility of less than 75 megawatts in capacity unless
741 the applicant for such a facility elects to apply for
742 certification under this act, or any unit capacity expansion of
743 35 megawatts or less of an existing exothermic reaction
744 cogeneration unit that was originally built under a power plant
745 siting act exemption. This exemption does not apply if the unit
746 uses oil or natural gas for purposes other than start-up. This
747 term ~~and~~ includes associated facilities to be owned by the
748 licensee which directly support the construction and operation
749 of the electrical power plant such as fuel unloading facilities,
750 pipelines necessary for transporting fuel for the operation of
751 the facility or other fuel transportation facilities, water or
752 wastewater transport pipelines, construction, maintenance and
753 access roads, railway lines necessary for transport of

754 construction equipment or fuel for the operation of the
755 facility, and those associated transmission lines owned by the
756 licensee which connect the electrical power plant to an existing
757 transmission network or rights-of-way to which the applicant
758 intends to connect~~, except that this term does not include any~~
759 ~~steam or solar electrical generating facility of less than 75~~
760 ~~megawatts in capacity unless the applicant for such a facility~~
761 ~~elects to apply for certification under this act. An associated~~
762 ~~transmission line~~ Associated facilities may include, at the
763 applicant's option, offsite associated facilities that will not
764 be owned by the applicant, and any proposed terminal or
765 intermediate substations or substation expansions connected to
766 the associated transmission line.
767 (16) "Licensee" means an applicant that has obtained a
768 certification order for the subject project.
769 (19)~~(18)~~ "Nonprocedural requirements of agencies" means
770 any agency's regulatory requirements established by statute,
771 rule, ordinance, zoning ordinance, land development code, or
772 comprehensive plan, excluding any provisions prescribing forms,
773 fees, procedures, or time limits for the review or processing of
774 information submitted to demonstrate compliance with such
775 regulatory requirements.
776 (25)~~(24)~~ "Right-of-way" means land necessary for the
777 construction and maintenance of a connected associated linear
778 facility, such as a railroad line, pipeline, or transmission
779 line as owned by or proposed to be certified by the applicant.
780 The typical width of the right-of-way shall be identified in the
781 application. The right-of-way shall be located within the
782 certified corridor and shall be identified by the applicant
783 subsequent to certification in documents filed with the
784 department prior to construction.

785 (28) ~~(27)~~ "Ultimate site capacity" means the maximum
786 generating capacity for a site as certified by the board.
787 ~~"Sufficiency" means that the application is not only complete~~
788 ~~but that all sections are sufficient in the comprehensiveness of~~
789 ~~data or in the quality of information provided to allow the~~
790 ~~department to determine whether the application provides the~~
791 ~~reviewing agencies adequate information to prepare the reports~~
792 ~~required by s. 403.507.~~
793 Section 19. Subsections (1), (7), (9), and (10) of section
794 403.504, Florida Statutes, are amended, and new subsections (9),
795 (10), (11), and (12) are added to that section, to read:
796 403.504 Department of Environmental Protection; powers and
797 duties enumerated.--The department shall have the following
798 powers and duties in relation to this act:
799 (1) To adopt rules pursuant to ss. 120.536(1) and 120.54
800 to implement the provisions of this act, including rules setting
801 forth environmental precautions to be followed in relation to
802 the location, construction, and operation of electrical power
803 plants.
804 (7) To conduct studies and prepare a project ~~written~~
805 analysis under s. 403.507.
806 (9) To issue final orders after receipt of the
807 administrative law judge's order relinquishing jurisdiction
808 pursuant to s. 403.508(6).
809 (10) To act as clerk for the siting board.
810 (11) To administer and manage the terms and conditions of
811 the certification order and supporting documents and records for
812 the life of the facility.
813 (12) To issue emergency orders on behalf of the board for
814 facilities licensed under this act.

815 ~~(9) To notify all affected agencies of the filing of a~~
816 ~~notice of intent within 15 days after receipt of the notice.~~
817 ~~(10) To issue, with the electrical power plant~~
818 ~~certification, any license required pursuant to any federally~~
819 ~~delegated or approved permit program.~~
820 Section 20. Section 403.5055, Florida Statutes, is amended
821 to read:
822 403.5055 Application for permits pursuant to s.
823 403.0885.--In processing applications for permits pursuant to s.
824 403.0885 that are associated with applications for electrical
825 power plant certification:
826 (1) The procedural requirements set forth in 40 C.F.R. s.
827 123.25, including public notice, public comments, and public
828 hearings, shall be closely coordinated with the certification
829 process established under this part. In the event of a conflict
830 between the certification process and federally required
831 procedures for NPDES permit issuance, the applicable federal
832 requirements shall control.
833 ~~(2) The department's proposed action pursuant to 40 C.F.R.~~
834 ~~s. 124.6, including any draft NPDES permit (containing the~~
835 ~~information required under 40 C.F.R. s. 124.6(d)), shall within~~
836 ~~130 days after the submittal of a complete application be~~
837 ~~publicly noticed and transmitted to the United States~~
838 ~~Environmental Protection Agency for its review pursuant to 33~~
839 ~~U.S.C. s. 1342(d).~~
840 (2) ~~(3)~~ If available at the time the department issues its
841 project analysis pursuant to s. 403.507(3), the department shall
842 include in its project analysis ~~written analysis pursuant to s.~~
843 ~~403.507(3)~~ copies of the department's proposed action pursuant
844 to 40 C.F.R. s. 124.6 on any application for a NPDES permit; any
845 corresponding comments received from the United States

846 Environmental Protection Agency, the applicant, or the general
847 public; and the department's response to those comments.
848 (3) ~~(4)~~ The department shall not issue or deny the permit
849 pursuant to s. 403.0885 in advance of the issuance of the
850 electric power plant certification under this part unless
851 required to do so by the provisions of federal law. When
852 possible, any hearing on a permit issued pursuant to s.
853 403.0885, shall be conducted in conjunction with the
854 certification hearing held pursuant to this act. The
855 department's actions on an NPDES permit shall be based on the
856 record and recommended order of the certification hearing, if
857 the hearing on the NPDES was conducted in conjunction with the
858 certification hearing, and of any other proceeding held in
859 connection with the application for an NPDES permit, timely
860 public comments received with respect to the application, and
861 the provisions of federal law. The department's action on an
862 NPDES permit, if issued, shall differ from the actions taken by
863 the siting board regarding the certification order if federal
864 laws and regulations require different action to be taken to
865 ensure compliance with the Clean Water Act, as amended, and
866 implementing regulations. Nothing in this part shall be
867 construed to displace the department's authority as the final
868 permitting entity under the federally approved state NPDES
869 program. Nothing in this part shall be construed to authorize
870 the issuance of a state NPDES permit which does not conform to
871 the requirements of the federally approved state NPDES program.
872 ~~The permit, if issued, shall be valid for no more than 5 years.~~
873 ~~(5) The department's action on an NPDES permit renewal, if~~
874 ~~issued, shall differ from the actions taken by the siting board~~
875 ~~regarding the certification order if federal laws and~~
876 ~~regulations require different action to be taken to ensure~~

877 ~~compliance with the Clean Water Act, as amended, and~~
878 ~~implementing regulations.~~
879 Section 21. Section 403.506, Florida Statutes, is amended
880 to read:
881 403.506 Applicability, thresholds, and certification.--
882 (1) The provisions of this act shall apply to any
883 electrical power plant as defined herein, except that the
884 provisions of this act shall not apply to any electrical power
885 plant or steam generating plant of less than 75 megawatts in
886 capacity or to any substation to be constructed as part of an
887 associated transmission line unless the applicant has elected to
888 apply for certification of such plant or substation under this
889 act. The provisions of this act shall not apply to any unit
890 capacity expansion of 35 megawatts or less of an existing
891 exothermic reaction cogeneration unit that was exempt from this
892 act when it was originally built, however, this exemption shall
893 not apply if the unit uses oil or natural gas for purposes other
894 than unit start up. No construction of any new electrical power
895 plant or expansion in steam generating capacity as measured by
896 an increase in the maximum electrical generator rating of any
897 existing electrical power plant may be undertaken after October
898 1, 1973, without first obtaining certification in the manner as
899 herein provided, except that this act shall not apply to any
900 such electrical power plant which is presently operating or
901 under construction or which has, upon the effective date of
902 chapter 73-33, Laws of Florida, applied for a permit or
903 certification under requirements in force prior to the effective
904 date of such act.
905 (2) Except as provided in the certification, modification
906 of nonnuclear fuels, internal related hardware, including
907 increases in steam turbine efficiency, or operating conditions

908 not in conflict with certification which increase the electrical
909 output of a unit to no greater capacity than the maximum
910 electrical generator rating ~~operating capacity~~ of the existing
911 generator shall not constitute an alteration or addition to
912 generating capacity which requires certification pursuant to
913 this act.
914 ~~(3) The application for any related department license~~
915 ~~which is required pursuant to any federally delegated or~~
916 ~~approved permit program shall be processed within the time~~
917 ~~periods allowed by this act, in lieu of those specified in s.~~
918 ~~120.60. However, permits issued pursuant to s. 403.0885 shall be~~
919 ~~processed in accordance with 40 C.F.R. part 123.~~
920 Section 22. Section 403.5064, Florida Statutes, is amended
921 to read:
922 403.5064 Application ~~Distribution of application~~;
923 schedules.--
924 (1) The formal date of certification application filing
925 and commencement of the certification review process shall be
926 when the applicant submits:
927 (a) Copies of the certification application in a quantity
928 and format as prescribed by rule to the department and other
929 agencies identified in s. 403.507(2)(a).
930 (b) The application fee specified under s. 403.518 to the
931 department.
932 (2) ~~(1)~~ Within 7 days after the filing of an application,
933 the department shall provide to the applicant and the Division
934 of Administrative Hearings the names and addresses of any
935 additional ~~those affected or other~~ agencies or persons entitled
936 to notice and copies of the application and any amendments.
937 Copies of the application shall be distributed within 5 days by
938 the applicant to these additional agencies. This distribution

939 shall not be a basis for altering the schedule of dates for the
940 certification process.
941 (3) Any amendment to the application made prior to
942 certification shall be disposed of as part of the original
943 certification proceeding. Amendment of the application may be
944 considered good cause for alteration of time limits pursuant to
945 s. 403.5095.
946 (4) ~~(2)~~ Within 7 days after the application filing
947 ~~completeness has been determined~~, the department shall prepare a
948 proposed schedule of dates for determination of completeness,
949 submission of statements of issues, ~~determination of~~
950 ~~sufficiency, and~~ submittal of final reports, ~~from affected and~~
951 ~~other agencies~~ and other significant dates to be followed during
952 the certification process, including dates for filing notices of
953 appearance to be a party pursuant to s. 403.508(3) ~~(4)~~. This
954 schedule shall be timely provided by the department to the
955 applicant, the administrative law judge, all agencies identified
956 pursuant to subsection (2) ~~(1)~~, and all parties. Within 7 days
957 after the filing of this proposed schedule, the administrative
958 law judge shall issue an order establishing a schedule for the
959 matters addressed in the department's proposed schedule and
960 other appropriate matters, if any.
961 (5) ~~(3)~~ ~~Within 7 days after completeness has been~~
962 ~~determined, the applicant shall distribute copies of the~~
963 ~~application to all agencies identified by the department~~
964 ~~pursuant to subsection (1).~~ Copies of changes and amendments to
965 the application shall be timely distributed by the applicant to
966 all ~~affected~~ agencies and parties who have received a copy of
967 the application.
968 (6) Notice of the filing of the application shall be
969 published in accordance with the requirements of s. 403.5115.

970 Section 23. Section 403.5065, Florida Statutes, is amended
971 to read:
972 403.5065 Appointment of administrative law judge, powers
973 and duties.--
974 (1) Within 7 days after receipt of an application, ~~whether~~
975 ~~complete or not,~~ the department shall request the Division of
976 Administrative Hearings to designate an administrative law judge
977 to conduct the hearings required by this act. The division
978 director shall designate an administrative law judge within 7
979 days after receipt of the request from the department. In
980 designating an administrative law judge for this purpose, the
981 division director shall, whenever practicable, assign an
982 administrative law judge who has had prior experience or
983 training in electrical power plant site certification
984 proceedings. Upon being advised that an administrative law judge
985 has been appointed, the department shall immediately file a copy
986 of the application and all supporting documents with the
987 designated administrative law judge, who shall docket the
988 application.
989 (2) The administrative law judge shall have all powers and
990 duties granted to administrative law judges by chapter 120 and
991 by the laws and rules of the department.
992 Section 24. Section 403.5066, Florida Statutes, is amended
993 to read:
994 403.5066 Determination of completeness.--
995 (1)(a) Within 30 days after filing of an application,
996 affected agencies shall file a statement with the department
997 containing each agency's recommendations on the completeness of
998 the application.
999 (b) Within 40 ~~15~~ days after the filing ~~receipt~~ of an
1000 application, the department shall file a statement with the

1001 Division of Administrative Hearings, ~~and~~ with the applicant, and
1002 with all parties declaring its position with regard to the
1003 completeness~~, not the sufficiency,~~ of the application. The
1004 department's statement shall be based upon consultation with the
1005 affected agencies.
1006 (2) ~~(1)~~ If the department declares the application to be
1007 incomplete, the applicant, within 15 days after the filing of
1008 the statement by the department, shall file with the Division of
1009 Administrative Hearings, ~~and~~ with the department, and all
1010 parties ~~a statement~~:
1011 (a) A withdrawal of ~~Agreeing with the statement of the~~
1012 ~~department and withdrawing~~ the application;
1013 (b) A statement agreeing to supply the additional
1014 information necessary to make the application complete. Such
1015 additional information shall be provided within 30 days of the
1016 issuance of the department's statement on completeness of the
1017 application. The time schedules under this act shall not be
1018 tolled if the applicant makes the application complete within 30
1019 days of the issuance of the department's statement on
1020 completeness of the application. A subsequent finding by the
1021 department that the application remains incomplete, based upon
1022 the additional information submitted by the applicant or upon
1023 the failure of the applicant to timely submit the additional
1024 information, tolls the time schedules under this act until the
1025 application is determined complete; ~~Agreeing with the statement~~
1026 ~~of the department and agreeing to amend the application without~~
1027 ~~withdrawing it. The time schedules referencing a complete~~
1028 ~~application under this act shall not commence until the~~
1029 ~~application is determined complete; or~~

1030 (c) A statement contesting the department's determination
1031 of incompleteness; or ~~contesting the statement of the~~
1032 ~~department.~~
1033 (d) A statement agreeing with the department and
1034 requesting additional time beyond 30 days to provide the
1035 information necessary to make the application complete. If the
1036 applicant exercises this option, the time schedules under this
1037 act are tolled until the application is determined complete.
1038 (3)(a) ~~(2)~~ If the applicant contests the determination by
1039 the department that an application is incomplete, the
1040 administrative law judge shall schedule a hearing on the
1041 statement of completeness. The hearing shall be held as
1042 expeditiously as possible, but not later than 21 ~~30~~ days after
1043 the filing of the statement by the department. The
1044 administrative law judge shall render a decision within 7 ~~10~~
1045 days after the hearing.
1046 (b) Parties to a hearing on the issue of completeness
1047 shall include the applicant, the department, and any agency that
1048 has jurisdiction over the matter in dispute.
1049 (c) ~~(a)~~ If the administrative law judge determines that the
1050 application was not complete ~~as filed~~, the applicant shall
1051 withdraw the application or make such additional submittals as
1052 necessary to complete it. The time schedules referencing a
1053 complete application under this act shall not commence until the
1054 application is determined complete.
1055 (d) ~~(b)~~ If the administrative law judge determines that the
1056 application was complete at the time it was declared incomplete
1057 ~~filed~~, the time schedules referencing a complete application
1058 under this act shall commence upon such determination.
1059 (4) If the applicant provides additional information to
1060 address the issues identified in the determination of

1061 incompleteness, each affected agency may submit to the
1062 department, no later than 15 days after the applicant files the
1063 additional information, a recommendation on whether the agency
1064 believes the application is complete. Within 22 days after
1065 receipt of the additional information from the applicant
1066 submitted under paragraph (2)(b), paragraph (2)(d), or paragraph
1067 (3)(c), the department shall determine whether the additional
1068 information supplied by an applicant makes the application
1069 complete. If the department finds that the application is still
1070 incomplete, the applicant may exercise any of the options
1071 specified in subsection (2) as often as is necessary to resolve
1072 the dispute.
1073 Section 25. Section 403.50663, Florida Statutes, is
1074 created to read:
1075 403.50663 Informational public meetings.--
1076 (1) A local government within whose jurisdiction the power
1077 plant is proposed to be sited, may hold one informational public
1078 meeting in addition to the hearings specifically authorized by
1079 this act on any matter associated with the electric power plant
1080 proceeding. Such informational public meetings shall be held by
1081 the local government, or the regional planning council, if the
1082 local government does not hold such meeting within 70 days of
1083 the filing of the application. The purpose of an informational
1084 public meeting is for the local government or regional planning
1085 council to further inform the public about the proposed electric
1086 power plant or associated facilities, obtain comments from the
1087 public, and formulate its recommendation with respect to the
1088 proposed electric power plant.
1089 (2) Informational public meetings shall be held solely at
1090 the option of each local government or regional planning council
1091 if a public meeting is not held by the local government. It is

1092 the legislative intent that local governments or regional
1093 planning councils attempt to hold such public meetings. Parties
1094 to the proceedings under this act shall be encouraged to attend;
1095 however, no party other than the applicant and the department
1096 shall be required to attend such informational public meetings.
1097 (3) A local government or regional planning council that
1098 intends to conduct an informational public meeting must provide
1099 notice of the meeting to all parties not less than 5 days prior
1100 to the meeting.
1101 (4) The failure to hold an informational public meeting or
1102 the procedure used for the informational public meeting are not
1103 grounds for the alteration of any time limitation in this act
1104 under s. 403.5095 or grounds to deny or condition certification.
1105 Section 26. Section 403.50665, Florida Statutes, is
1106 created to read:
1107 403.50665 Land use consistency.--
1108 (1) The applicant shall include in the application a
1109 statement on the consistency of the site or any directly
1110 associated facilities with existing land use plans and zoning
1111 ordinances which were in effect on the date the application was
1112 filed, and a full description of such consistency.
1113 (2) Within 80 days of the filing of the application, each
1114 local government shall file a determination with the Department,
1115 the applicant, the administrative law judge, and all parties on
1116 the consistency of the site or any directly associated
1117 facilities with existing land use plans and zoning ordinances
1118 which were in effect on the date the application was filed,
1119 based on the information provided in the application. The
1120 applicant shall publish notice of the consistency determination
1121 in accordance with the requirements of s. 403.5115.

1122 (3) If any substantially affected person wishes to dispute
1123 the local government's determination, he or she shall file a
1124 petition with the department within 15 days of the publication
1125 of notice of the local government's determination. If a hearing
1126 is requested, the provisions of s. 403.508(1) shall apply.
1127 (4) The dates in this section may be altered upon
1128 agreement between the applicant, the local government, and the
1129 department pursuant to s. 403.5095.
1130 (5) If it is determined by the local government that the
1131 proposed site or directly associated facility does conform with
1132 existing land use plans and zoning ordinances in effect as of
1133 the date of the application and no petition has been filed, the
1134 responsible zoning or planning authority shall not thereafter
1135 change such land use plans or zoning ordinances so as to
1136 foreclose construction and operation of the proposed site or
1137 directly associated facilities unless certification is
1138 subsequently denied or withdrawn.
1139 Section 27. Section 403.5067, Florida Statutes, is
1140 repealed.
1141 Section 28. Section 403.507, Florida Statutes, is amended
1142 to read:
1143 403.507 Preliminary statements of issues, reports, project
1144 analyses, and studies.--
1145 (1) Each affected agency identified in paragraph (2)(a)
1146 shall submit a preliminary statement of issues to the
1147 department, ~~and~~ the applicant, and all parties no later than 40
1148 ~~60~~ days after the certification application has been determined
1149 ~~distribution of the~~ complete ~~application~~. The failure to raise
1150 an issue in this statement shall not preclude the issue from
1151 being raised in the agency's report.

1152 (2)(a) No later than 100 days after the certification
1153 application has been determined complete, the following
1154 agencies shall prepare reports as provided below and shall
1155 submit them to the department and the applicant ~~within 150 days~~
1156 ~~after distribution of the complete application~~:
1157 1. The Department of Community Affairs shall prepare a
1158 report containing recommendations which address the impact upon
1159 the public of the proposed electrical power plant, based on the
1160 degree to which the electrical power plant is consistent with
1161 the applicable portions of the state comprehensive plan,
1162 emergency management, and other such matters within its
1163 jurisdiction. The Department of Community Affairs may also
1164 comment on the consistency of the proposed electrical power
1165 plant with applicable strategic regional policy plans or local
1166 comprehensive plans and land development regulations.
1167 ~~2. The Public Service Commission shall prepare a report as~~
1168 ~~to the present and future need for the electrical generating~~
1169 ~~capacity to be supplied by the proposed electrical power plant.~~
1170 ~~The report shall include the commission's determination pursuant~~
1171 ~~to s. 403.519 and may include the commission's comments with~~
1172 ~~respect to any other matters within its jurisdiction.~~
1173 2.~~3.~~ The water management district shall prepare a report
1174 as to matters within its jurisdiction, including but not limited
1175 to, impact on water resources, impact on regional water supply
1176 planning, and impact on district-owned lands and works.
1177 3.~~4.~~ Each local government in whose jurisdiction the
1178 proposed electrical power plant is to be located shall prepare a
1179 report as to the consistency of the proposed electrical power
1180 plant with all applicable local ordinances, regulations,
1181 standards, or criteria that apply to the proposed electrical
1182 power plant, including ~~adopted local comprehensive plans, land~~

1183 ~~development regulations, and~~ any applicable local environmental
1184 regulations adopted pursuant to s. 403.182 or by other means.
1185 4.~~5.~~ The Fish and Wildlife Conservation Commission shall
1186 prepare a report as to matters within its jurisdiction.
1187 5.~~6.~~ Each ~~The~~ regional planning council shall prepare a
1188 report containing recommendations that address the impact upon
1189 the public of the proposed electrical power plant, based on the
1190 degree to which the electrical power plant is consistent with
1191 the applicable provisions of the strategic regional policy plan
1192 adopted pursuant to chapter 186 and other matters within its
1193 jurisdiction.
1194 6. The Department of Transportation shall address the
1195 impact of the proposed power plant on matters within its
1196 jurisdiction.
1197 (b)~~7.~~ Any other agency, if requested by the department,
1198 shall also perform studies or prepare reports as to matters
1199 within that agency's jurisdiction which may potentially be
1200 affected by the proposed electrical power plant.
1201 ~~(b) As needed to verify or supplement the studies made by~~
1202 ~~the applicant in support of the application, it shall be the~~
1203 ~~duty of the department to conduct, or contract for, studies of~~
1204 ~~the proposed electrical power plant and site, including, but not~~
1205 ~~limited to, the following, which shall be completed no later~~
1206 ~~than 210 days after the complete application is filed with the~~
1207 ~~department:~~
1208 ~~1. Cooling system requirements.~~
1209 ~~2. Construction and operational safeguards.~~
1210 ~~3. Proximity to transportation systems.~~
1211 ~~4. Soil and foundation conditions.~~
1212 ~~5. Impact on suitable present and projected water supplies~~
1213 ~~for this and other competing uses.~~

1214 ~~6. Impact on surrounding land uses.~~
1215 ~~7. Accessibility to transmission corridors.~~
1216 ~~8. Environmental impacts.~~
1217 ~~9. Requirements applicable under any federally delegated~~
1218 ~~or approved permit program.~~
1219 (3) ~~(c)~~ Each report described in subsection (2) ~~paragraphs~~
1220 ~~(a) and (b)~~ shall contain:
1221 (a) A notice of any nonprocedural requirements not
1222 specifically listed in the application from which a variance,
1223 exemption, exception, ~~all information on variances, exemptions,~~
1224 ~~exceptions,~~ or other relief is necessary in order for the
1225 proposed electric power plant to be certified. Failure of such
1226 notification by an agency shall be treated as a waiver from
1227 nonprocedural requirements of that agency. However, no variance
1228 shall be granted from standards or regulations of the department
1229 applicable under any federally delegated or approved permit
1230 program, except as expressly allowed in such program. ~~which may~~
1231 ~~be required by s. 403.511(2) and~~
1232 (b) A recommendation for approval or denial of the
1233 application.
1234 (c) Any proposed conditions of certification on matters
1235 within the jurisdiction of such agency. For each condition
1236 proposed by an agency in its report, the agency shall list the
1237 specific statute, rule, or ordinance which authorizes the
1238 proposed condition.
1239 (d) The agencies shall initiate the activities required by
1240 this section no later than 30 days after the complete
1241 application is distributed. The agencies shall keep the
1242 applicant and the department informed as to the progress of the
1243 studies and any issues raised thereby.

1244 ~~(3) No later than 60 days after the application for a~~
1245 ~~federally required new source review or prevention of~~
1246 ~~significant deterioration permit for the electrical power plant~~
1247 ~~is complete and sufficient, the department shall issue its~~
1248 ~~preliminary determination on such permit. Notice of such~~
1249 ~~determination shall be published as required by the department's~~
1250 ~~rules for notices of such permits. The department shall receive~~
1251 ~~public comments and comments from the United States~~
1252 ~~Environmental Protection Agency and other affected agencies on~~
1253 ~~the preliminary determination as provided for in the federally~~
1254 ~~approved state implementation plan. The department shall~~
1255 ~~maintain a record of all comments received and considered in~~
1256 ~~taking action on such permits. If a petition for an~~
1257 ~~administrative hearing on the department's preliminary~~
1258 ~~determination is filed by a substantially affected person, that~~
1259 ~~hearing shall be consolidated with the certification hearing.~~
1260 (4)(a) No later than 150 days after the application is
1261 filed, the Public Service Commission shall prepare a report as
1262 to the present and future need for electric generating capacity
1263 to be supplied by the proposed electrical power plant. The
1264 report shall include the commission's determination pursuant to
1265 s. 403.519 and may include the commission's comments with
1266 respect to any other matters within its jurisdiction.
1267 (b) Receipt of an affirmative determination of need by the
1268 submittal deadline under paragraph (a) and shall be a condition
1269 precedent to issuance of the department's project analysis and
1270 conduct of the certification hearing.
1271 (5) ~~(4)~~ The department shall prepare a project ~~written~~
1272 analysis, which shall be filed with the designated
1273 administrative law judge and served on all parties no later than
1274 130 ~~240~~ days after the ~~complete~~ application is determined

1275 complete ~~filed with the department, but no later than 60 days~~
1276 ~~prior to the hearing~~, and which shall include:
1277 (a) A statement indicating whether the proposed electrical
1278 power plant and proposed ultimate site capacity will be in
1279 compliance and consistent with matters within the department's
1280 standard jurisdiction, including ~~with~~ the rules of the
1281 department, as well as whether the proposed electrical power
1282 plant and proposed ultimate site capacity will be in compliance
1283 with the nonprocedural requirements of the affected agencies.
1284 (b) Copies of the studies and reports required by this
1285 section ~~and s. 403.519~~.
1286 (c) The comments received by the department from any other
1287 agency or person.
1288 (d) The recommendation of the department as to the
1289 disposition of the application, of variances, exemptions,
1290 exceptions, or other relief identified by any party, and of any
1291 proposed conditions of certification which the department
1292 believes should be imposed.
1293 (e) If available, the recommendation of the department
1294 regarding the issuance of any license required pursuant to a
1295 federally delegated or approved permit program.
1296 ~~(f) Copies of the department's draft of the operation~~
1297 ~~permit for a major source of air pollution, which must also be~~
1298 ~~provided to the United States Environmental Protection Agency~~
1299 ~~for review within 5 days after issuance of the written analysis.~~
1300 (6) ~~(5)~~ Except when good cause is shown, the failure of any
1301 agency to submit a preliminary statement of issues or a report,
1302 or to submit its preliminary statement of issues or report
1303 within the allowed time, shall not be grounds for the alteration
1304 of any time limitation in this act. Neither the failure to
1305 submit a preliminary statement of issues or a report nor the

1306 inadequacy of the preliminary statement of issues or report are
1307 ~~shall be~~ grounds to deny or condition certification.
1308 Section 29. Section 403.508, Florida Statutes, is amended
1309 to read:
1310 403.508 Land use and certification hearings ~~proceedings~~,
1311 parties, participants.--
1312 (1)(a) If a petition for a hearing on land use has been
1313 filed pursuant to s. 403.50665, the designated administrative
1314 law judge shall conduct a land use hearing in the county of the
1315 proposed site or directly associated facility, as applicable, as
1316 expeditiously as possible, but not later than 30 ~~within 90~~ days
1317 after the department's receipt of the petition ~~a complete~~
1318 ~~application for electrical power plant site certification by the~~
1319 ~~department~~. The place of such hearing shall be as close as
1320 possible to the proposed site or directly associated facility.
1321 If a petition is filed, the hearing shall be held regardless of
1322 the status of the completeness of the application. However,
1323 incompleteness of information necessary for a local government
1324 to evaluate an application may be claimed by the local
1325 government as cause for a statement of inconsistency with
1326 existing land use plans and zoning ordinances under s.
1327 403.50665.
1328 (b) Notice of the land use hearing shall be published in
1329 accordance with the requirements of s. 403.5115.
1330 (c)~~(2)~~ The sole issue for determination at the land use
1331 hearing shall be whether or not the proposed site is consistent
1332 and in compliance with existing land use plans and zoning
1333 ordinances. If the administrative law judge concludes that the
1334 proposed site is not consistent or in compliance with existing
1335 land use plans and zoning ordinances, the administrative law
1336 judge shall receive at the hearing evidence on, and address in

1337 the recommended order any changes to, or approvals or variances
1338 under the applicable land use plans or zoning ordinances which
1339 will render the proposed site consistent and in compliance with
1340 the local land use plans and zoning ordinances.
1341 (d) The designated administrative law judge's recommended
1342 order shall be issued within 30 days after completion of the
1343 hearing and shall be reviewed by the board within 60 ~~45~~ days
1344 after receipt of the recommended order by the board.
1345 (e) If it is determined by the board that the proposed
1346 site does conform with existing land use plans and zoning
1347 ordinances in effect as of the date of the application, or as
1348 otherwise provided by this act, the responsible zoning or
1349 planning authority shall not thereafter change such land use
1350 plans or zoning ordinances so as to foreclose construction and
1351 operation of ~~affect~~ the proposed power plant on the proposed
1352 site or directly associated facilities unless certification is
1353 subsequently denied or withdrawn.
1354 (f) If it is determined by the board that the proposed
1355 site does not conform, with existing land use plans and zoning
1356 ordinances, ~~it shall be the responsibility of the applicant to~~
1357 ~~make the necessary application for rezoning. Should the~~
1358 ~~application for rezoning be denied, the applicant may appeal~~
1359 ~~this decision to~~ the board~~, which may~~, if it determines after
1360 notice and hearing and upon consideration of the recommended
1361 order on land use and zoning issues that it is in the public
1362 interest to authorize the use of the land as a site for an
1363 electrical power plant, authorize an amendment, rezoning,
1364 variance, or other approval ~~a variance~~ to the adopted land use
1365 plan and zoning ordinances required to render the proposed site
1366 consistent with local land use plans and zoning ordinances. The
1367 board's action shall not be controlled by any other procedural

1368 requirements of law. In the event a variance or other approval
1369 is denied, by the board, it shall be the responsibility of the
1370 applicant to make the necessary application for any approvals
1371 determined by the board as required to make the proposed site
1372 consistent and in compliance with local land use plans and
1373 zoning ordinances. No further action may be taken on the
1374 complete application ~~by the department~~ until the proposed site
1375 conforms to the adopted land use plan or zoning ordinances or
1376 the board grants relief as provided under this act.
1377 (2)(a) ~~(3)~~ A certification hearing shall be held by the
1378 designated administrative law judge no later than 265 ~~300~~ days
1379 after the ~~complete~~ application is filed with the department~~;~~
1380 ~~however, an affirmative determination of need by the Public~~
1381 ~~Service Commission pursuant to s. 403.519 shall be a condition~~
1382 ~~precedent to the conduct of the certification hearing~~. The
1383 certification hearing shall be held at a location in proximity
1384 to the proposed site. ~~The certification hearing shall also~~
1385 ~~constitute the sole hearing allowed by chapter 120 to determine~~
1386 ~~the substantial interest of a party regarding any required~~
1387 ~~agency license or any related permit required pursuant to any~~
1388 ~~federally delegated or approved permit program.~~ At the
1389 conclusion of the certification hearing, the designated
1390 administrative law judge shall, after consideration of all
1391 evidence of record, submit to the board a recommended order no
1392 later than 45~~60~~ days after the filing of the hearing transcript.
1393 ~~In the event the administrative law judge fails to issue a~~
1394 ~~recommended order within 60 days after the filing of the hearing~~
1395 ~~transcript, the administrative law judge shall submit a report~~
1396 ~~to the board with a copy to all parties within 60 days after the~~
1397 ~~filing of the hearing transcript to advise the board of the~~

1398 ~~reason for the delay in the issuance of the recommended order~~
1399 ~~and of the date by which the recommended order will be issued.~~
1400 (b) Notice of the certification hearing and notice of the
1401 deadline for filing of notice of intent to be a party shall be
1402 made in accordance with the requirements of s. 403.5115.
1403 (3)(a) ~~(4)(a)~~ Parties to the proceeding shall include:
1404 1. The applicant.
1405 2. The Public Service Commission.
1406 3. The Department of Community Affairs.
1407 4. The Fish and Wildlife Conservation Commission.
1408 5. The water management district.
1409 6. The department.
1410 7. The regional planning council.
1411 8. The local government.
1412 9. The Department of Transportation.
1413 (b) Any party listed in paragraph (a) other than the
1414 department or the applicant may waive its right to participate
1415 in these proceedings. If such listed party fails to file a
1416 notice of its intent to be a party on or before the 90th day
1417 prior to the certification hearing, such party shall be deemed
1418 to have waived its right to be a party.
1419 (c) Notwithstanding the provisions of chapter 120 to the
1420 contrary, upon the filing with the administrative law judge of a
1421 notice of intent to be a party no later than 75 days after the
1422 application is filed ~~at least 15 days prior to the date of the~~
1423 ~~land use hearing~~, the following shall also be parties to the
1424 proceeding:
1425 1. Any agency not listed in paragraph (a) as to matters
1426 within its jurisdiction.
1427 2. Any domestic nonprofit corporation or association
1428 formed, in whole or in part, to promote conservation or natural

1429 beauty; to protect the environment, personal health, or other
1430 biological values; to preserve historical sites; to promote
1431 consumer interests; to represent labor, commercial, or
1432 industrial groups; or to promote comprehensive planning or
1433 orderly development of the area in which the proposed electrical
1434 power plant is to be located.
1435 (d) Notwithstanding paragraph (e), failure of an agency
1436 described in subparagraph (c)1. to file a notice of intent to be
1437 a party within the time provided herein shall constitute a
1438 waiver of the right of that agency to participate as a party in
1439 the proceeding.
1440 (e) Other parties may include any person, including those
1441 persons enumerated in paragraph (c) who have failed to timely
1442 file a notice of intent to be a party, whose substantial
1443 interests are affected and being determined by the proceeding
1444 and who timely file a motion to intervene pursuant to chapter
1445 120 and applicable rules. Intervention pursuant to this
1446 paragraph may be granted at the discretion of the designated
1447 administrative law judge and upon such conditions as he or she
1448 may prescribe any time prior to 30 days before the commencement
1449 of the certification hearing.
1450 (f) Any agency, including those whose properties or works
1451 are being affected pursuant to s. 403.509(4), shall be made a
1452 party upon the request of the department or the applicant.
1453 (4)(a) The order of presentation at the certification
1454 hearing, unless otherwise changed by the administrative law
1455 judge to ensure the orderly presentation of witnesses and
1456 evidence, shall be:
1457 1. The applicant.
1458 2. The department.
1459 3. State agencies.

1460 4. Regional agencies, including regional planning councils
1461 and water management districts.
1462 5. Local governments.
1463 6. Other parties.
1464 (b) ~~(5)~~ When appropriate, any person may be given an
1465 opportunity to present oral or written communications to the
1466 designated administrative law judge. If the designated
1467 administrative law judge proposes to consider such
1468 communications, then all parties shall be given an opportunity
1469 to cross-examine or challenge or rebut such communications.
1470 (5) At the conclusion of the certification hearing, the
1471 designated administrative law judge shall, after consideration
1472 of all evidence of record, submit to the board a recommended
1473 order no later than 45 days after the filing of the hearing
1474 transcript.
1475 (6)(a) No earlier than 29 days prior to the conduct of
1476 the certification hearing, the department or the applicant may
1477 request that the administrative law judge cancel the
1478 certification hearing and relinquish jurisdiction to the
1479 department if all parties to the proceeding stipulate that there
1480 are no disputed issues of fact or law to be raised at the
1481 certification hearing, and if sufficient time remains for the
1482 applicant and the department to publish public notices of the
1483 cancellation of the hearing at least 3 days prior to the
1484 scheduled date of the hearing.
1485 (b) The administrative law judge shall issue an order
1486 granting or denying the request within 5 days.
1487 (c) If the administrative law judge grants the request,
1488 the department and the applicant shall publish notices of the
1489 cancellation of the certification hearing, in accordance with s.
1490 403.5115.

1491 (d)1. If the administrative law judge grants the request,
1492 the department shall prepare and issue a final order in
1493 accordance with s. 403.509(1)(a).
1494 2. Parties may submit proposed recommended orders to the
1495 department no later than 10 days after the administrative law
1496 judge issues an order relinquishing jurisdiction.
1497 (7) The applicant shall pay those expenses and costs
1498 associated with the conduct of the hearings and the recording
1499 and transcription of the proceedings.
1500 ~~(6) The designated administrative law judge shall have all~~
1501 ~~powers and duties granted to administrative law judges by~~
1502 ~~chapter 120 and this chapter and by the rules of the department~~
1503 ~~and the Administration Commission, including the authority to~~
1504 ~~resolve disputes over the completeness and sufficiency of an~~
1505 ~~application for certification.~~
1506 ~~(7) The order of presentation at the certification~~
1507 ~~hearing, unless otherwise changed by the administrative law~~
1508 ~~judge to ensure the orderly presentation of witnesses and~~
1509 ~~evidence, shall be:~~
1510 ~~(a) The applicant.~~
1511 ~~(b) The department.~~
1512 ~~(c) State agencies.~~
1513 ~~(d) Regional agencies, including regional planning~~
1514 ~~councils and water management districts.~~
1515 ~~(e) Local governments.~~
1516 ~~(f) Other parties.~~
1517 (8) In issuing permits under the federally approved new
1518 source review or prevention of significant deterioration permit
1519 program, the department shall observe the procedures specified
1520 under the federally approved state implementation plan,
1521 including public notice, public comment, public hearing, and

1522 notice of applications and amendments to federal, state, and
1523 local agencies, to assure that all such permits issued in
1524 coordination with the certification of a power plant under this
1525 act are federally enforceable and are issued after opportunity
1526 for informed public participation regarding the terms and
1527 conditions thereof. When possible, any hearing on a federally
1528 approved or delegated program permit such as new source review,
1529 prevention of significant deterioration permit, or NPDES permit
1530 shall be conducted in conjunction with the certification hearing
1531 held under this act. ~~The department shall accept written comment~~
1532 ~~with respect to an application for, or the department's~~
1533 ~~preliminary determination on, a new source review or prevention~~
1534 ~~of significant deterioration permit for a period of no less than~~
1535 ~~30 days from the date notice of such action is published. Upon~~
1536 ~~request submitted within 30 days after published notice, the~~
1537 ~~department shall hold a public meeting, in the area affected,~~
1538 ~~for the purpose of receiving public comment on issues related to~~
1539 ~~the new source review or prevention of significant deterioration~~
1540 ~~permit. If requested following notice of the department's~~
1541 ~~preliminary determination, the public meeting to receive public~~
1542 ~~comment shall be held prior to the scheduled certification~~
1543 ~~hearing. The department shall also solicit comments from the~~
1544 ~~United States Environmental Protection Agency and other affected~~
1545 ~~federal agencies regarding the department's preliminary~~
1546 ~~determination for any federally required new source review or~~
1547 ~~prevention of significant deterioration permit.~~ It is the intent
1548 of the Legislature that the review, processing, and issuance of
1549 such federally delegated or approved permits be closely
1550 coordinated with the certification process established under
1551 this part. In the event of a conflict between the certification
1552 process and federally required procedures ~~contained in the state~~

1553 ~~implementation plan,~~ the applicable federal requirements ~~of the~~
1554 ~~implementation plan~~ shall control.
1555 Section 30. Section 403.509, Florida Statutes, is amended
1556 to read:
1557 403.509 Final disposition of application.--
1558 (1)(a) If the administrative law judge has granted a
1559 request to cancel the certification hearing and has relinquished
1560 jurisdiction to the department under the provisions of s.
1561 403.508(6), within 40 days thereafter, the secretary of the
1562 department shall act upon the application by written order in
1563 accordance with the terms of this act, and the stipulation of
1564 the parties in requesting cancellation of the certification
1565 hearing.
1566 (b) If the administrative law judge has not granted a
1567 request to cancel the certification hearing under the provisions
1568 of s. 403.508(6), within 60 days after receipt of the designated
1569 administrative law judge's recommended order, the board shall
1570 act upon the application by written order, approving
1571 ~~certification~~ or denying certification ~~the issuance of a~~
1572 ~~certificate~~, in accordance with the terms of this act, and
1573 stating the reasons for issuance or denial. If certification ~~the~~
1574 ~~certificate~~ is denied, the board shall set forth in writing the
1575 action the applicant would have to take to secure the board's
1576 approval of the application.
1577 (2) The issues that may be raised in any hearing before
1578 the board shall be limited to those matters raised in the
1579 certification proceeding before the administrative law judge or
1580 raised in the recommended order. All parties, or their
1581 representatives, or persons who appear before the board shall be
1582 subject to the provisions of s. 120.66.

1583 (3) In determining whether an application should be
1584 approved in whole, approved with modifications or conditions, or
1585 denied, the board, or secretary when applicable, shall consider
1586 whether, and the extent to which, the location of electric power
1587 plant and directly associated facilities and their construction
1588 and operation will:
1589 (a) Provide reasonable assurance that operational
1590 safeguards are technically sufficient for the public welfare and
1591 protection.
1592 (b) Comply with applicable nonprocedural requirements of
1593 agencies.
1594 (c) Be consistent with applicable local government
1595 comprehensive plans and land development regulations.
1596 (d) Meet the electrical energy needs of the state in an
1597 orderly and timely fashion.
1598 (e) Provide a reasonable balance between the need for the
1599 facility as established pursuant to s. 403.519, and the impacts
1600 upon air and water quality, fish and wildlife, water resources,
1601 and other natural resources of the state resulting from the
1602 construction and operation of the facility.
1603 (f) Minimize, through the use of reasonable and available
1604 methods, the adverse effects on human health, the environment,
1605 and the ecology of the land and its wildlife and the ecology of
1606 state waters and their aquatic life.
1607 (g) Serve and protect the broad interests of the public.
1608 ~~(3) Within 30 days after issuance of the certification,~~
1609 ~~the department shall issue and forward to the United States~~
1610 ~~Environmental Protection Agency a proposed operation permit for~~
1611 ~~a major source of air pollution and must issue or deny any other~~
1612 ~~license required pursuant to any federally delegated or approved~~
1613 ~~permit program. The department's action on the license and its~~

1614 ~~action on the proposed operation permit for a major source of~~
1615 ~~air pollution shall be based upon the record and recommended~~
1616 ~~order of the certification hearing. The department's actions on~~
1617 ~~a federally required new source review or prevention of~~
1618 ~~significant deterioration permit shall be based on the record~~
1619 ~~and recommended order of the certification hearing and of any~~
1620 ~~other proceeding held in connection with the application for a~~
1621 ~~new source review or prevention of significant deterioration~~
1622 ~~permit, on timely public comments received with respect to the~~
1623 ~~application or preliminary determination for such permit, and on~~
1624 ~~the provisions of the state implementation plan.~~
1625 (4) The department's action on a federally required new
1626 source review or prevention of significant deterioration permit
1627 shall differ from the actions taken by the siting board
1628 regarding the certification if the federally approved state
1629 implementation plan requires such a different action to be taken
1630 by the department. Nothing in this part shall be construed to
1631 displace the department's authority as the final permitting
1632 entity under the federally approved permit program. Nothing in
1633 this part shall be construed to authorize the issuance of a new
1634 source review or prevention of significant deterioration permit
1635 which does not conform to the requirements of the federally
1636 approved state implementation plan. ~~Any final operation permit~~
1637 ~~for a major source of air pollution must be issued in accordance~~
1638 ~~with the provisions of s. 403.0872. Unless the federally~~
1639 ~~delegated or approved permit program provides otherwise,~~
1640 ~~licenses issued by the department under this subsection shall be~~
1641 ~~effective for the term of the certification issued by the board.~~
1642 ~~If renewal of any license issued by the department pursuant to a~~
1643 ~~federally delegated or approved permit program is required, such~~
1644 ~~renewal shall not affect the certification issued by the board,~~

1645 ~~except as necessary to resolve inconsistencies pursuant to s.~~
1646 ~~403.516(1)(a).~~
1647 (4) In regard to the properties and works of any agency
1648 which is a party to the certification hearing, the board shall
1649 have the authority to decide issues relating to the use, the
1650 connection thereto, or the crossing thereof, for the electrical
1651 power plant and its directly associated facilities ~~site~~ and to
1652 direct any such agency to execute, within 30 days after the
1653 entry of certification, the necessary license or easement for
1654 such use, connection, or crossing, subject only to the
1655 conditions set forth in such certification. However, the
1656 applicant shall seek any necessary interest in state lands the
1657 title to which is vested in the Board of Trustees of the
1658 Internal Improvement Trust Fund from the Board of Trustees or
1659 from the governing board of the water management district
1660 created pursuant to chapter 373 before, during, or after the
1661 certification proceeding, and certification may be made
1662 contingent upon issuance of the appropriate interest. Neither
1663 the applicant nor any party to the certification proceeding may
1664 directly or indirectly raise or relitigate any matter that was
1665 or could have been an issue in the certification proceeding in
1666 any proceeding before the Board of Trustees of the Internal
1667 Improvement Trust Fund wherein the applicant is seeking
1668 necessary interest in state lands, but the information presented
1669 in the certification proceeding shall be available for review by
1670 the Board of Trustees and its staff.
1671 (6) ~~(5)~~ Except as specified in subsection (4), ~~for the~~
1672 ~~issuance of any operation permit for a major source of air~~
1673 ~~pollution pursuant to s. 403.0872,~~ the issuance or denial of the
1674 certification by the board or Secretary of the Department ~~and~~
1675 ~~the issuance or denial of any related department license~~

1676 ~~required pursuant to any federally delegated or approved permit~~
1677 ~~program~~ shall be the final administrative action required as to
1678 that application.
1679 ~~(6) All certified electrical power plants must apply for~~
1680 ~~and obtain a major source air-operation permit pursuant to s.~~
1681 ~~403.0872. Major source air-operation permit applications for~~
1682 ~~certified electrical power plants must be submitted pursuant to~~
1683 ~~a schedule developed by the department. To the extent that any~~
1684 ~~conflicting provision, limitation, or restriction under any~~
1685 ~~rule, regulation, or ordinance imposed by any political~~
1686 ~~subdivision of the state, or by any local pollution control~~
1687 ~~program, was superseded during the certification process~~
1688 ~~pursuant to s. 403.510(1), such rule, regulation, or ordinance~~
1689 ~~shall continue to be superseded for purposes of the major source~~
1690 ~~air-operation permit program under s. 403.0872.~~
1691 Section 31. Section 403.511, Florida Statutes, is amended
1692 to read:
1693 403.511 Effect of certification.--
1694 (1) Subject to the conditions set forth therein, any
1695 certification ~~signed by the Governor~~ shall constitute the sole
1696 license of the state and any agency as to the approval of the
1697 site and the construction and operation of the proposed
1698 electrical power plant, except for the issuance of department
1699 licenses required under any federally delegated or approved
1700 permit program and except as otherwise provided in subsection
1701 (4).
1702 (2)(a) The certification shall authorize the <u>licensee</u>
1703 ~~applicant~~ named therein to construct and operate the proposed
1704 electrical power plant, subject only to the conditions of
1705 certification set forth in such certification, and except for

1706 the issuance of department licenses or permits required under
1707 any federally delegated or approved permit program.
1708 (b)1. Except as provided in subsection (4), the
1709 certification may include conditions which constitute variances,
1710 exemptions, or exceptions from nonprocedural requirements of the
1711 department or any agency which were expressly considered during
1712 the proceeding, including but not limited to, any site specific
1713 criteria, standards, or limitations under local land use and
1714 zoning approvals which affect the proposed power plant or its
1715 site, unless waived by the agency as provided below and which
1716 otherwise would be applicable to the construction and operation
1717 of the proposed electrical power plant.
1718 2. No variance, exemption, exception, or other relief
1719 shall be granted from a state statute or rule for the protection
1720 of endangered or threatened species, aquatic preserves,
1721 Outstanding National Resource Waters, or Outstanding Florida
1722 Waters or for the disposal of hazardous waste, except to the
1723 extent authorized by the applicable statute or rule or except
1724 upon a finding in the certification order ~~by the siting board~~
1725 that the public interests set forth in s. 403.509(3) ~~403.502~~ in
1726 certifying the electrical power plant at the site proposed by
1727 the applicant overrides the public interest protected by the
1728 statute or rule from which relief is sought. ~~Each party shall~~
1729 ~~notify the applicant and other parties at least 60 days prior to~~
1730 ~~the certification hearing of any nonprocedural requirements not~~
1731 ~~specifically listed in the application from which a variance,~~
1732 ~~exemption, exception, or other relief is necessary in order for~~
1733 ~~the board to certify any electrical power plant proposed for~~
1734 ~~certification. Failure of such notification by an agency shall~~
1735 ~~be treated as a waiver from nonprocedural requirements of the~~
1736 ~~department or any other agency. However, no variance shall be~~

1737 ~~granted from standards or regulations of the department~~
1738 ~~applicable under any federally delegated or approved permit~~
1739 ~~program, except as expressly allowed in such program.~~
1740 (3) The certification and any order on land use and zoning
1741 issued under this act shall be in lieu of any license, permit,
1742 certificate, or similar document required by any state,
1743 regional, or local agency pursuant to, but not limited to,
1744 chapter 125, chapter 161, chapter 163, chapter 166, chapter 186,
1745 chapter 253, chapter 298, chapter 370, chapter 373, chapter 376,
1746 chapter 380, chapter 381, chapter 387, chapter 403, except for
1747 permits issued pursuant to any federally delegated or approved
1748 permit program ~~s. 403.0885~~ and except as provided in ~~s.~~
1749 ~~403.509(3) and (6),~~ chapter 404~~,~~ or the Florida Transportation
1750 Code~~, or 33 U.S.C. s. 1341~~.
1751 (4) This act shall not affect in any way the ratemaking
1752 powers of the Public Service Commission under chapter 366; nor
1753 shall this act in any way affect the right of any local
1754 government to charge appropriate fees or require that
1755 construction be in compliance with applicable building
1756 construction codes.
1757 (5)(a) An electrical power plant certified pursuant to
1758 this act shall comply with rules adopted by the department
1759 subsequent to the issuance of the certification which prescribe
1760 new or stricter criteria, to the extent that the rules are
1761 applicable to electrical power plants. Except when express
1762 variances, exceptions, exemptions, or other relief have been
1763 granted, subsequently adopted rules which prescribe new or
1764 stricter criteria shall operate as automatic modifications to
1765 certifications.
1766 (b) Upon written notification to the department, any
1767 holder of a certification issued pursuant to this act may choose

1768 to operate the certified electrical power plant in compliance
1769 with any rule subsequently adopted by the department which
1770 prescribes criteria more lenient than the criteria required by
1771 the terms and conditions in the certification which are not
1772 site-specific.
1773 (c) No term or condition of certification shall be
1774 interpreted to preclude the postcertification exercise by any
1775 party of whatever procedural rights it may have under chapter
1776 120, including those related to rulemaking proceedings. This
1777 subsection shall apply to previously issued certifications.
1778 (6) No term or condition of a site certification shall be
1779 interpreted to supersede or control the provisions of a final
1780 operation permit for a major source of air pollution issued by
1781 the department pursuant to s. 403.0872 to such facility
1782 certified under this part.
1783 (7) No term or condition of a site certification shall be
1784 interpreted to supersede or control the provisions of a final
1785 operation permit for a major source of air pollution issued by
1786 the department pursuant to s. 403.0872, to a facility certified
1787 under this part.
1788 (8) Pursuant to s. 380.23, electrical power plants are
1789 subject to the federal coastal consistency review program.
1790 Issuance of certification shall constitute the state's
1791 certification of coastal zone consistency.
1792 Section 32. Section 403.5112, Florida Statutes, is created
1793 to read:
1794 403.5112 Filing of notice of certified corridor route.--
1795 (1) Within 60 days after certification of a directly
1796 associated linear facility pursuant to this act, the applicant
1797 shall file, in accordance with s. 28.222, with the department

1798 and the clerk of the circuit court for each county through which
1799 the corridor will pass, a notice of the certified route.
1800 (2) The notice shall consist of maps or aerial photographs
1801 in the scale of 1:24,000 which clearly show the location of the
1802 certified route and shall state that the certification of the
1803 corridor will result in the acquisition of rights-of-way within
1804 the corridor. Each clerk shall record the filing in the official
1805 record of the county for the duration of the certification or
1806 until such time as the applicant certifies to the department and
1807 the clerk that all lands required for the transmission line
1808 rights-of-way within the corridor have been acquired within such
1809 county, whichever is sooner.
1810 Section 33. Section 403.5113, Florida Statutes, is created
1811 to read:
1812 403.5113 Postcertification amendments.--
1813 (1) If, subsequent to certification by the board, a
1814 licensee proposes any material change to the application and
1815 revisions or amendments thereto, as certified, the licensee
1816 shall submit a written request for amendment and a description
1817 of the proposed change to the application to the department.
1818 Within 30 days after the receipt of the request for the
1819 amendment, the department shall determine whether the proposed
1820 change to the application requires a modification of the
1821 conditions of certification.
1822 (2) If the department concludes that the change would not
1823 require a modification of the conditions of certification, the
1824 department shall provide written notification of the approval of
1825 the proposed amendment to the licensee, all agencies, and all
1826 other parties.
1827 (3) If the department concludes that the change would
1828 require a modification of the conditions of certification, the

1829 department shall provide written notification to the licensee
1830 that the proposed change to the application requires a request
1831 for modification pursuant to s. 403.516.
1832 Section 34. Section 403.5115, Florida Statutes, is amended
1833 to read:
1834 403.5115 Public notice; costs of proceeding.--
1835 (1) The following notices are to be published by the
1836 applicant:
1837 (a) Notice ~~A notice~~ of the filing of a notice of intent
1838 under s. 403.5063, which shall be published within 21 days after
1839 the filing of the notice. The notice shall be published as
1840 specified by subsection (2), except that the newspaper notice
1841 shall be one-fourth page in size in a standard size newspaper or
1842 one-half page in size in a tabloid size newspaper.
1843 (b) Notice ~~A notice~~ of filing of the application, which
1844 shall include a description of the proceedings required by this
1845 act, within 21 days after the date of the application filing ~~be~~
1846 ~~published as specified in subsection (2), within 15 days after~~
1847 ~~the application has been determined complete~~. Such notice shall
1848 give notice of the provisions of s. 403.511(1) and (2) ~~and that~~
1849 ~~the application constitutes a request for a federally required~~
1850 ~~new source review or prevention of significant deterioration~~
1851 ~~permit~~.
1852 (c) Notice of the land use determination made pursuant to
1853 s. 403.50665(1) within 15 days after the determination is filed.
1854 (d) Notice of the land use hearing, which shall be
1855 published as specified in subsection (2), no later than 15 ~~45~~
1856 days before the hearing.
1857 (e) ~~(d)~~ Notice of the certification hearing and notice of
1858 the deadline for filing notice of intent to be a party, which
1859 shall be published as specified in subsection (2), at least 65

1860 days before the date set for the certification ~~no later than 45~~
1861 ~~days before the~~ hearing.
1862 (f) Notice of the cancellation of the certification
1863 hearing, if applicable, no later than 3 days before the date of
1864 the originally scheduled certification hearing.
1865 (g) ~~(e)~~ Notice of modification when required by the
1866 department, based on whether the requested modification of
1867 certification will significantly increase impacts to the
1868 environment or the public. Such notice shall be published as
1869 specified under subsection (2):
1870 1. Within 21 days after receipt of a request for
1871 modification. ~~, except that~~ The newspaper notice shall be of a
1872 size as directed by the department commensurate with the scope
1873 of the modification.
1874 2. If a hearing is to be conducted in response to the
1875 request for modification, then notice shall be published no
1876 later than 30 days before the hearing ~~provided as specified in~~
1877 ~~paragraph (d)~~.
1878 (h) ~~(f)~~ Notice of a supplemental application, which shall
1879 be published as specified in paragraph (1)(b) and subsection
1880 (2). ~~follows:~~
1881 ~~1. Notice of receipt of the supplemental application shall~~
1882 ~~be published as specified in paragraph (b).~~
1883 ~~2. Notice of the certification hearing shall be published~~
1884 ~~as specified in paragraph (d).~~
1885 (i) Notice of existing site certification pursuant to s.
1886 403.5175. Notices shall be published as specified in paragraph
1887 (1)(b) and subsection (2).
1888 (2) Notices provided by the applicant shall be published
1889 in newspapers of general circulation within the county or
1890 counties in which the proposed electrical power plant will be

1891 located. The newspaper notices shall be at least one-half page
1892 in size in a standard size newspaper or a full page in a tabloid
1893 size newspaper ~~and published in a section of the newspaper other~~
1894 ~~than the legal notices section~~. These notices shall include a
1895 map generally depicting the project and all associated
1896 facilities corridors. A newspaper of general circulation shall
1897 be the newspaper which has the largest daily circulation in that
1898 county and has its principal office in that county. If the
1899 newspaper with the largest daily circulation has its principal
1900 office outside the county, the notices shall appear in both the
1901 newspaper having the largest circulation in that county and in a
1902 newspaper authorized to publish legal notices in that county.
1903 (3) All notices published by the applicant shall be paid
1904 for by the applicant and shall be in addition to the application
1905 fee.
1906 (4) The department shall arrange for publication of the
1907 following notices in the manner specified by chapter 120 and
1908 provide copies of those notices to any persons who have
1909 requested to be placed on the departmental mailing list for this
1910 purpose:
1911 (a) Notice ~~Publish in the Florida Administrative Weekly~~
1912 ~~notices~~ of the filing of the notice of intent within 15 days
1913 after receipt of the notice.~~;~~
1914 (b) Notice of the filing of the application, no later than
1915 21 days after the application filing.~~;~~
1916 (c) Notice of the land use determination made pursuant to
1917 s. 403.50665(1) within 15 days after the determination is filed.
1918 (d) Notice of the land use hearing before the
1919 administrative law judge, if applicable, no later than 15 days
1920 before the hearing.~~;~~

1921 (e) Notice of the land use hearing before the board, if
1922 applicable.
1923 (f) Notice of the certification hearing at least 45 days
1924 before the date set for the certification hearing.~~;~~
1925 (g) Notice of the cancellation of the certification
1926 hearing, if applicable, no later than 3 days prior to the date
1927 of the originally scheduled certification hearing.
1928 (h) Notice of the hearing before the board, if
1929 applicable.~~;~~
1930 (i) Notice and of stipulations, proposed agency action, or
1931 petitions for modification.~~; and~~
1932 ~~(b) Provide copies of those notices to any persons who~~
1933 ~~have requested to be placed on the departmental mailing list for~~
1934 ~~this purpose.~~
1935 ~~(5) The applicant shall pay those expenses and costs~~
1936 ~~associated with the conduct of the hearings and the recording~~
1937 ~~and transcription of the proceedings.~~
1938 Section 35. Section 403.513, Florida Statutes, is amended
1939 to read:
1940 403.513 Review.--Proceedings under this act shall be
1941 subject to judicial review as provided in chapter 120. When
1942 possible, separate appeals of the certification order issued by
1943 the board and of any department permit issued pursuant to a
1944 federally delegated or approved permit program may ~~shall~~ be
1945 consolidated for purposes of judicial review.
1946 Section 36. Section 403.516, Florida Statutes, is amended
1947 to read:
1948 403.516 Modification of certification.--
1949 (1) A certification may be modified after issuance in any
1950 one of the following ways:

1951 (a) The board may delegate to the department the authority
1952 to modify specific conditions in the certification.
1953 (b)1. The department may modify specific conditions of a
1954 site certification which are inconsistent with the terms of any
1955 federally delegated or approved ~~final air pollution operation~~
1956 permit for the certified electrical power plant ~~issued by the~~
1957 ~~United States Environmental Protection Agency under the terms of~~
1958 ~~42 U.S.C. s. 7661d~~.
1959 2. Such modification may be made without further notice if
1960 the matter has been previously noticed under the requirements
1961 for any federally delegated or approved permit program.
1962 (c) The licensee may file a petition for modification with
1963 the department or the department may initiate the modification
1964 upon its own initiative.
1965 1. A petition for modification must set forth:
1966 a. The proposed modification.
1967 b. The factual reasons asserted for the modification.
1968 c. The anticipated environmental effects of the proposed
1969 modification.
1970 2.~~(b)~~ The department may modify the terms and conditions
1971 of the certification if no party to the certification hearing
1972 objects in writing to such modification within 45 days after
1973 notice by mail to such party's last address of record, and if no
1974 other person whose substantial interests will be affected by the
1975 modification objects in writing within 30 days after issuance of
1976 public notice.
1977 3. If objections are raised or the department denies the
1978 request, the applicant or department may file a request ~~petition~~
1979 for a hearing on the modification with the department. Such
1980 request shall be handled pursuant to chapter 120 ~~paragraph (c)~~.

1981 ~~(c) A petition for modification may be filed by the~~
1982 ~~applicant or the department setting forth:~~
1983 ~~1. The proposed modification,~~
1984 ~~2. The factual reasons asserted for the modification, and~~
1985 ~~3. The anticipated effects of the proposed modification on~~
1986 ~~the applicant, the public, and the environment.~~
1987
1988 ~~The petition for modification shall be filed with the department~~
1989 ~~and the Division of Administrative Hearings.~~
1990 4. Requests referred to the Division of Administrative
1991 Hearings shall be disposed of in the same manner as an
1992 application, but with time periods established by the
1993 administrative law judge commensurate with the significance of
1994 the modification requested.
1995 (d) As required by s. 403.511(5).
1996 ~~(2) Petitions filed pursuant to paragraph (1)(c) shall be~~
1997 ~~disposed of in the same manner as an application, but with time~~
1998 ~~periods established by the administrative law judge commensurate~~
1999 ~~with the significance of the modification requested.~~
2000 (2) ~~(3)~~ Any agreement or modification under this section
2001 must be in accordance with the terms of this act. No
2002 modification to a certification shall be granted that
2003 constitutes a variance from standards or regulations of the
2004 department applicable under any federally delegated or approved
2005 permit program, except as expressly allowed in such program.
2006 Section 37. Section 403.517, Florida Statutes, is amended
2007 to read:
2008 403.517 Supplemental applications for sites certified for
2009 ultimate site capacity.--
2010 (1)(a) Supplemental ~~The department shall adopt rules~~
2011 ~~governing the processing of supplemental~~ applications may be

2012 submitted for certification of the construction and operation of
2013 electrical power plants to be located at sites which have been
2014 previously certified for an ultimate site capacity pursuant to
2015 this act. Supplemental applications shall be limited to
2016 electrical power plants using the fuel type previously certified
2017 for that site. Such applications shall include all new directly
2018 associated facilities that support the construction and
2019 operation of the electric power plant. ~~The rules adopted~~
2020 ~~pursuant to this section shall include provisions for:~~
2021 ~~1. Prompt appointment of a designated administrative law~~
2022 ~~judge.~~
2023 ~~2. The contents of the supplemental application.~~
2024 ~~3. Resolution of disputes as to the completeness and~~
2025 ~~sufficiency of supplemental applications by the designated~~
2026 ~~administrative law judge.~~
2027 ~~4. Public notice of the filing of the supplemental~~
2028 ~~applications.~~
2029 ~~5. Time limits for prompt processing of supplemental~~
2030 ~~applications.~~
2031 ~~6. Final disposition by the board within 215 days of the~~
2032 ~~filing of a complete supplemental application.~~
2033 (b) The review shall use the same procedural steps and
2034 notices as for an initial application.
2035 (c) The time limits for processing of a complete
2036 supplemental application shall be designated by the department
2037 commensurate with the scope of the supplemental application, but
2038 shall not exceed any time limitation governing the review of
2039 initial applications for site certification pursuant to this
2040 act, it being the legislative intent to provide shorter time
2041 limitations for the processing of supplemental applications for
2042 electrical power plants to be constructed and operated at sites

2043 which have been previously certified for an ultimate site
2044 capacity.
2045 (d) ~~(c)~~ Any time limitation in this section or in rules
2046 adopted pursuant to this section may be altered pursuant to s.
2047 403.5095 ~~by the designated administrative law judge upon~~
2048 ~~stipulation between the department and the applicant, unless~~
2049 ~~objected to by any party within 5 days after notice, or for good~~
2050 ~~cause shown by any party. The parties to the proceeding shall~~
2051 ~~adhere to the provisions of chapter 120 and this act in~~
2052 ~~considering and processing such supplemental applications~~.
2053 (2) ~~Supplemental applications shall be reviewed as~~
2054 ~~provided in ss. 403.507-403.511, except that the time limits~~
2055 ~~provided in this section shall apply to such supplemental~~
2056 ~~applications.~~
2057 ~~(3)~~ The land use and zoning consistency determination of
2058 s. 403.50665 ~~hearing requirements of s. 403.508(1) and (2)~~ shall
2059 not be applicable to the processing of supplemental applications
2060 pursuant to this section so long as:
2061 (a) The previously certified ultimate site capacity is not
2062 exceeded; and
2063 (b) The lands required for the construction or operation
2064 of the electrical power plant which is the subject of the
2065 supplemental application are within the boundaries of the
2066 previously certified site.
2067 ~~(4) For the purposes of this act, the term "ultimate site~~
2068 ~~capacity" means the maximum generating capacity for a site as~~
2069 ~~certified by the board.~~
2070 Section 38. Section 403.5175, Florida Statutes, is amended
2071 to read:
2072 403.5175 Existing electrical power plant site
2073 certification.--

2074 (1) An electric utility that owns or operates an existing
2075 electrical power plant as defined in s. 403.503(12) may apply
2076 for certification of an existing power plant and its site in
2077 order to obtain all agency licenses necessary to assure
2078 compliance with federal or state environmental laws and
2079 regulation using the centrally coordinated, one-stop licensing
2080 process established by this part. An application for site
2081 certification under this section must be in the form prescribed
2082 by department rule. Applications must be reviewed and processed
2083 using the same procedural steps and notices as for an
2084 application for a new facility ~~in accordance with ss. 403.5064-~~
2085 ~~403.5115~~, except that a determination of need by the Public
2086 Service Commission is not required.
2087 (2) An application for certification under this section
2088 must include:
2089 (a) A description of the site and existing power plant
2090 installations;
2091 (b) A description of all proposed changes or alterations
2092 to the site or electrical power plant, including all new
2093 associated facilities that are the subject of the application;
2094 (c) A description of the environmental and other impacts
2095 caused by the existing utilization of the site and directly
2096 associated facilities, and the operation of the electrical power
2097 plant that is the subject of the application, and of the
2098 environmental and other benefits, if any, to be realized as a
2099 result of the proposed changes or alterations if certification
2100 is approved and such other information as is necessary for the
2101 reviewing agencies to evaluate the proposed changes and the
2102 expected impacts;
2103 (d) The justification for the proposed changes or
2104 alterations;

2105 (e) Copies of all existing permits, licenses, and
2106 compliance plans authorizing utilization of the site and
2107 directly associated facilities or operation of the electrical
2108 power plant that is the subject of the application.
2109 (3) The land use and zoning determination ~~hearing~~
2110 requirements of s. 403.50665 ~~s. 403.508(1) and (2)~~ do not apply
2111 to an application under this section if the applicant does not
2112 propose to expand the boundaries of the existing site. If the
2113 applicant proposes to expand the boundaries of the existing site
2114 to accommodate portions of the plant or associated facilities, a
2115 land use and zoning determination shall be made ~~hearing must be~~
2116 ~~held~~ as specified in s. 403.50665 ~~s. 403.508(1) and (2);~~
2117 provided, however, that the sole issue for determination ~~through~~
2118 ~~the land use hearing~~ is whether the proposed site expansion is
2119 consistent and in compliance with the existing land use plans
2120 and zoning ordinances.
2121 (4) In considering whether an application submitted under
2122 this section should be approved in whole, approved with
2123 appropriate conditions, or denied, the board shall consider
2124 whether, and to the extent to which the proposed changes to the
2125 electrical power plant and its continued operation under
2126 certification will:
2127 (a) Comply with the provisions of s. 403.509(3).
2128 ~~applicable nonprocedural requirements of agencies;~~
2129 (b) Result in environmental or other benefits compared to
2130 current utilization of the site and operations of the electrical
2131 power plant if the proposed changes or alterations are
2132 undertaken.~~;~~
2133 ~~(c) Minimize, through the use of reasonable and available~~
2134 ~~methods, the adverse effects on human health, the environment,~~

2135 ~~and the ecology of the land and its wildlife and the ecology of~~
2136 ~~state waters and their aquatic life; and~~
2137 ~~(d) Serve and protect the broad interests of the public.~~
2138 (5) An applicant's failure to receive approval for
2139 certification of an existing site or an electrical power plant
2140 under this section is without prejudice to continued operation
2141 of the electrical power plant or site under existing agency
2142 licenses.
2143 Section 39. Section 403.518, Florida Statutes, is amended
2144 to read:
2145 403.518 Fees; disposition.--
2146 (1) The department shall charge the applicant the
2147 following fees, as appropriate, which, unless otherwise
2148 specified, shall be paid into the Florida Permit Fee Trust Fund:
2149 (a) A fee for a notice of intent pursuant to s. 403.5063,
2150 in the amount of $2,500, to be submitted to the department at
2151 the time of filing of a notice of intent. The notice-of-intent
2152 fee shall be used and disbursed in the same manner as the
2153 application fee.
2154 (b) An application fee, which shall not exceed $200,000.
2155 The fee shall be fixed by rule on a sliding scale related to the
2156 size, type, ultimate site capacity, or increase in electric
2157 generating capacity proposed by the application~~, or the number~~
2158 ~~and size of local governments in whose jurisdiction the~~
2159 ~~electrical power plant is located~~.
2160 1. Sixty percent of the fee shall go to the department to
2161 cover any costs associated with coordinating the review
2162 ~~reviewing~~ and acting upon the application, to cover any field
2163 services associated with monitoring construction and operation
2164 of the facility, and to cover the costs of the public notices
2165 published by the department.

2166 2. The following percentages ~~Twenty percent of the fee or~~
2167 ~~$25,000, whichever is greater,~~ shall be transferred to the
2168 Administrative Trust Fund of the Division of Administrative
2169 Hearings of the Department of Management Services:~~.~~
2170 a. Five percent to compensate expenses from the initial
2171 exercise of duties associated with the filing of an application.
2172 b. An additional 5 percent if a land use hearing is held
2173 pursuant to s. 403.508.
2174 c. An additional 10 percent if a certification hearing is
2175 held pursuant to s. 403.508.
2176 3.a. Upon written request with proper itemized accounting
2177 within 90 days after final agency action by the board or
2178 withdrawal of the application, the agencies that prepared
2179 reports pursuant to s. 403.507 or participated in a hearing
2180 pursuant to s. 403.508, may submit a written request to the
2181 department for reimbursement of expenses incurred during the
2182 certification proceedings. The request shall contain an
2183 accounting of expenses incurred which may include time spent
2184 reviewing the application, ~~the department shall reimburse the~~
2185 ~~Department of Community Affairs, the Fish and Wildlife~~
2186 ~~Conservation Commission, and any water management district~~
2187 ~~created pursuant to chapter 373, regional planning council, and~~
2188 ~~local government in the jurisdiction of which the proposed~~
2189 ~~electrical power plant is to be located, and any other agency~~
2190 ~~from which the department requests special studies pursuant to~~
2191 ~~s. 403.507(2)(a)7. Such reimbursement shall be authorized for~~
2192 ~~the~~ preparation of any studies required of the agencies by this
2193 act, ~~and for~~ agency travel and per diem to attend any hearing
2194 held pursuant to this act, and for any agency or local
2195 government's provision of notice of public meetings or hearings
2196 required as a result of the application for certification

2197 ~~governments to participate in the proceedings~~. The department
2198 shall review the request and verify that the expenses are valid.
2199 Valid expenses shall be reimbursed; however, in the event the
2200 amount of funds available for reimbursement ~~allocation~~ is
2201 insufficient to provide for full compensation ~~complete~~
2202 ~~reimbursement~~ to the agencies requesting reimbursement,
2203 reimbursement shall be on a prorated basis.
2204 b. If the application review is held in abeyance for more
2205 than 1 year, the agencies may submit a request for
2206 reimbursement.
2207 4. If any sums are remaining, the department shall retain
2208 them for its use in the same manner as is otherwise authorized
2209 by this act; provided, however, that if the certification
2210 application is withdrawn, the remaining sums shall be refunded
2211 to the applicant within 90 days after withdrawal.
2212 (c)1. A certification modification fee, which shall not
2213 exceed $30,000. The department shall establish rules for
2214 determining such a fee based on the equipment redesign, change
2215 in site size, type, increase in generating capacity proposed, or
2216 change in an associated linear facility location.
2217 2. The fee shall be submitted to the department with a
2218 ~~formal~~ petition for modification ~~to the department~~ pursuant to
2219 s. 403.516. This fee shall be established, disbursed, and
2220 processed in the same manner as the application fee in paragraph
2221 (b), except that the Division of Administrative Hearings shall
2222 not receive a portion of the fee unless the petition for
2223 certification modification is referred to the Division of
2224 Administrative Hearings for hearing. If the petition is so
2225 referred, only $10,000 of the fee shall be transferred to the
2226 Administrative Trust Fund of the Division of Administrative
2227 Hearings of the Department of Management Services. ~~The fee for a~~

2228 ~~modification by agreement filed pursuant to s. 403.516(1)(b)~~
2229 ~~shall be $10,000 to be paid upon the filing of the request for~~
2230 ~~modification. Any sums remaining after payment of authorized~~
2231 ~~costs shall be refunded to the applicant within 90 days of~~
2232 ~~issuance or denial of the modification or withdrawal of the~~
2233 ~~request for modification.~~
2234 (d) A supplemental application fee, not to exceed $75,000,
2235 to cover all reasonable expenses and costs of the review,
2236 processing, and proceedings of a supplemental application. This
2237 fee shall be established, disbursed, and processed in the same
2238 manner as the certification application fee in paragraph (b)~~,~~
2239 ~~except that only $20,000 of the fee shall be transferred to the~~
2240 ~~Administrative Trust Fund of the Division of Administrative~~
2241 ~~Hearings of the Department of Management Services~~.
2242 (e) An existing site certification application fee, not to
2243 exceed $200,000, to cover all reasonable costs and expenses of
2244 the review processing and proceedings for certification of an
2245 existing power plant site under s. 403.5175. This fee must be
2246 established, disbursed, and processed in the same manner as the
2247 certification application fee in paragraph (b).
2248 ~~(2) Effective upon the date commercial operation begins,~~
2249 ~~the operator of an electrical power plant certified under this~~
2250 ~~part is required to pay to the department an annual operation~~
2251 ~~license fee as specified in s. 403.0872(11) to be deposited in~~
2252 ~~the Air Pollution Control Trust Fund.~~
2253 Section 40. Any application for power plant certification
2254 filed pursuant to ss. 403.501-403.518, Florida Statutes shall be
2255 processed under the provisions of the law applicable at the time
2256 the application was filed, except that the provisions related to
2257 cancellation of the certification hearing under s. 403.508(6),
2258 Florida Statutes the provisions related to the final disposition

2259 of the application and issuance of the written order by the
2260 secretary under s. 403.509(1)(a), Florida Statutes and notice of
2261 the cancellation of the certification hearing under s. 403.5115,
2262 Florida Statutes may apply to any application for power plant
2263 certification.
2264 Section 41. Section 403.519, Florida Statutes, is amended
2265 to read:
2266 403.519 Exclusive forum for determination of need.--
2267 (1) On request by an applicant or on its own motion, the
2268 commission shall begin a proceeding to determine the need for an
2269 electrical power plant subject to the Florida Electrical Power
2270 Plant Siting Act.
2271 (2) The applicant ~~commission~~ shall publish a notice of the
2272 proceeding in a newspaper of general circulation in each county
2273 in which the proposed electrical power plant will be located.
2274 The notice shall be at least one-quarter of a page and published
2275 at least 21 ~~45~~ days prior to the scheduled date for the
2276 proceeding. The commission shall publish notice of the
2277 proceeding in the manner specified by chapter 120 at least 21
2278 days prior to the scheduled date for the proceeding.
2279 (3) The commission shall be the sole forum for the
2280 determination of this matter, which accordingly shall not be
2281 raised in any other forum or in the review of proceedings in
2282 such other forum. In making its determination, the commission
2283 shall take into account the need for electric system reliability
2284 and integrity, the need for adequate electricity at a reasonable
2285 cost, the need for fuel diversity and supply reliability, and
2286 whether the proposed plant is the most cost-effective
2287 alternative available. The commission shall also expressly
2288 consider the conservation measures taken by or reasonably
2289 available to the applicant or its members which might mitigate

2290 the need for the proposed plant and other matters within its
2291 jurisdiction which it deems relevant. The commission's
2292 determination of need for an electrical power plant shall create
2293 a presumption of public need and necessity and shall serve as
2294 the commission's report required by s. 403.407(2)(b)
2295 ~~403.507(2)(a)2~~. An order entered pursuant to this section
2296 constitutes final agency action.
2297 Section 42. This act shall take effect upon becoming a
2298 law.
2299
2300 ========== T I T L E A M E N D M E N T ==========
2301 Remove the entire title and insert:
2302 An act relating to energy; providing legislative findings
2303 and intent; creating s. 377.801, F.S.; creating the
2304 "Florida Renewable Energy Technologies and Energy
2305 Efficiency Act"; creating s. 377.802, F.S.; stating the
2306 purpose of the act; creating s. 377.803, F.S.; providing
2307 definitions; creating s. 377.804, F.S.; creating the
2308 Renewable Energy Technologies Grants Program; providing
2309 program requirements and procedures, including matching
2310 funds; creating s. 377.805, F.S.; creating the Energy
2311 Efficient Appliance Rebate Program; providing program
2312 requirements, procedures, and limitations; creating s.
2313 377.806, F.S.; creating the Solar Energy System Incentives
2314 Program; providing program requirements, procedures, and
2315 limitations; requiring the Department of Environmental
2316 Protection to adopt rules; creating s. 377.901, F.S.;
2317 creating the Florida Energy Council within the Department
2318 of Environmental Protection; providing purpose and
2319 composition; providing for appointment of members and
2320 their terms; providing for reimbursement for travel and

2321 per diem; requiring the department to provide certain
2322 services to the council; providing rulemaking authority;
2323 amending s. 212.08, F.S.; providing definitions for the
2324 terms "biodiesel" and "ethanol"; providing tax exemptions
2325 for the sale or use of certain energy efficient products;
2326 providing eligibility requirements and tax credit limits;
2327 directing the department to adopt rules; directing the
2328 department to determine and publish certain information
2329 relating to such exemptions; amending s. 213.053, F.S.;
2330 authorizing the Department of Revenue to share certain
2331 information with the Department of Environmental
2332 Protection for specified purposes; amending s. 220.02,
2333 F.S.; providing the order of application of the renewable
2334 energy technologies investment tax credit; creating s.
2335 220.192, F.S.; establishing a corporate tax credit for
2336 certain costs related to renewable energy technologies;
2337 providing eligibility requirements and credit limits;
2338 providing certain authority to the Department of
2339 Environmental Protection and the Department of Revenue;
2340 directing the Department of Environmental Protection to
2341 determine and publish certain information; providing for
2342 repeal of the tax credit; amending s. 220.13, F.S.;
2343 providing an addition to the definition of "adjusted
2344 federal income"; amending s. 186.801, F.S.; revising the
2345 provisions of electric utility 10-year site plans to
2346 include the effect on fuel diversity; amending s. 366.04,
2347 F.S.; revising the safety standards for public utilities;
2348 amending s. 366.05, F.S.; authorizing the Public Service
2349 Commission to adopt certain construction standards and
2350 make certain determinations; directing the commission to
2351 conduct a study and provide a report by a certain date;

2352 amending s. 403.503, F.S.; revising and providing
2353 definitions applicable to the Florida Electrical Power
2354 Plant Siting Act; amending s. 403.504, F.S.; providing the
2355 Department of Environmental Protection with additional
2356 powers and duties relating to the Florida Electrical Power
2357 Plant Siting Act; amending s. 403.5055, F.S.; revising
2358 provisions for certain permits associated with
2359 applications for electrical power plant certification;
2360 amending s. 403.506, F.S.; revising provisions relating to
2361 applicability and certification of certain power plants;
2362 amending s. 403.5064, F.S.; revising provisions for
2363 distribution of applications and schedules relating to
2364 certification; amending s. 403.5065, F.S.; revising
2365 provisions relating to the appointment of administrative
2366 law judges; amending s. 403.5066, F.S.; revising
2367 provisions relating to the determination of completeness
2368 for certain applications; creating s. 403.50663, F.S.;
2369 authorizing certain local governments and regional
2370 planning councils to hold an informational public meeting;
2371 providing requirements and procedures therefor; creating
2372 s. 403.50665, F.S.; requiring local governments to file
2373 certain land use determinations; providing requirements
2374 and procedures therefor; repealing s. 403.5067, F.S.;
2375 relating to the determination of sufficiency for certain
2376 applications; amending s. 403.507, F.S.; revising required
2377 statement provisions for affected agencies; amending s.
2378 403.508, F.S.; revising provisions related to land use and
2379 certification proceedings; requiring certain notice;
2380 amending s. 403.509, F.S.; revising provisions related to
2381 the final disposition of certain applications; providing
2382 requirements and provisions with respect thereto; amending

2383 s. 403.511, F.S.; revising provisions related to the
2384 effect of certification for the construction and operation
2385 of proposed power plants; providing that issuance of
2386 certification meets certain consistency requirements;
2387 creating s. 403.5112, F.S.; requiring filing of notice for
2388 certified corridor routes; providing requirements and
2389 procedures with respect thereto; creating s. 403.5113,
2390 F.S.; authorizing postcertification amendments for power
2391 plant site certification applications; providing
2392 requirements and procedures with respect thereto; amending
2393 s. 403.5115, F.S.; requiring certain public notice for
2394 activities related to power plant site application,
2395 certification, and land use determination; providing
2396 requirements and procedures with respect thereto;
2397 directing the Department of Environmental Protection to
2398 maintain certain lists and provide copies to of certain
2399 publications; amending s. 403.513, F.S.; revising
2400 provisions for judicial review of appeals related to power
2401 plant site certification; amending s. 403.516, F.S.;
2402 revising provisions relating to modification of
2403 certification for power plant sites; amending s. 403.517,
2404 F.S.; revising the provisions relating to supplemental
2405 applications for certain power plant sites; amending s.
2406 403.5175, F.S.; revising provisions relating to existing
2407 power plant site certification; revising the procedure for
2408 reviewing and processing applications; requiring
2409 additional information to be included in certain
2410 applications; amending s. 403.518, F.S.; revising the
2411 allocation of proceeds from certain fees collected;
2412 providing for reimbursement of certain expenses; directing
2413 the Department of Environmental Protection to establish

2414 rules for determination of certain fees; eliminating
2415 certain operational license fees; providing for the
2416 application, processing, approval, and cancellation of
2417 power plant certification; amending s. 403.519, F.S.;
2418 directing the Public Service Commission to consider fuel
2419 diversity and reliability in certain determinations;
2420 providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (2)

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED __ (Y/N)

ADOPTED AS AMENDED __ (Y/N)

ADOPTED W/O OBJECTION __ (Y/N)

FAILED TO ADOPT __ (Y/N)

WITHDRAWN __ (Y/N)

OTHER _____

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1 Council/Committee hearing bill:

2 Representative(s) offered the following:

3

4 **Amendment to Strike-All Amendment (with directory and title**

5 **amendments)**

6 Remove line(s) 168 and insert:

7

8 solar thermal system, or a solar thermal pool heater, from July

9 1, 2006 through June 30, 2010

10

11

12

13 ========== T I T L E A M E N D M E N T ==========

14 Remove line(s) and insert:

15

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COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill:
2 Representative(s) offered the following:
3
4 **Amendment to Strike-All Amendment (with directory and title**
5 **amendments)**
6 Remove line(s) 203 and insert:
7
8 (4) SOLAR THERMAL POOL HEATER INCENTIVES.-
9
10 (a) Eligibility requirements. - A solar thermal pool heater
11 qualifies for a rebate if: 1. The system is installed by a
12 state-licensed solar or plumbing contractor. 2. The system
13 complies with all applicable building codes as defined by the
14 local jurisdictional authority.
15 (b) Rebate amounts. - Authorized rebates for installation of
16 solar thermal pool heaters shall by $100 per installation.
17
18
19 And renumber all subsequent paragraphs in the section
20 accordingly
21

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22

23 ========== T I T L E A M E N D M E N T ==========

24 Remove line(s) and insert:

25

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill:
2 Representative(s) offered the following:
3
4 **Amendment to Strike-All Amendment (with directory and title**
5 **amendments)**
6 Remove line(s) 141 and insert:
7
8 The period from 12:01 a.m., October 5, through midnight, October
9 11, in each year from 2006 to 2009, shall be designated Energy
10 Efficient Week. The tax levied under Chapter 212, Florida
11 Statutes, may not be
12
13
14
15 ========== T I T L E A M E N D M E N T ==========
16 Remove line(s) 2310 - 2312 and insert:
17
18 Funds; creating s. 377.805, F.S., creating the Energy Efficient
19 Products Sales Tax Holiday; providing a designation; specifying
20 a period during which the sale of energy-efficient product is
21 exempt from such tax; providing a limitation; providing a
22 definition; creating s.
23

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (5)

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill:

2 Representative(s) offered the following:

3

4 **Amendment to Strike-All Amendment (with directory and title**

5 **amendments)**

6 Remove line(s) 187 and insert:

7

8 not-for-profit organization, including condominiums or apartment

9 buildings.

10

11

12

13

14 ========== T I T L E A M E N D M E N T ==========

15 Remove line(s) and insert:

16

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (6)

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill:
2 Representative(s) offered the following:
3
4 **Amendment to Strike-All Amendment (with directory and title**
5 **amendments)**
6 Remove line(s) 227 - 229 and insert:
7
8 the state. The council should advise the state on current and
9 projected energy issues including, but not limited to,
10 transportation, generation, transmission, distributed
11 generation, fuel supply issues, emerging technologies,
12 efficiency and conservation. In developing
13
14
15
16 ========== T I T L E A M E N D M E N T ==========
17 Remove line(s) and insert:
18

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (7)

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill:
2 Representative(s) offered the following:
3
4 **Amendment to Strike-All Amendment (with directory and title**
5 **amendments)**
6 Remove line(s) 234 - 235 and insert:
7
8 stakeholders, and may include utility providers, alternative
9 energy providers, researchers, environmental scientists, fuel
10 suppliers, technology manufacturers, environmental, consumer and
11 public health
12
13
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15
16
17 ========== T I T L E A M E N D M E N T ==========
18 Remove line(s) and insert:
19

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (8)

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill:
2 Representative(s) offered the following:
3
4 **Amendment to Strike-All Amendment (with directory and title**
5 **amendments)**
6 Remove line(s) 213 - 216 and insert:
7
8 during the following fiscal year. Requests for rebates that are
9 received in a fiscal year that are processed during the
10 following fiscal year shall be given priority over requests for
11 rebates received during that following fiscal year.
12
13
14
15
16
17 ========== T I T L E A M E N D M E N T ==========
18 Remove line(s) and insert:
19

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (9)

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

---

1 Council/Committee hearing bill:

2 Representative(s) offered the following:

3

4 **Amendment to Strike-All Amendment (with directory and title**

5 **amendments)**

6 Remove line(s) 201 and insert:

7

8 organization, including condominiums or apartment buildings.

9 Btu must be verified by approved metering

10

11

12

13 ========== T I T L E A M E N D M E N T ==========

14 Remove the entire title and insert:

15

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Utilities &
2 Telecommunications Committee
3 Representatives Barreiro offered the following:
4
5 **Amendment (with title amendment)**
6 Between lines 693 and 694, insert:
7 Section 15. Section 220.193, Florida Statutes, is created
8 to read:
9 220.193 Renewable energy production credit.--
10 (1) The purpose of this section is to encourage the
11 generation of renewable energy in Florida.
12 (2) As used in this section, the term:
13 (a) "Commission" means the Florida Public Service
14 Commission.
15 (b) "Renewable Florida energy" means renewable energy that
16 is produced or generated in Florida.
17 (c) "Affected utility" means each public utility as
18 defined in s. 366.02(1) and each municipal electric utility and
19 rural electric cooperative subject to the provisions of s.
20 366.91(4).

21 (d) "Renewable energy project or contract approval" means
22 approval by the commission of a project or contract for the
23 production or purchase of renewable Florida energy, which
24 approval shall specify the number of megawatts estimated to be
25 sold each year of the contract, the renewable energy cost for
26 the renewable Florida energy to be delivered pursuant to the
27 contract, and the benchmark energy cost that is in effect as of
28 the date of the renewable energy project or contract approval.
29 (e) "Approved renewable energy project or contract" means
30 a project or contract for the production or purchase of
31 renewable Florida energy that has been approved by the
32 commission for purposes of being entitled to the tax credit
33 provided in subsection (3).
34 (f) "Renewable energy cost" means the cost incurred by an
35 affected utility in producing or purchasing the renewable
36 Florida energy that it delivers to its customers, expressed on a
37 per-megawatt-hour basis, as specified in an approved renewable
38 energy project or contract.
39 (g) "Benchmark energy cost" means a rate set by the
40 commission equal to the cost of producing electricity from a new
41 base load, coal-fired power plant located in Florida or, if the
42 commission determines it is more appropriate, the cost of
43 producing electricity from a new nuclear power plant located in
44 Florida, together in each event with all relevant costs of
45 transmission, expressed on a per-megawatt-hour basis.
46 (3) A credit against the tax imposed by this chapter shall
47 be allowed to an affected utility with respect to sales of
48 renewable Florida energy pursuant to an approved renewable
49 energy project or contract. The credit shall be in an amount
50 equal to the lesser of:

51 (a) Five dollars for each megawatt hour of renewable
52 Florida energy that the affected utility actually delivers to
53 its customers pursuant to an approved renewable energy project
54 or contract during such tax year; or
55 (b) Fifty percent of the excess, if any, of the renewable
56 Florida energy cost, over the benchmark energy cost, for each
57 megawatt hour of renewable Florida energy that the affected
58 utility actually delivers to its customers pursuant to an
59 approved renewable energy project or contract during such tax
60 year.
61 (4) If the credit granted pursuant to this section is not
62 fully used in one year because of insufficient tax liability on
63 the part of the taxpayer, the unused amount may be carried
64 forward for a period not to exceed 5 years. The carryover credit
65 may be used in a subsequent year when the tax imposed by this
66 chapter for such year exceeds the credit for such year under
67 this section after applying the other credits and unused credit
68 carryovers in the order provided in s. 220.02(8).
69 (5) Any renewable energy project or contract approval
70 shall be a public record. The department shall be provided a
71 copy of each renewable energy project or contract approval
72 granted by the commission.
73 (6) The department may adopt rules pursuant to ss.
74 120.536(1) and 120.54 necessary to administer this section,
75 including rules prescribing forms, the documentation needed to
76 substantiate a claim for the tax credit, and the specific
77 procedures and guidelines for claiming the credit.
78
79 ========== T I T L E A M E N D M E N T ==========
80 Remove line 45 and insert:

81 include the effect on fuel diversity; creating s. 220.193,
82 F.S.; providing definitions; providing corporate tax
83 credits for sales of renewable Florida energy; authorizing
84 the Department of Revenue to adopt rules; amending s.
85 366.04

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Utilities &
2 Telecommunications Committee
3 Representative Barreiro offered the following:
4 **Amendment (with title amendment)**
5 Between lines 757 and 758, insert:
6 Section 17. Section 366.91, Florida Statutes, is amended
7 to read:
8 366.91 Renewable energy.--
9 (1) The Legislature finds that it is in the public
10 interest to promote the development of renewable energy
11 resources in this state. Renewable energy resources have the
12 potential to help diversify fuel types to lessen ~~meet~~ Florida's
13 ~~growing~~ dependency on natural gas and fuel oil for electric
14 production, minimize the volatility of fuel costs, encourage
15 investment within the state, improve environmental conditions,
16 and make Florida a leader in new and innovative technologies.
17 (2) As used in this section, the term:
18 (a) "Biomass" means a power source that is comprised of,
19 but not limited to, combustible residues or gases from forest
20 products manufacturing, agricultural and orchard crops, waste
21 products from livestock and poultry operations and food

22 processing, urban wood waste, municipal solid waste, municipal
23 liquid waste treatment operations, and landfill gas.
24 (b) "Renewable energy" means electrical energy produced
25 from a method that uses one or more of the following fuels or
26 energy sources: hydrogen produced from sources other than fossil
27 fuels, biomass, solar energy, geothermal energy, wind energy,
28 ocean energy, and hydroelectric power. The term includes the
29 alternative energy resource, waste heat, from sulfuric acid
30 manufacturing operations.
31 (c) "Renewable Florida energy" means renewable energy that
32 is produced or generated in Florida.
33 (d) "Affected utility" means each public utility, as
34 defined in s. 366.021(1), and each municipal electric utility
35 and rural electric cooperative subject to the provisions of
36 subsection(4).
37 (3) ~~On or before January 1, 2006,~~ Each public utility
38 shall ~~must~~ continuously offer one or more long term ~~a~~ purchase
39 contracts ~~contract~~ to producers of renewable energy. In
40 addition, each public utility shall continuously offer to
41 purchase renewable energy under the cogeneration-1 tariff, as
42 available energy tariff. A renewable energy producer shall have
43 the right to choose between the long-term purchase contract, or
44 the cogeneration-1 tariff, as available energy tariff, or a
45 combination of both, based on its own operational profile.
46 The commission shall establish requirements relating to the
47 purchase of renewable ~~capacity and~~ energy by public utilities
48 from renewable energy producers and may adopt rules to
49 administer this section. ~~The contract shall contain payment~~
50 ~~provisions for energy and capacity which are based upon the~~
51 ~~utility's full avoided costs, as defined in s. 366.051; however,~~

52 ~~capacity payments are not required if, due to the operational~~
53 ~~characteristics of the renewable energy generator or the~~
54 ~~anticipated peak and off-peak availability and capacity factor~~
55 ~~of the utility's avoided unit, the producer is unlikely to~~
56 ~~provide any capacity value to the utility or the electric grid~~
57 ~~during the contract term.~~ Each contract must provide a contract
58 term of at least 10 years. Prudent and reasonable costs
59 associated with a renewable energy contract shall be recovered
60 from the ratepayers of the contracting utility, without
61 differentiation among customer classes, through the appropriate
62 cost-recovery clause mechanism administered by the commission.
63 (4) ~~On or before January 1, 2006,~~ Each municipal electric
64 utility and rural electric cooperative whose annual sales, as of
65 July 1, 1993, to retail customers were greater than 2,000
66 gigawatt hours must continuously offer <u>one or more long term</u> ~~a~~
67 purchase <u>contracts</u> ~~contract~~ to producers of renewable energy
68 ~~containing payment provisions for energy and capacity which are~~
69 ~~based upon the utility's or cooperative's full avoided costs, as~~
70 ~~determined by the governing body of the municipal utility or~~
71 ~~cooperative; however, capacity payments are not required if, due~~
72 ~~to the operational characteristics of the renewable energy~~
73 ~~generator or the anticipated peak and off-peak availability and~~
74 ~~capacity factor of the utility's avoided unit, the producer is~~
75 ~~unlikely to provide any capacity value to the utility or the~~
76 ~~electric grid during the contract term.~~ Each contract must
77 provide a contract term of at least 10 years.
78 (5) A contracting producer of renewable energy must pay
79 the actual costs of its interconnection with the transmission
80 grid or distribution system.

81 (6) The commission shall encourage and promote the
82 production of renewable Florida energy. Among other things, the
83 commission shall take the following actions:
84 (a) The commission shall determine goals for the
85 production and delivery of renewable Florida energy to Florida
86 customers and shall use this determination to establish goals
87 for each affected utility. The purpose of setting goals is to
88 encourage the development of all renewable Florida energy that
89 is or can become technically feasible while conforming to the
90 cost effectiveness standards set forth herein.
91 (b) A goal shall be the minimum amount of renewable
92 Florida energy that the affected utility shall deliver to its
93 customers in a given year. A goal shall be expressed in megawatt
94 hours per year.
95 (c) Each goal shall be established by the commission in an
96 equitable manner. Each goal shall be based on the affected
97 utility's pro rata share of statewide electricity sales or other
98 factors the commission deems appropriate.
99 (d) The commission shall establish each goal as
100 expeditiously as possible after this section is enacted into
101 law. The commission shall reevaluate and update each goal
102 periodically to ensure that all viable, cost effective sources
103 of renewable Florida energy are being developed and utilized,
104 subject to the other provisions of this section.
105 (e) The commission shall establish goals for the future
106 based on a planning horizon of at least 5 years.
107 (f) When setting goals pursuant to subsection (6), the
108 commission shall include the electrical generating capacity of
109 all sources of renewable Florida energy that are in operation or
110 under construction. The commission shall consider the future

111 electrical generating capacity of all sources of renewable
112 Florida energy that are reasonably likely to be developed, given
113 the relevant economic, regulatory, and technological constraints
114 affecting such sources. The commission shall solicit and
115 consider all relevant information from the affected utilities,
116 the producers of renewable Florida energy, and the public.
117 (7) The commission shall grant relief from the goals in
118 this section, if the commission finds that:
119 (a) The affected utility cannot comply because,
120 notwithstanding the affected utility's diligent efforts to
121 produce and purchase sufficient amounts of renewable Florida
122 energy, there is an insufficient amount of renewable Florida
123 energy available;
124 (b) Compliance would result in a significant disruption of
125 electrical service or cause an undue hardship to the affected
126 utility or its customers; or
127 (c) Compliance cannot reasonably be achieved because of
128 other factors beyond the control of the affected utility.
129 (8) The commission may establish a trading program for
130 renewable Florida energy. The trading program shall be designed
131 to encourage and enable affected utilities to buy and sell
132 renewable Florida energy, or credits for such energy, to readily
133 satisfy the goals established pursuant to this section.
134 (9) An affected utility may satisfy its goals pursuant to
135 this section, by producing its own renewable Florida energy or
136 by purchasing renewable Florida energy from others.
137 (a) While evaluating its options for obtaining renewable
138 Florida energy, an affected utility shall consider the cost
139 effectiveness of each option, the reliability of the energy
140 supply system and technology, the risk mitigation that will be

141 achieved by diversifying fuel and generation sources, the
142 environmental attributes of each option, and other factors that
143 the utility would normally consider when evaluating its power
144 supply options. The affected utility shall also consider the
145 contributions of each option to the objectives set forth in
146 subsection (1).
147 (b) An affected utility shall use fair, equal, and
148 consistent standards when comparing its ability to self-generate
149 renewable Florida energy and its ability to purchase renewable
150 Florida energy.
151 (c) An affected utility may develop standard contracts and
152 purchasing procedures, provided such standards and procedures
153 reasonably accommodate the economic and operating
154 characteristics associated with the production of renewable
155 Florida energy.
156 (d) Notwithstanding the provisions of this chapter, an
157 affected utility may negotiate a bilateral contract of any
158 duration with a producer of renewable Florida energy, without
159 conducting a competitive procurement process, if the producer is
160 not a subsidiary of the affected utility, or an affiliate, or
161 otherwise related to the affected utility.
162 (10) The commission shall consider the following in
163 determining the cost effectiveness of a renewable Florida energy
164 resource:
165 (a) Notwithstanding the provisions of this chapter, the
166 cost effectiveness of renewable Florida energy shall be
167 evaluated on the basis of the economic and operating
168 characteristics of renewable Florida energy resources and shall
169 not be evaluated in comparison to the affected utility's avoided
170 costs, as defined in s. 366.051.

171 (b) As a reference benchmark, the commission may consider
172 the cost of electricity produced in Florida by a base load
173 electrical power plant using abundant domestic fuels, such as
174 coal and nuclear. In addition, the commission should consider
175 the environmental and economic development benefits of renewable
176 Florida energy.
177 (c) The commission may presume that a project or contract
178 is not cost effective if the total cost of the renewable Florida
179 energy is more than ten cents per kilowatt hour, levelized over
180 the life of the project or contract. The commission may reject
181 resumption cases where it is demonstrated that the project or
182 contact: is cost effective, due to site specific or other
183 extraordinary factors; offers special benefits for the
184 development of renewable Florida energy; or otherwise warrants
185 approval. The commission may also periodically increase the
186 limit of 10 cents per kilowatt hour, based on prevailing prices
187 and market conditions, such as the cost of electricity generated
188 at base load power plants in Florida that use coal or nuclear
189 energy for fuel.
190 (11) The commission shall review and approve or reject,
191 all tariffs and contracts for the purchase of renewable Florida
192 energy, and all proposed projects for the self-generation of
193 renewable Florida energy by affected utilities, involving more
194 than 10 megawatts of renewable Florida energy. The commission
195 shall determine whether the rates, terms, and conditions of the
196 contracts and projects are fair, just, and reasonable. Prudent
197 and reasonable costs associated with the production or purchase
198 of renewable Florida energy shall be recovered from the
199 ratepayers of a public utility, without differentiation between

200 customer classes, through the appropriate cost recovery clause
201 mechanism, as administered by the commission.
202 (12) The commission shall establish rules and procedures
203 for approving contracts for the production or purchase of
204 renewable Florida energy for purposes of enabling affected
205 utilities to qualify for the renewable energy tax credit
206 pursuant to s. 220.192. Such rules and procedures shall ensure
207 that the economic benefits of the tax credits are used by the
208 affected utility in a manner that fully accrues to the benefit
209 of the affected utility's ratepayers.
210 (13) The commission shall provide the Department of
211 Revenue with a copy of each renewable energy project or contract
212 approval granted by the commission. Each affected utility shall
213 annually provide the commission with records identifying the
214 amount of renewable Florida energy that the affected utility
215 provided pursuant to an approved renewable energy project or
216 contract.
217 (14) Each year the commission shall determine whether the
218 affected utilities have complied with the goals established
219 pursuant to subsection (6). If the commission determines that an
220 affected utility has not satisfied its goal and is not entitled
221 to relief pursuant to subsection (7), the commission shall take
222 appropriate action to ensure that the objectives of this section
223 are achieved.
224 (15) The commission shall establish the procedures for
225 implementing the provisions in subsections (7)-(14), and shall
226 take all necessary steps to ensure that these provisions are
227 implemented in compliance with the Legislature's intent, as
228 expressed herein. The commission may adopt rules to administer
229 these sections.

230

231 ========== T I T L E A M E N D M E N T ==========

232 Remove line 51 and insert:

233 amending s. 366.91, F.S.; providing definitions; deleting
234 certain requirements concerning payments for electrical
235 capacity and energy based on a utility's avoided cost;
236 authorizing the Florida Public Service Commission to
237 establish annual goals for the delivery of renewable
238 Florida energy by certain utilities to their customers;
239 creating procedures for the establishment of goals;
240 authorizing the commission to grant relief from the goals;
241 authorizing the commission to establish a trading program
242 for renewable Florida energy; authorizing affected
243 utilities to satisfy the goals by producing or purchasing
244 renewable Florida energy, subject to certain conditions;
245 authorizing the commission to determine the cost
246 effectiveness of renewable Florida energy resources;
247 authorizing the commission to approve contracts for the
248 purchase of renewable Florida energy; authorizing the
249 commission to take appropriate action if the goals are not
250 met; authorizing the commission to establish the
251 procedures for implementation; authorizing the commission
252 to adopt rules; amending s. 403.503, F.S.; revising and
253 providing

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only) A12

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Utilities &
2 Telecommunications
3 Representative(s) Littlefield offered the following:
4
5 **Amendment to Strike-all Amendment**
6 Remove line(s) 681, and insert:
7 generating plants and transmission facilities,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **1473**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Utilities & Telecommunications
2 Committee
3 Representative(s) Antone offered the following:
4
5 **Substitute Amendment for Amendment (1) by Representative**
6 **Hasner (with directory and title amendments)**
7 Between lines 1196 and 1197 insert:
8 7. The Florida Department of Health shall address the
9 impact of the proposed power plant on the public health. The
10 Department of Health will conduct a comprehensive health impact
11 study, which includes door-to-door surveys in a designated area
12 of the county where the power plant is being proposed. The
13 health impact study will be conducted by an independent
14 consultant mutually agreed upon by the Florida Department of
15 Health and the county health department in the jurisdiction of
16 the siting. At the discretion of the Florida Department of
17 Health or the county health department, adjacent and nearby
18 counties may be included in the study and resulting report. The
19 report from the health impact study will assess existing health
20 conditions in the county where a new power plant is proposed, as
21 well as future health impacts to include, but not limited to
22 asthma attacks, cardiac problems, and upper and lower

23 respiratory problems. The study will also consider the economic
24 impacts of the associated health problems which may result in
25 loss of productivity, lost work days, and other economic
26 factors.
27