

By the Committee on Communications and Public Utilities; and Senators Constantine, Aronberg, Dockery, Atwater, Baker, Diaz de la Portilla, Bennett, Klein, Campbell, Bullard and Wilson

579-2037-06

1 A bill to be entitled

2 An act relating to energy; creating the Florida

3 Energy Commission, which is located within the

4 Office of Legislative Services for

5 administrative purposes; providing for the

6 membership of the commission; providing for

7 appointment, terms of office, and

8 qualifications of members; providing for voting

9 members to be reimbursed for per diem and

10 travel expenses; providing for meetings of the

11 commission; authorizing the commission to

12 employ staff; requiring that the commission

13 develop policy recommendations concerning

14 specified issues which are based on specified

15 guidelines; requiring an annual report to the

16 Governor, Cabinet, and Legislature;

17 transferring all powers, functions, records,

18 personnel, property, and unexpended balances of

19 appropriations of the state energy program

20 within the Department of Environmental

21 Protection to the Florida Energy Commission;

22 requiring a study and a report to the Governor

23 and Legislature concerning the electric

24 transmission grid; providing legislative

25 findings and intent; creating s. 377.801, F.S.;

26 creating the "Florida Renewable Energy

27 Technologies and Energy Efficiency Act";

28 creating s. 377.802, F.S.; stating the purpose

29 of the act; creating s. 377.803, F.S.;

30 providing definitions; creating s. 377.804,

31 F.S.; creating the Renewable Energy

1 Technologies Grants Program; providing program
2 requirements and procedures, including matching
3 funds; creating s. 377.805, F.S.; creating the
4 Energy Efficient Appliance Rebate Program;
5 providing program requirements, procedures, and
6 limitations; creating s. 377.806, F.S.;
7 creating the Solar Energy System Rebate
8 Program; providing program requirements,
9 procedures, and limitations; amending s.
10 212.08, F.S.; providing definitions for the
11 terms "biodiesel" and "ethanol"; providing tax
12 exemptions for the sale or use of certain
13 energy efficient products; providing
14 eligibility requirements and tax credit limits;
15 directing the department to adopt rules;
16 directing the department to determine and
17 publish certain information relating to such
18 exemptions; amending s. 213.053, F.S.;
19 authorizing the Department of Revenue to share
20 certain information with the Department of
21 Environmental Protection for specified
22 purposes; amending s. 220.02, F.S.; providing
23 the order of application of the renewable
24 energy technologies investment tax credit;
25 creating s. 220.192, F.S.; establishing a
26 corporate tax credit for certain costs related
27 to renewable energy technologies; providing
28 eligibility requirements and credit limits;
29 providing certain authority to the Department
30 of Environmental Protection and the Department
31 of Revenue; directing the Department of

1 Environmental Protection to determine and
2 publish certain information; providing for
3 repeal of the tax credit; amending s. 220.13,
4 F.S.; providing an addition to the definition
5 of "adjusted federal income"; amending s.
6 186.801, F.S.; revising the provisions of
7 electric utility 10-year site plans to include
8 the effect on fuel diversity; amending s.
9 366.04, F.S.; revising the safety standards for
10 public utilities; amending s. 366.05, F.S.;
11 authorizing the Public Service Commission to
12 adopt certain construction standards and make
13 certain determinations; amending s. 403.503,
14 F.S.; revising and providing definitions
15 applicable to the Florida Electrical Power
16 Plant Siting Act; amending s. 403.504, F.S.;
17 providing the Department of Environmental
18 Protection with additional powers and duties
19 relating to the Florida Electrical Power Plant
20 Siting Act; amending s. 403.5055, F.S.;
21 revising provisions for certain permits
22 associated with applications for electrical
23 power plant certification; amending s. 403.506,
24 F.S.; revising provisions relating to
25 applicability and certification of certain
26 power plants; amending s. 403.5064, F.S.;
27 revising provisions for distribution of
28 applications and schedules relating to
29 certification; amending s. 403.5065, F.S.;
30 revising provisions relating to the appointment
31 of administrative law judges; amending s.

1 403.5066, F.S.; revising provisions relating to
2 the determination of completeness for certain
3 applications; creating s. 403.50663, F.S.;
4 authorizing certain local governments and
5 regional planning councils to hold an
6 informational public meeting; providing
7 requirements and procedures therefor; creating
8 s. 403.50665, F.S.; requiring local governments
9 to file certain land use determinations;
10 providing requirements and procedures therefor;
11 repealing s. 403.5067, F.S.; relating to the
12 determination of sufficiency for certain
13 applications; amending s. 403.507, F.S.;
14 revising required statement provisions for
15 affected agencies; amending s. 403.508, F.S.;
16 revising provisions related to land use and
17 certification proceedings; requiring certain
18 notice; amending s. 403.509, F.S.; revising
19 provisions related to the final disposition of
20 certain applications; providing requirements
21 and provisions with respect thereto; amending
22 s. 403.511, F.S.; revising provisions related
23 to the effect of certification for the
24 construction and operation of proposed power
25 plants; providing that issuance of
26 certification meets certain consistency
27 requirements; creating s. 403.5112, F.S.;
28 requiring filing of notice for certified
29 corridor routes; providing requirements and
30 procedures with respect thereto; creating s.
31 403.5113, F.S.; authorizing postcertification

1 amendments for power plant site certification
2 applications; providing requirements and
3 procedures with respect thereto; amending s.
4 403.5115, F.S.; requiring certain public notice
5 for activities related to power plant site
6 application, certification, and land use
7 determination; providing requirements and
8 procedures with respect thereto; directing the
9 Department of Environmental Protection to
10 maintain certain lists and provide copies to of
11 certain publications; amending s. 403.513,
12 F.S.; revising provisions for judicial review
13 of appeals related to power plant site
14 certification; amending s. 403.516, F.S.;
15 revising provisions relating to modification of
16 certification for power plant sites; amending
17 s. 403.517, F.S.; revising the provisions
18 relating to supplemental applications for
19 certain power plant sites; amending s.
20 403.5175, F.S.; revising provisions relating to
21 existing power plant site certification;
22 revising the procedure for reviewing and
23 processing applications; requiring additional
24 information to be included in certain
25 applications; amending s. 403.518, F.S.;
26 revising the allocation of proceeds from
27 certain fees collected; providing for
28 reimbursement of certain expenses; directing
29 the Department of Environmental Protection to
30 establish rules for determination of certain
31 fees; eliminating certain operational license

1 fees; amending s. 403.519, F.S.; directing the
2 Public Service Commission to consider fuel
3 diversity and reliability in certain
4 determinations; amending s. 403.52, F.S.;
5 changing the short title to the "Florida
6 Electric Transmission Line Siting Act";
7 amending s. 403.521, F.S.; revising legislative
8 intent; amending s. 403.522, F.S.; revising
9 definitions; defining the terms "licensee" and
10 "maintenance and access roads"; amending s.
11 403.523, F.S.; revising powers and duties of
12 the Department of Environmental Protection;
13 requiring the department to collect and process
14 fees, to prepare a project analysis, to act as
15 clerk for the siting board, and to administer
16 and manage the terms and conditions of the
17 certification order and supporting documents
18 and records; amending s. 403.524, F.S.;
19 revising provisions for applicability,
20 certification, and exemptions under the act;
21 revising provisions for notice by an electric
22 utility of its intent to construct an exempt
23 transmission line; amending s. 403.525, F.S.;
24 providing for powers and duties of the
25 administrative law judge designated by the
26 Division of Administrative Hearings to conduct
27 the required hearings; amending s. 403.5251,
28 F.S.; revising application procedures and
29 schedules; providing for the formal date of
30 filing an application for certification and
31 commencement of the certification review

1 process; requiring the department to prepare a
2 proposed schedule of dates for determination of
3 completeness and other significant dates to be
4 followed during the certification process;
5 providing for the formal date of application
6 distribution; requiring the applicant to
7 provide notice of filing the application;
8 amending s. 403.5252, F.S.; revising timeframes
9 and procedures for determination of
10 completeness of the application; requiring the
11 department to consult with affected agencies;
12 revising requirements for the department to
13 file a statement of its determination of
14 completeness with the Division of
15 Administrative Hearings, the applicant, and all
16 parties within a certain time after
17 distribution of the application; revising
18 requirements for the applicant to file a
19 statement with the department, the division,
20 and all parties, if the department determines
21 the application is not complete; providing for
22 the statement to notify the department whether
23 the information will be provided; revising
24 timeframes and procedures for contests of the
25 determination by the department; providing for
26 parties to a hearing on the issue of
27 completeness; amending s. 403.526, F.S.;
28 revising criteria and procedures for
29 preliminary statements of issues, reports, and
30 studies; revising timeframes; requiring that
31 the preliminary statement of issues from each

1 affected agency be submitted to the department
2 and the applicant; revising criteria for the
3 Department of Community Affairs' report;
4 requiring the Department of Transportation, the
5 Public Service Commission, and any other
6 affected agency to prepare a project report;
7 revising required content of the report;
8 providing for notice of any nonprocedural
9 requirements not listed in the application;
10 providing for failure to provide such
11 notification; providing for a recommendation
12 for approval or denial of the application;
13 providing that receipt of an affirmative
14 determination of need is a condition precedent
15 to further processing of the application;
16 requiring that the department prepare a project
17 analysis to be filed with the administrative
18 law judge and served on all parties within a
19 certain time; amending s. 403.527, F.S.;
20 revising procedures and timeframes for the
21 certification hearing conducted by the
22 administrative law judge; revising provisions
23 for notices and publication of notices, public
24 hearings held by local governments, testimony
25 at the public-hearing portion of the
26 certification hearing, the order of
27 presentations at the hearing, and consideration
28 of certain communications by the administrative
29 law judge; requiring the applicant to pay
30 certain expenses and costs; requiring the
31 administrative law judge to issue a recommended

1 order disposing of the application; requiring
2 that certain notices be made in accordance with
3 specified requirements and within a certain
4 time; requiring the Department of
5 Transportation to be a party to the
6 proceedings; providing for the administrative
7 law judge to cancel the certification hearing
8 and relinquish jurisdiction to the Department
9 of Environmental Protection upon request by the
10 applicant or the department; requiring the
11 department and the applicant to publish notice
12 of such cancellation; providing for parties to
13 submit proposed recommended orders to the
14 department when the certification hearing has
15 been canceled; providing that the department
16 prepare a recommended order for final action by
17 the siting board when the hearing has been
18 canceled; amending s. 403.5271, F.S.; revising
19 procedures and timeframes for consideration of
20 proposed alternate corridors; revising notice
21 requirements; providing for notice of the
22 filing of the alternate corridor and revised
23 time schedules; providing for notice to
24 agencies newly affected by the proposed
25 alternate corridor; requiring the person
26 proposing the alternate corridor to provide all
27 data to the agencies within a certain time;
28 providing for a determination by the department
29 that the data is not complete; providing for
30 withdrawal of the proposed alternate corridor
31 upon such determination; requiring that

1 agencies file reports with the applicant and
2 the department which address the proposed
3 alternate corridor; requiring that the
4 department file with the administrative law
5 judge, the applicant, and all parties a project
6 analysis of the proposed alternate corridor;
7 providing that the party proposing an alternate
8 corridor has the burden of proof concerning the
9 certifiability of the alternate corridor;
10 amending s. 403.5272, F.S.; revising procedures
11 for informational public meetings; providing
12 for informational public meetings held by
13 regional planning councils; revising
14 timeframes; amending s. 403.5275, F.S.;
15 revising provisions for amendment to the
16 application prior to certification; amending s.
17 403.528, F.S.; providing that a comprehensive
18 application encompassing more than one proposed
19 transmission line may be good cause for
20 altering established time limits; amending s.
21 403.529, F.S.; revising provisions for final
22 disposition of the application by the siting
23 board; providing for the administrative law
24 judge's or department's recommended order;
25 amending s. 403.531, F.S.; revising provisions
26 for conditions of certification; amending s.
27 403.5312, F.S.; requiring the applicant to file
28 notice of a certified corridor route with the
29 department; amending s. 403.5315, F.S.;
30 revising the circumstances under which a
31 certification may be modified after the

1 certification has been issued; providing for
2 procedures if objections are raised to the
3 proposed modification; creating s. 403.5317,
4 F.S.; providing procedures for changes proposed
5 by the licensee after certification; requiring
6 the department to determine within a certain
7 time if the proposed change requires
8 modification of the conditions of
9 certification; requiring notice to the
10 licensee, all agencies, and all parties of
11 changes that are approved as not requiring
12 modification of the conditions of
13 certification; creating s. 403.5363, F.S.;
14 requiring publication of certain notices by the
15 applicant, the proponent of an alternate
16 corridor, and the department; requiring the
17 department to adopt rules specifying the
18 content of such notices; amending s. 403.5365,
19 F.S.; revising application fees and the
20 distribution of fees collected; revising
21 procedures for reimbursement of local
22 governments and regional planning
23 organizations; amending s. 403.537, F.S.;
24 revising the schedule for notice of a public
25 hearing by the Public Service Commission in
26 order to determine the need for a transmission
27 line; providing that the commission is the sole
28 forum in which to determine the need for a
29 transmission line; amending ss. 373.441,
30 403.061, 403.0876, and 403.809, F.S.;
31 conforming terminology to changes made by the

1 act; repealing ss. 403.5253 and 403.5369, F.S.,
2 relating to determination of sufficiency of
3 application or amendment to the application and
4 the application of the act to applications
5 filed before a certain date; creating s.
6 570.954, F.S.; providing a short title;
7 providing legislative findings; providing
8 purposes; providing definitions; establishing
9 the Farm to Fuel Grants Program; providing
10 criteria for distribution of grants;
11 authorizing appointment of an advisory council;
12 providing purposes; providing membership;
13 authorizing the department to adopt rules;
14 providing an appropriation; creating s.
15 220.192, F.S.; providing certain tax credits
16 for certain producers of ethanol and biodiesel;
17 authorizing the Department of Revenue to adopt
18 certain rules relating to the tax credits;
19 providing for future repeal of the tax credits;
20 requiring a report to the Governor and
21 Legislature; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Florida Energy Commission.--

26 (1) The Florida Energy Commission is created and shall
27 be located within the Office of Legislative Services for
28 administrative purposes. The commission shall be comprised of
29 a total of 19 members, of whom nine shall be voting members
30 and ten shall be nonvoting members, as follows:
31

1 (a) The voting members shall be appointed as follows:
2 three shall be appointed by the Governor, three shall be
3 appointed by the President of the Senate in consultation with
4 the minority leader, and three shall be appointed by the
5 Speaker of the House of Representatives in consultation with
6 the minority leader. Voting members shall be appointed to
7 4-year terms; however, in order to establish staggered terms,
8 for the initial appointments each appointing official shall
9 appoint one member to a 2-year term, one member to a 3-year
10 term, and one member to a 4-year term. Voting members must
11 meet the following qualifications and restrictions:
12 1. A voting member must be an expert in one or more of
13 the following fields: energy, natural resource conservation,
14 economics, engineering, finance, law, consumer protection,
15 state energy policy, or another field substantially related to
16 the duties and functions of the commission. The commission
17 shall fairly represent the fields specified in this
18 subparagraph.
19 2. A voting member may not, at the time of appointment
20 or during his or her term of office:
21 a. Have any financial interest, other than ownership
22 of shares in a mutual fund, in any business entity that,
23 directly or indirectly, owns or controls, or is an affiliate
24 or subsidiary of, any business entity that may profit by the
25 policy recommendations developed by the commission.
26 b. Be employed by or engaged in any business activity
27 with any business entity that, directly or indirectly, owns or
28 controls, or is an affiliate or subsidiary of, any business
29 entity that may profit by the policy recommendations developed
30 by the commission.
31 (b) The nonvoting members shall include:

- 1 1. The chair of the Florida Public Service Commission;
- 2 2. The Public Counsel;
- 3 3. The Commissioner of Agriculture;
- 4 4. The Secretary of Environmental Protection;
- 5 5. The Secretary of Community Affairs;
- 6 6. The Secretary of Transportation;
- 7 7. The Secretary of Health;
- 8 8. The director of the Office of Insurance Regulation;
- 9 9. The chair of the State Board of Education; and
- 10 10. The executive director of the Florida Solar Energy
11 Center.

12 (2) Voting members shall serve without compensation,
13 but are entitled to reimbursement for per diem and travel
14 expenses as provided by s. 112.061, Florida Statutes.
15 Nonvoting members shall serve at the expense of the entity
16 they represent.

17 (3) The Governor shall select the chair. Meetings of
18 the commission shall be held in various locations around the
19 state and at the call of the chair; however, the commission
20 must meet at least twice each year.

21 (4)(a) The commission may employ staff to assist in
22 the performance of its duties, including an executive
23 director, an attorney, a communications person, and an
24 executive assistant. The commission may also appoint technical
25 advisory committees to focus on specific topics within its
26 charge.

27 (b) Agencies whose heads serve as nonvoting members
28 shall supply staff and resources as necessary to provide
29 information needed by the commission.

30 (c) The commission may appoint focus groups to
31 consider specific issues.

1 (5) The commission shall develop recommendations for
2 legislation to establish a state energy policy, giving
3 consideration to the issues set forth in subsections (8) and
4 (9). The recommendations of the commission shall be based on
5 the guiding principles of reliability, efficiency,
6 affordability, and diversity as provided in subsection (7).
7 The commission shall continually review the state energy
8 policy and shall recommend to the Legislature any additional
9 necessary changes or improvements. The commission shall also
10 perform other duties as set forth in general law.

11 (6) The commission shall report by December 31 of each
12 year to the Governor, the Cabinet, the President of the
13 Senate, and the Speaker of the House of Representatives on its
14 progress and recommendations, including draft legislation. The
15 commission's initial report must identify incentives for
16 research, development, or deployment projects involving the
17 goals and issues set forth in this section; set forth
18 recommendations for improvements to the electricity
19 transmission and distribution system, including recommended
20 incentives to encourage electric utilities and local
21 governments to work together in good faith on issues of
22 underground utilities; set forth the appropriate test for the
23 Florida Public Service Commission to use in determining which
24 energy efficiency programs are cost-effective and should be
25 implemented, together with the rationale in selecting the
26 test; and set forth a plan of action, together with a
27 timetable, for addressing the remaining issues.

28 (7) In developing its recommendations, the commission
29 shall be guided by the principles of reliability, efficiency,
30 affordability, and diversity, and more specifically as
31 follows:

1 (a) The state should have a reliable electric supply,
2 with adequate reserves.

3 (b) The transmission and delivery of electricity
4 should be reliable.

5 (c) The generation, transmission, and delivery of
6 electricity should be accomplished with the least detriment to
7 the environment and public health.

8 (d) The generation, transmission, and delivery of
9 electricity should be accomplished compatibly with the goals
10 for growth management.

11 (e) Electricity generation, transmission, and delivery
12 facilities should be reasonably secure from damage, taking all
13 factors into consideration, and recovery from damage should be
14 prompt.

15 (f) Electric rates should be affordable, as to base
16 rates and all recovery-clause additions, with sufficient
17 incentives for utilities to achieve this goal.

18 (g) This state should have a reliable supply of motor
19 vehicle fuels, both under normal circumstances and during
20 hurricanes and other emergency situations.

21 (h) In-state research, development, and deployment of
22 alternative energy technologies and alternative motor vehicle
23 fuels should be encouraged.

24 (i) When possible, the resources of this state should
25 be used in achieving these goals.

26 (j) Consumers of energy should be encouraged and given
27 incentives to be more efficient in their use of energy.

28
29 In choosing between conflicting or competing goals, the
30 commission shall balance the projected benefits of affordable,
31 reliable energy supplies against detrimental cost and

1 environmental impacts and recommend the best solution, with a
2 complete and detailed explanation of the factors considered
3 and the rationale for the decision.

4 (8) The commission shall develop policy
5 recommendations concerning the following issues relating to
6 electric energy:

7 (a) Are the current projections for growth in
8 population and electricity demand and corresponding projected
9 increases in capacity sufficient to meet needs?

10 (b) With respect to fossil fuels:

11 1. What are the projections for the availability and
12 the cost of fossil fuels used to generate electricity?

13 2. Can and should this state reduce its reliance on
14 domestic or foreign petroleum products?

15 3. What, if anything, should be done to improve fuel
16 supplies during normal conditions and in emergencies?

17 4. What, if anything, should be done to encourage
18 additional methods and routes of fuel delivery?

19 5. Should this state seek redundant natural gas
20 pipelines in order to have a safety net?

21 6. What other improvements, if any, should be made to
22 methods of fuel delivery?

23 7. What, if anything, should be done to increase
24 in-state storage of coal and natural gas?

25 8. Would additional coal plants be beneficial, and if
26 so, what should be done to encourage the construction of such
27 plants?

28 (c) With respect to fuel diversity and alternative
29 energy technology:

30 1. What role does fuel diversity play in maximizing
31 reliability and minimizing costs?

1 2. Would additional nuclear plants be beneficial, and
2 if so, what should be done to encourage the construction of
3 such plants?

4 3. What alternative energy technologies are available
5 and technically and economically feasible in this state and
6 what, if anything, should be done to encourage the use of
7 these resources?

8 (d) With respect to the environmental effects of
9 fossil fuels, alternative fuels, and alternative technologies:

10 1. What types and levels of pollution are involved
11 with each type of fuel and technology?

12 2. Can the pollution be avoided or reduced, and if so,
13 what are the costs?

14 3. Should the Legislature enact pollution standards,
15 and if so, should they be fuel-specific or a more general
16 pollution-portfolio standard that applies to all types of
17 fuels and technologies?

18 4. What, if anything, should the state do to reduce
19 carbon emissions, taking into consideration what the federal
20 government and other states are doing?

21 5. How do these issues affect fuel and generation
22 choices?

23 (e) With respect to demand-side management and
24 efficiency:

25 1. What role, if any, should demand-side management
26 and efficiency play in meeting electric needs?

27 2. What, if anything, should be done to improve
28 demand-side management and efficiency of electricity?

29 3. What state entity should be involved in encouraging
30 and monitoring demand-side management and efficiency?

31

1 4. What technology, if any, should be used to
2 encourage advanced metering systems and innovative price
3 signals?

4 5. What can the state do as a consumer of energy to
5 decrease its use of energy and to be more efficient in its use
6 of energy?

7 6. What is the appropriate test for the Florida Public
8 Service Commission to use in determining which energy
9 efficiency programs are cost-effective and should be
10 implemented?

11 (f) With respect to transmission and distribution
12 facilities:

13 1. What, if anything, should be done to generally
14 improve the siting of transmission and distribution lines?

15 2. What technology, if any, should be used to make
16 transmission and distribution more efficient?

17 3. Should multiple electric lines be located together
18 to minimize the effect on property or located separately to
19 increase reliability?

20 4. What are the projections for hurricanes?

21 5. What, if anything, should be done to strengthen or
22 harden transmission facilities or otherwise improve their
23 security and reliability?

24 6. How do fuel and technology choices affect planning
25 for and recovering from hurricanes?

26 7. Should distributed generation be considered as part
27 of the solution for reliability or for the purpose of avoiding
28 additional transmission or generation?

29 8. What types of threats to the electric system, other
30 than hurricanes, should be taken into consideration in this
31 planning?

- 1 (g) With respect to energy and growth management:
2 1. How can the state best provide adequate energy
3 facilities for existing populations?
4 2. How can the state best provide for compatible goals
5 and laws for future energy and growth-management needs?
6 3. How should issues of restoring energy supplies
7 after a hurricane or other emergency affect growth management
8 and local government goals and laws?
9 4. What changes, if any, should be made to where
10 energy generation, transmission, and distribution facilities
11 are sited, and what changes, if any, should be made to how
12 strategic or essential service facilities are sited relative
13 to those energy supplies?
14 (h) In making all these choices, what, if anything,
15 should be done to avoid or minimize price increases in base
16 rates or recovery clauses for consumers?
17 (i) With respect to research, development, and
18 deployment of new or alternative energy technologies:
19 1. What, if anything, should be done to encourage
20 in-state energy research, both public and private?
21 2. If encouragement of research is appropriate, what
22 types of research should be encouraged?
23 3. What, if anything, should be done to encourage
24 universities, other state entities, and the private sector to
25 work together in the research, development, and deployment of
26 alternative energy technology, without creating an economic
27 disincentive for any entity?
28 4. What, if anything, should be done in terms of
29 recruiting companies operating in the energy fields to
30 relocate to this state?
31

1 5. What, if anything, should be done to provide
2 funding or assist in obtaining funding for research or for
3 energy companies in order to further in-state research and the
4 development of energy technologies?

5 6. What state entities should be involved in these
6 functions?

7 7. What are the potential effects of these issues and
8 choices on tourism, agriculture, small businesses, and
9 industry in the state?

10 (9) The commission shall develop policy
11 recommendations concerning the following issues relating to
12 motor vehicle fuels:

13 (a) With respect to fossil fuels:

14 1. What are the projections for the availability and
15 cost of motor vehicle fossil fuel?

16 2. What, if anything, should be done to increase the
17 availability of motor vehicle fossil fuels in this state
18 during normal circumstances and during hurricanes or other
19 emergencies?

20 3. What, if anything, should be done to improve the
21 delivery of fuel into the state?

22 4. What, if anything, should be done relative to
23 ports? What, if anything, should be done to improve port
24 deliveries? What, if anything, should be done to improve the
25 capacity and service at existing ports or to open more ports?

26 5. What, if anything, should be done to encourage
27 pipelines?

28 6. What, if anything, should be done to improve the
29 security of and access to in-state supplies?

30 7. What improvements, if any, should be made relating
31 to the in-state storage of motor vehicle fuels?

1 8. What else, if anything, should be done to avoid or
2 ameliorate shortages and price increases?

3 (b) With respect to alternatives to fossil fuels for
4 motor vehicles:

5 1. What, if anything, should be done to encourage the
6 use of alternative fuels?

7 2. What, if anything, should be done to produce fuels
8 within this state and to maximize the state's resources?

9 3. What facilities for fuel distribution and sales
10 would be necessary, and what, if anything, should be done to
11 encourage the development of these facilities?

12 4. What effect would these alternatives have on the
13 recovery from hurricanes or other emergencies?

14 5. What can the state do as a consumer of motor
15 vehicle fuels to decrease its use of such fuels and to be more
16 efficient in its use of fuels?

17 (c) What can be done to maximize the compatibility of
18 any system changes and growth-management goals and laws?

19 (d) With respect to the research, development, and
20 deployment of alternative fuels:

21 1. What, if anything, should be done to encourage
22 in-state research, both public and private?

23 2. What, if anything, should be done to encourage
24 universities to work together, with other state entities, and
25 with the private sector in the research, development, and
26 deployment of alternative fuels, without creating any
27 disincentive for any entity?

28 3. What, if anything, should be done to recruit or
29 encourage companies working with alternative fuels to locate
30 in this state?

31

1 4. What, if anything, should be done to provide
2 funding or assist in obtaining funding for universities, state
3 entities, or the private sector in order to encourage in-state
4 research and development of energy technologies relating to
5 motor vehicles?

6 5. What state entities should be involved in these
7 functions?

8 6. What are the potential effects of these issues and
9 choices on tourism, agriculture, small business, and industry
10 in the state?

11 Section 2. The state energy program, as authorized and
12 governed by ss. 377.701 and 377.703, Florida Statutes,
13 including all statutory powers, duties, functions, rules,
14 records, personnel, property, and unexpended balances of
15 appropriations, allocations, and other funds associated with
16 the program, is transferred intact by a type two transfer, as
17 defined in s. 20.06(2), Florida Statutes, from the Department
18 of Environmental Protection to the Florida Energy Commission.

19 Section 3. The Florida Public Service Commission shall
20 direct a study of the electric transmission grid in the state.
21 The study shall look at electric system reliability to examine
22 the efficiency and reliability of power transfer and emergency
23 contingency conditions. In addition, the study shall examine
24 the hardening of infrastructure to address issues arising from
25 the 2004 and 2005 hurricane seasons. A report of the results
26 of the study shall be provided to the Governor, the President
27 of the Senate, and the Speaker of the House of Representatives
28 by March 1, 2007.

29 Section 4. Legislative findings and intent.--The
30 Legislature finds that advancing the development of renewable
31 energy technologies and energy efficiency is important for the

1 state's future, its energy stability, and the protection of
2 its citizens' public health and its environment. The
3 Legislature finds that the development of renewable energy
4 technologies and energy efficiency in the state will help to
5 reduce demand for foreign fuels, promote energy diversity,
6 enhance system reliability, reduce pollution, educate the
7 public on the promise of renewable energy technologies, and
8 promote economic growth. The Legislature finds that there is a
9 need to assist in the development of market demand that will
10 advance the commercialization and widespread application of
11 renewable energy technologies. The Legislature further finds
12 that the state is ideally positioned to stimulate economic
13 development through such renewable energy technologies due to
14 its ongoing and successful research and development track
15 record in these areas, an abundance of natural and renewable
16 energy sources, an ability to attract significant federal
17 research and development funds, and the need to find and
18 secure renewable energy technologies for the benefit of its
19 citizens, visitors, and environment.

20 Section 5. Section 377.801, Florida Statutes, is
21 created to read:

22 377.801 Short title.--Sections 377.801-377.806 may be
23 cited as the "Florida Renewable Energy Technologies and Energy
24 Efficiency Act."

25 Section 6. Section 377.802, Florida Statutes, is
26 created to read:

27 377.802 Purpose.--This act is intended to provide
28 matching grants to stimulate capital investment in the state
29 and to enhance the market for and promote the statewide
30 utilization of renewable energy technologies. The targeted
31 grants program is designed to advance the already growing

1 establishment of renewable energy technologies in the state
2 and encourage the use of other incentives such as tax
3 exemptions and regulatory certainty to attract additional
4 renewable energy technology producers, developers, and users
5 to the state. This act is also intended to provide rebates for
6 energy efficient appliances and for solar energy equipment
7 installations for residential and commercial buildings.

8 Section 7. Section 377.803, Florida Statutes, is
9 created to read:

10 377.803 Definitions.--As used in this act, the term:

11 (1) "Act" means the Florida Renewable Energy
12 Technologies and Energy Efficiency Act.

13 (2) "Department" means the Department of Environmental
14 Protection.

15 (3) "Energy Star qualified appliance" means a
16 refrigerator, residential model clothes washer including a
17 residential style coin operated clothes washer, or dishwasher
18 that has been designated by the United States Environmental
19 Protection Agency and the United States Department of Energy
20 as meeting or exceeding the energy saving efficiency
21 requirements under each agency's Energy Star program.

22 (4) "Person" means an individual, partnership, joint
23 venture, private or public corporation, association, firm,
24 public service company, or any other public or private entity.

25 (5) "Renewable energy" means renewable energy as
26 defined in s. 366.91.

27 (6) "Renewable energy technology" means any technology
28 that generates or utilizes a renewable energy resource.

29 (7) "Solar energy system" means equipment that
30 provides for the collection and use of incident solar energy
31 for water heating, space heating or cooling, or other

1 applications that require a conventional source of energy such
2 as petroleum products, natural gas, or electricity and that
3 performs primarily with solar energy. In other systems in
4 which solar energy is used in a supplemental way, only those
5 components which collect and transfer solar energy shall be
6 included in this definition. The term "solar energy system"
7 does not include a swimming pool heater.

8 (8) "Solar photovoltaic system" means a device that
9 converts incident sunlight into electrical current.

10 (9) "Solar thermal system" means a device that traps
11 heat from incident sunlight in order to heat water.

12 Section 8. Section 377.804, Florida Statutes, is
13 created to read:

14 377.804 Renewable Energy Technologies Grants
15 Program.--

16 (1) The Renewable Energy Technologies Grants Program
17 is established within the department to provide renewable
18 energy matching grants for demonstration, commercialization,
19 research, and development projects relating to renewable
20 energy technologies.

21 (2) Matching grants for renewable energy technology
22 demonstration, commercialization, research, and development
23 projects may be made to any of the following:

24 (a) Municipalities and county governments.

25 (b) Established for-profit companies licensed to do
26 business in the state.

27 (c) Universities and colleges.

28 (d) Utilities located and operating within the state.

29 (e) Not-for-profit organizations.

30 (f) Other qualified persons, as determined by the
31 department.

1 (3) The department may adopt rules pursuant to ss.
2 120.536(1) and 120.54 to administer the awarding of grants
3 under this program.

4 (4) Factors the department shall consider in awarding
5 grants include, but are not limited to:

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

11 (b) The extent to which the proposed project has been
12 demonstrated to be technically feasible based on pilot project
13 demonstrations, laboratory testing, scientific modeling, or
14 engineering or chemical theory which supports the proposal.

15 (c) The degree to which the project incorporates an
16 innovative new technology or an innovative application of an
17 existing technology.

18 (d) The degree to which a project generates thermal,
19 mechanical, or electrical energy by means of a renewable
20 energy resource that has substantial long-term production
21 potential.

22 (e) The degree to which a project demonstrates
23 efficient use of energy and material resources.

24 (f) The degree to which the project fosters overall
25 understanding and appreciation of renewable energy
26 technologies.

27 (g) The availability of matching funds from an
28 applicant.

29 (h) Other in-kind contributions applied to the total
30 project.

31 (i) The ability to administer a complete project.

1 (j) Project duration and timeline for expenditures.

2 (k) The geographic area in which the project is to be
3 conducted in relation to other projects.

4 (l) The degree of public visibility and interaction.

5 Section 9. Section 377.805, Florida Statutes, is
6 created to read:

7 377.805 Energy Efficient Appliance Rebate Program.--

8 (1) The Energy Efficient Appliances Rebate Program is
9 established within the department to provide for financial
10 incentives for the purchase of Energy Star qualified
11 appliances as specified in this section.

12 (2) Any resident of the state who purchases a new
13 Energy Star qualified appliance from July 1, 2006, through
14 June 30, 2010, from a retail store in the state is eligible
15 for a rebate of a portion of the purchase price of that Energy
16 Star qualified appliance.

17 (3) The department shall adopt rules pursuant to ss.
18 120.536(1) and 120.54 to designate rebate amounts and
19 administer the issuance of rebates. The department's rules may
20 include separate incentives for low-income families to
21 purchase Energy Star qualified appliances.

22 (4) Application for a rebate must be made within 90
23 days after the purchase of the Energy Star qualified
24 appliance.

25 (5) A person is limited to one rebate per type of
26 appliance per year.

27 (6) The total dollar amount of all rebates issued by
28 the department is subject to the total amount of
29 appropriations in any fiscal year for this program. If funds
30 are insufficient during the current fiscal year, any requests
31

1 for rebates received during that fiscal year may be processed
2 during the following fiscal year.

3 (7) The department shall determine and publish on a
4 regular basis the amount of rebate funds remaining in each
5 fiscal year.

6 Section 10. Section 377.806, Florida Statutes, is
7 created to read:

8 377.806 Solar Energy System Rebate Program.--

9 (1) The Solar Energy System Rebate Program is
10 established within the department to provide for financial
11 incentives for the purchase of solar energy systems.

12 (2) Any person who is a resident of this state and who
13 purchases a new solar energy system from July 1, 2006, through
14 June 30, 2010, of 2 kilowatts or larger for a solar
15 photovoltaic system, or a solar energy system that provides at
16 least 50 percent of a building's hot water consumption for a
17 solar thermal system and has the system installed by a
18 certified solar contractor, is eligible for a rebate.

19 (3) The department shall adopt rules pursuant to ss.
20 120.536(1) and 120.54 to designate rebate amounts and
21 administer the issuance of rebates.

22 (4) Application for a rebate must be made within 90
23 days after the purchase of the solar energy equipment.

24 (5) Rebates are limited to two per person.

25 (6) The total dollar amount of all rebates issued by
26 the department is subject to the total amount of
27 appropriations in any fiscal year for this program. If funds
28 are insufficient during the current fiscal year, any requests
29 for rebates received during that fiscal year may be processed
30 during the following fiscal year.

31

1 (7) The department shall determine and publish on a
2 regular basis the amount of rebate funds remaining in each
3 fiscal year.

4 Section 11. Paragraph (ccc) is added to subsection (7)
5 of section 212.08, Florida Statutes, to read:

6 212.08 Sales, rental, use, consumption, distribution,
7 and storage tax; specified exemptions.--The sale at retail,
8 the rental, the use, the consumption, the distribution, and
9 the storage to be used or consumed in this state of the
10 following are hereby specifically exempt from the tax imposed
11 by this chapter.

12 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to
13 any entity by this chapter do not inure to any transaction
14 that is otherwise taxable under this chapter when payment is
15 made by a representative or employee of the entity by any
16 means, including, but not limited to, cash, check, or credit
17 card, even when that representative or employee is
18 subsequently reimbursed by the entity. In addition, exemptions
19 provided to any entity by this subsection do not inure to any
20 transaction that is otherwise taxable under this chapter
21 unless the entity has obtained a sales tax exemption
22 certificate from the department or the entity obtains or
23 provides other documentation as required by the department.
24 Eligible purchases or leases made with such a certificate must
25 be in strict compliance with this subsection and departmental
26 rules, and any person who makes an exempt purchase with a
27 certificate that is not in strict compliance with this
28 subsection and the rules is liable for and shall pay the tax.
29 The department may adopt rules to administer this subsection.

30 (ccc) Equipment, machinery, and other materials for
31 renewable energy technologies.--

- 1 1. Definitions.--As used in this paragraph, the term:
2 a. "Biodiesel" means a fuel comprised of mono-alkyl
3 esters of long-chain fatty acids derived from vegetable oils
4 or animal fats meeting the requirements of American Society
5 for Testing and Materials (ASTM) standard D6751. Biodiesel may
6 refer to a blend of biodiesel fuel meeting the ASTM standard
7 D6751 with petroleum-based diesel fuel, designated BXX, where
8 XX represents the volume percentage of biodiesel fuel in the
9 blend.
10 b. "Ethanol" means a high octane, liquid fuel produced
11 by the fermentation of plant sugars meeting the requirements
12 of ASTM standard D5798-99. Ethanol refers to a blend of
13 ethanol fuel meeting ASTM standard D5798-99 with
14 petroleum-based gasoline fuel, designated EXX, where XX
15 represents the volume percentage of ethanol fuel in the blend.
16 c. "Hydrogen fuel cells" means equipment using
17 hydrogen or a hydrogen rich fuel in an electrochemical process
18 to generate energy, electricity, or the transfer of heat.
19 2. The sale or use of the following is exempt from the
20 tax imposed by this chapter:
21 a. Hydrogen-powered vehicles, materials incorporated
22 into hydrogen-powered vehicles, and hydrogen-fueling stations,
23 up to \$2 million each fiscal year.
24 b. Commercial stationary hydrogen fuel cells, up to \$1
25 million each fiscal year.
26 c. Materials used in the distribution of biodiesel
27 (B10-B100) and ethanol (E10-E85), including fueling
28 infrastructure, transportation, and storage, up to \$1 million
29 each fiscal year.
30
31

1 3. The Department of Environmental Protection shall
2 provide to the department a list of items eligible for the
3 exemption.

4 4.a. The exemption shall be available to a purchaser
5 through a refund of previously paid taxes.

6 b. To be eligible to receive the exemption, a
7 purchaser shall file an application with the Department of
8 Environmental Protection. The application shall be developed
9 by the Department of Environmental Protection, in consultation
10 with the department, and shall require:

11 (I) The name and address of the person claiming the
12 refund.

13 (II) A specific description of the purchase for which
14 a refund is sought, including, when applicable, a serial
15 number or other permanent identification number.

16 (III) The sales invoice or other proof of purchase
17 showing the amount of sales tax paid, the date of purchase,
18 and the name and address of the sales tax dealer from whom the
19 property was purchased.

20 (IV) A sworn statement that the information provided
21 is accurate.

22 c. Within 30 days after receipt of an application, the
23 Department of Environmental Protection shall review the
24 application and shall notify the applicant of any
25 deficiencies. Upon receipt of a completed application, the
26 Department of Environmental Protection shall evaluate the
27 application for exemption and issue a written certification
28 that the applicant is eligible for a refund or issue a written
29 denial of such certification within 60 days. The Department of
30 Environmental Protection shall provide the department with a
31

1 copy of each certification issued upon approval of an
2 application.

3 d. Each certified applicant shall be responsible for
4 forwarding a certified copy of the application and copies of
5 all required documentation to the department within 6 months
6 after certification by the Department of Environmental
7 Protection.

8 e. The provisions of s. 212.095 do not apply to any
9 refund application made pursuant to this paragraph. A refund
10 approved pursuant to this paragraph shall be made within 30
11 days after formal approval by the department.

12 f. The department shall adopt rules governing the
13 manner and form of refund applications and may establish
14 guidelines as to the requisites for an affirmative showing of
15 qualification for exemption under this paragraph.

16 g. The Department of Environmental Protection shall be
17 responsible for ensuring that the exemptions do not exceed the
18 limits provided in subparagraph 2.

19 5. The Department of Environmental Protection shall
20 determine and publish on a regular basis the amount of sales
21 tax funds remaining in each fiscal year.

22 6. This exemption is repealed July 1, 2010.

23 Section 12. Paragraph (y) is added to subsection (7)
24 of section 213.053, Florida Statutes, to read:

25 213.053 Confidentiality and information sharing.--

26 (7) Notwithstanding any other provision of this
27 section, the department may provide:

28 (y) Information relative to ss. 212.08(7)(ccc) and
29 220.192 to the Department of Environmental Protection for use
30 in the conduct of its official business.

31

1 Disclosure of information under this subsection shall be
2 pursuant to a written agreement between the executive director
3 and the agency. Such agencies, governmental or
4 nongovernmental, shall be bound by the same requirements of
5 confidentiality as the Department of Revenue. Breach of
6 confidentiality is a misdemeanor of the first degree,
7 punishable as provided by s. 775.082 or s. 775.083.

8 Section 13. Subsection (8) of section 220.02, Florida
9 Statutes, is amended to read:

10 220.02 Legislative intent.--

11 (8) It is the intent of the Legislature that credits
12 against either the corporate income tax or the franchise tax
13 be applied in the following order: those enumerated in s.
14 631.828, those enumerated in s. 220.191, those enumerated in
15 s. 220.181, those enumerated in s. 220.183, those enumerated
16 in s. 220.182, those enumerated in s. 220.1895, those
17 enumerated in s. 221.02, those enumerated in s. 220.184, those
18 enumerated in s. 220.186, those enumerated in s. 220.1845,
19 those enumerated in s. 220.19, those enumerated in s. 220.185,
20 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.
21 220.192.

22 Section 14. Section 220.192, Florida Statutes, is
23 created to read:

24 220.192 Renewable energy technologies investment tax
25 credit.--

26 (1) DEFINITIONS.--For purposes of this section, the
27 term:

28 (a) "Biodiesel" means biodiesel as defined in s.
29 212.08(7)(ccc).

30 (b) "Eligible costs" means:
31

1 1. Seventy-five percent of all capital costs,
2 operational and maintenance costs, and research and
3 development costs incurred between July 1, 2006, and June 30,
4 2010, up to \$3 million per fiscal year, in connection with an
5 investment in hydrogen powered vehicles and hydrogen vehicle
6 fueling stations including, but not limited to, the costs of
7 constructing, installing, and equipping such technologies in
8 the state.

9 2. Seventy-five percent of all capital costs,
10 operational and maintenance costs, and research and
11 development costs incurred between July 1, 2006, and June 30,
12 2010, up to a limit of \$1.5 million in connection with an
13 investment in commercial stationary hydrogen fuel cells
14 including, but not limited to, the costs of constructing,
15 installing, and equipping such technologies in the state.

16 3. Seventy-five percent of all capital costs,
17 operational and maintenance costs, and research and
18 development costs incurred between July 1, 2006, and June 30,
19 2010, up to a limit of \$6.5 million per fiscal year, in
20 connection with an investment in the production and
21 distribution of biodiesel (B10-B100) and ethanol (E10-E85)
22 including, the costs of constructing, installing, and
23 equipping such technologies in the state.

24 (c) "Ethanol" means ethanol as defined in s.
25 212.08(7)(ccc).

26 (d) "Hydrogen fuel cell" means hydrogen fuel cell as
27 defined in s. 212.08(7)(ccc).

28 (2) TAX CREDIT.--For tax years beginning on or after
29 January 1, 2007, a credit against the tax imposed by this
30 chapter shall be granted in an amount equal to the eligible
31 costs. Credits may be used beginning January 1, 2007,

1 through December 31, 2013, after which the credit shall
2 expire. If the credit is not fully used in any one tax year
3 because of insufficient tax liability on the part of the
4 corporation, the unused amount may be carried forward through
5 December 31, 2012, after which the credit carryover expires
6 and may not be used. A taxpayer that files a consolidated
7 return in this state as a member of an affiliated group under
8 s. 220.131(1) may be allowed the credit on a consolidated
9 return basis up to the amount of tax imposed upon the
10 consolidated group. Any eligible cost for which a credit is
11 claimed and which is deducted or otherwise reduces federal
12 taxable income shall be added back in computing adjusted
13 federal income under s. 220.13.

14 (3) APPLICATION PROCESS.--Any corporation wishing to
15 obtain tax credits available under this section must submit to
16 the Department of Environmental Protection an application for
17 tax credit that includes a complete description of all
18 eligible costs for which the corporation is seeking a credit
19 and a description of the total amount of credits sought. The
20 Department of Environmental Protection shall make a
21 determination on the eligibility of the applicant for the
22 credits sought and certify the determination to the applicant
23 and the Department of Revenue. The corporation must attach the
24 Department of Environmental Protection's certification to the
25 tax return on which the credit is claimed. The Department of
26 Environmental Protection is authorized to adopt the necessary
27 rules, guidelines, and application materials for the
28 application process.

29 (4) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
30 CREDITS.--

31

1 (a) In addition to its existing audit and
2 investigation authority, the Department of Revenue may perform
3 any additional financial and technical audits and
4 investigations, including examining the accounts, books, and
5 records of the tax credit applicant, that are necessary to
6 verify the eligible costs included in the tax credit return
7 and to ensure compliance with this section. The Department of
8 Environmental Protection shall provide technical assistance
9 when requested by the Department of Revenue on any technical
10 audits or examinations performed pursuant to this section.

11 (b) It is grounds for forfeiture of previously claimed
12 and received tax credits if the Department of Revenue
13 determines, as a result of either an audit or examination or
14 from information received from the Department of Environmental
15 Protection, that a taxpayer received tax credits pursuant to
16 this section to which the taxpayer was not entitled. The
17 taxpayer is responsible for returning forfeited tax credits to
18 the Department of Revenue, and such funds shall be paid into
19 the General Revenue Fund of the state.

20 (c) The Department of Environmental Protection may
21 revoke or modify any written decision granting eligibility for
22 tax credits under this section if it is discovered that the
23 tax credit applicant submitted any false statement,
24 representation, or certification in any application, record,
25 report, plan, or other document filed in an attempt to receive
26 tax credits under this section. The Department of
27 Environmental Protection shall immediately notify the
28 Department of Revenue of any revoked or modified orders
29 affecting previously granted tax credits. Additionally, the
30 taxpayer must notify the Department of Revenue of any change
31 in its tax credit claimed.

1 (d) The taxpayer shall file with the Department of
2 Revenue an amended return or such other report as the
3 Department of Revenue prescribes by rule and shall pay any
4 required tax and interest within 60 days after the taxpayer
5 receives notification from the Department of Environmental
6 Protection that previously approved tax credits have been
7 revoked or modified. If the revocation or modification order
8 is contested, the taxpayer shall file as provided in this
9 paragraph within 60 days after a final order is issued
10 following proceedings.

11 (e) A notice of deficiency may be issued by the
12 Department of Revenue at any time within 3 years after the
13 taxpayer receives formal notification from the Department of
14 Environmental Protection that previously approved tax credits
15 have been revoked or modified. If a taxpayer fails to notify
16 the Department of Revenue of any changes to its tax credit
17 claimed, a notice of deficiency may be issued at any time.

18 (5) RULES.--The Department of Revenue shall have the
19 authority to adopt rules relating to the forms required to
20 claim a tax credit under this section, the requirements and
21 basis for establishing an entitlement to a credit, and the
22 examination and audit procedures required to administer this
23 section.

24 (6) PUBLICATION.--The Department of Environmental
25 Protection shall determine and publish on a regular basis the
26 amount of available tax credits remaining in each fiscal year.

27 (7) REPEAL.--The provisions of this section, except
28 the credit carryover provisions provided in subsection (2),
29 are repealed on July 1, 2010.

30 Section 15. Paragraph (a) of subsection (1) of section
31 220.13, Florida Statutes, is amended to read:

1 220.13 "Adjusted federal income" defined.--

2 (1) The term "adjusted federal income" means an amount
3 equal to the taxpayer's taxable income as defined in
4 subsection (2), or such taxable income of more than one
5 taxpayer as provided in s. 220.131, for the taxable year,
6 adjusted as follows:

7 (a) Additions.--There shall be added to such taxable
8 income:

9 1. The amount of any tax upon or measured by income,
10 excluding taxes based on gross receipts or revenues, paid or
11 accrued as a liability to the District of Columbia or any
12 state of the United States which is deductible from gross
13 income in the computation of taxable income for the taxable
14 year.

15 2. The amount of interest which is excluded from
16 taxable income under s. 103(a) of the Internal Revenue Code or
17 any other federal law, less the associated expenses disallowed
18 in the computation of taxable income under s. 265 of the
19 Internal Revenue Code or any other law, excluding 60 percent
20 of any amounts included in alternative minimum taxable income,
21 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
22 taxpayer pays tax under s. 220.11(3).

23 3. In the case of a regulated investment company or
24 real estate investment trust, an amount equal to the excess of
25 the net long-term capital gain for the taxable year over the
26 amount of the capital gain dividends attributable to the
27 taxable year.

28 4. That portion of the wages or salaries paid or
29 incurred for the taxable year which is equal to the amount of
30 the credit allowable for the taxable year under s. 220.181.

31

1 The provisions of this subparagraph shall expire and be void
2 on June 30, 2005.

3 5. That portion of the ad valorem school taxes paid or
4 incurred for the taxable year which is equal to the amount of
5 the credit allowable for the taxable year under s. 220.182.

6 The provisions of this subparagraph shall expire and be void
7 on June 30, 2005.

8 6. The amount of emergency excise tax paid or accrued
9 as a liability to this state under chapter 221 which tax is
10 deductible from gross income in the computation of taxable
11 income for the taxable year.

12 7. That portion of assessments to fund a guaranty
13 association incurred for the taxable year which is equal to
14 the amount of the credit allowable for the taxable year.

15 8. In the case of a nonprofit corporation which holds
16 a pari-mutuel permit and which is exempt from federal income
17 tax as a farmers' cooperative, an amount equal to the excess
18 of the gross income attributable to the pari-mutuel operations
19 over the attributable expenses for the taxable year.

20 9. The amount taken as a credit for the taxable year
21 under s. 220.1895.

22 10. Up to nine percent of the eligible basis of any
23 designated project which is equal to the credit allowable for
24 the taxable year under s. 220.185.

25 11. The amount taken as a credit for the taxable year
26 under s. 220.187.

27 12. The amount taken as a credit for the taxable year
28 under s. 220.192.

29 Section 16. Subsection (2) of section 186.801, Florida
30 Statutes, is amended to read:

31 186.801 Ten-year site plans.--

1 (2) Within 9 months after the receipt of the proposed
2 plan, the commission shall make a preliminary study of such
3 plan and classify it as "suitable" or "unsuitable." The
4 commission may suggest alternatives to the plan. All findings
5 of the commission shall be made available to the Department of
6 Environmental Protection for its consideration at any
7 subsequent electrical power plant site certification
8 proceedings. It is recognized that 10-year site plans
9 submitted by an electric utility are tentative information for
10 planning purposes only and may be amended at any time at the
11 discretion of the utility upon written notification to the
12 commission. A complete application for certification of an
13 electrical power plant site under chapter 403, when such site
14 is not designated in the current 10-year site plan of the
15 applicant, shall constitute an amendment to the 10-year site
16 plan. In its preliminary study of each 10-year site plan, the
17 commission shall consider such plan as a planning document and
18 shall review:

19 (a) The need, including the need as determined by the
20 commission, for electrical power in the area to be served.

21 **(b) The effect on fuel diversity within the state.**

22 ~~(c)(b)~~ The anticipated environmental impact of each
23 proposed electrical power plant site.

24 ~~(d)(e)~~ Possible alternatives to the proposed plan.

25 ~~(e)(d)~~ The views of appropriate local, state, and
26 federal agencies, including the views of the appropriate water
27 management district as to the availability of water and its
28 recommendation as to the use by the proposed plant of salt
29 water or fresh water for cooling purposes.

30 ~~(f)(e)~~ The extent to which the plan is consistent with
31 the state comprehensive plan.

1 ~~(g)(f)~~ The plan with respect to the information of the
2 state on energy availability and consumption.

3 Section 17. Subsection (6) of section 366.04, Florida
4 Statutes, is amended to read:

5 366.04 Jurisdiction of commission.--

6 (6) The commission shall further have exclusive
7 jurisdiction to prescribe and enforce safety standards for
8 transmission and distribution facilities of all public
9 electric utilities, cooperatives organized under the Rural
10 Electric Cooperative Law, and electric utilities owned and
11 operated by municipalities. In adopting safety standards, the
12 commission shall, at a minimum:

13 (a) Adopt the 1984 edition of the National Electrical
14 Safety Code (ANSI C2) as initial standards; and

15 (b) Adopt, after review, any new edition of the
16 National Electrical Safety Code (ANSI C2).

17
18 The standards prescribed by the current 1984 edition of the
19 National Electrical Safety Code (ANSI C2) shall constitute
20 acceptable and adequate requirements for the protection of the
21 safety of the public, and compliance with the minimum
22 requirements of that code shall constitute good engineering
23 practice by the utilities. The administrative authority
24 referred to in the 1984 edition of the National Electrical
25 Safety Code is the commission. However, nothing herein shall
26 be construed as superseding, repealing, or amending the
27 provisions of s. 403.523(1) and (10).

28 Section 18. Subsections (1) and (8) of section 366.05,
29 Florida Statutes, are amended to read:

30 366.05 Powers.--

31

1 (1) In the exercise of such jurisdiction, the
2 commission shall have power to prescribe fair and reasonable
3 rates and charges, classifications, standards of quality and
4 measurements, including the ability to adopt construction
5 standards that exceed the National Electrical Safety Code, for
6 purposes of ensuring the reliable provision of service and
7 service rules and regulations to be observed by each public
8 utility; to require repairs, improvements, additions,
9 replacements, and extensions to the plant and equipment of any
10 public utility when reasonably necessary to promote the
11 convenience and welfare of the public and secure adequate
12 service or facilities for those reasonably entitled thereto;
13 to employ and fix the compensation for such examiners and
14 technical, legal, and clerical employees as it deems necessary
15 to carry out the provisions of this chapter; and to adopt
16 rules pursuant to ss. 120.536(1) and 120.54 to implement and
17 enforce the provisions of this chapter.

18 (8) If the commission determines that there is
19 probable cause to believe that inadequacies exist with respect
20 to the energy grids developed by the electric utility
21 industry, including inadequacies in fuel diversity or fuel
22 supply reliability, it shall have the power, after proceedings
23 as provided by law, and after a finding that mutual benefits
24 will accrue to the electric utilities involved, to require
25 installation or repair of necessary facilities, including
26 generating plants and transmission facilities, with the costs
27 to be distributed in proportion to the benefits received, and
28 to take all necessary steps to ensure compliance. The electric
29 utilities involved in any action taken or orders issued
30 pursuant to this subsection shall have full power and
31 authority, notwithstanding any general or special laws to the

1 | contrary, to jointly plan, finance, build, operate, or lease
2 | generating and transmission facilities and shall be further
3 | authorized to exercise the powers granted to corporations in
4 | chapter 361. This subsection shall not supersede or control
5 | any provision of the Florida Electrical Power Plant Siting
6 | Act, ss. 403.501-403.518.

7 | Section 19. Subsections (5), (8), (9), (12), and (27)
8 | of section 403.503, Florida Statutes, are amended, subsections
9 | (16) through (28) are renumbered as (17) through (29),
10 | respectively, and new subsection (16) is added to that
11 | section, to read:

12 | 403.503 Definitions relating to Florida Electrical
13 | Power Plant Siting Act.--As used in this act:

14 | (5) "Application" means the documents required by the
15 | department to be filed to initiate a certification review and
16 | evaluation, including the initial document filing, amendments,
17 | and responses to requests from the department for additional
18 | data and information ~~proceeding and shall include the~~
19 | ~~documents necessary for the department to render a decision on~~
20 | ~~any permit required pursuant to any federally delegated or~~
21 | ~~approved permit program.~~

22 | (8) "Completeness" means that the application has
23 | addressed all applicable sections of the prescribed
24 | application format, and ~~but does not mean~~ that those sections
25 | are sufficient in comprehensiveness of data or in quality of
26 | information provided to allow the department to determine
27 | whether the application provides the reviewing agencies
28 | adequate information to prepare the reports required by s.
29 | 403.507.

30 | (9) "Corridor" means the proposed area within which an
31 | associated linear facility right-of-way is to be located. The

1 width of the corridor proposed for certification as an
2 associated facility, at the option of the licensee ~~applicant~~,
3 may be the width of the right-of-way or a wider boundary, not
4 to exceed a width of 1 mile. The area within the corridor in
5 which a right-of-way may be located may be further restricted
6 by a condition of certification. After all property interests
7 required for the right-of-way have been acquired by the
8 licensee ~~applicant~~, the boundaries of the area certified shall
9 narrow to only that land within the boundaries of the
10 right-of-way.

11 (12) "Electrical power plant" means, for the purpose
12 of certification, any steam or solar electrical generating
13 facility using any process or fuel, including nuclear
14 materials, except that this term does not include any steam or
15 solar electric generating facility of less than 75 megawatts
16 in capacity unless the applicant for such a facility elects to
17 apply for certification under this act. This term ~~and~~ includes
18 associated facilities which directly support the construction
19 and operation of the electrical power plant such as fuel
20 unloading facilities, pipelines necessary for transporting
21 fuel for the operation of the facility or other fuel
22 transportation facilities, water or wastewater transport
23 pipelines, construction, maintenance and access roads, railway
24 lines necessary for transport of construction equipment or
25 fuel for the operation of the facility, and those associated
26 transmission lines which connect the electrical power plant to
27 an existing transmission network or rights-of-way to which the
28 licensee ~~applicant~~ intends to connect, ~~except that this term~~
29 ~~does not include any steam or solar electrical generating~~
30 ~~facility of less than 75 megawatts in capacity unless the~~
31 ~~applicant for such a facility elects to apply for~~

1 ~~certification under this act.~~ An associated transmission line
2 may include, at the licensee's ~~applicant's~~ option, any
3 proposed terminal or intermediate substations or substation
4 expansions connected to the associated transmission line.

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

7 ~~(28)(27)~~ "Ultimate site capacity" means the maximum
8 generating capacity for a site as certified by the board.

9 ~~"Sufficiency" means that the application is not only complete~~
10 ~~but that all sections are sufficient in the comprehensiveness~~
11 ~~of data or in the quality of information provided to allow the~~
12 ~~department to determine whether the application provides the~~
13 ~~reviewing agencies adequate information to prepare the reports~~
14 ~~required by s. 403.507.~~

15 Section 20. Subsections (1), (7), (9), and (10) of
16 section 403.504, Florida Statutes, are amended, and new
17 subsections (9), (10), (11), and (12) are added to that
18 section, to read:

19 403.504 Department of Environmental Protection; powers
20 and duties enumerated.--The department shall have the
21 following powers and duties in relation to this act:

22 (1) To adopt rules pursuant to ss. 120.536(1) and
23 120.54 to implement the provisions of this act, including
24 rules setting forth environmental precautions to be followed
25 in relation to the location, construction, and operation of
26 electrical power plants.

27 (7) To conduct studies and prepare a project written
28 analysis under s. 403.507.

29 (9) To issue final orders after receipt of the
30 administrative law judge's order relinquishing jurisdiction
31 pursuant to s. 403.508(6).

1 (10) To act as clerk for the siting board.

2 (11) To administer and manage the terms and conditions
3 of the certification order and supporting documents and
4 records for the life of the facility.

5 (12) To issue emergency orders on behalf of the board
6 for facilities licensed under this act.

7 ~~(9) To notify all affected agencies of the filing of a~~
8 ~~notice of intent within 15 days after receipt of the notice.~~

9 ~~(10) To issue, with the electrical power plant~~
10 ~~certification, any license required pursuant to any federally~~
11 ~~delegated or approved permit program.~~

12 Section 21. Section 403.5055, Florida Statutes, is
13 amended to read:

14 403.5055 Application for permits pursuant to s.
15 403.0885.--In processing applications for permits pursuant to
16 s. 403.0885 that are associated with applications for
17 electrical power plant certification:

18 (1) The procedural requirements set forth in 40 C.F.R.
19 s. 123.25, including public notice, public comments, and
20 public hearings, shall be closely coordinated with the
21 certification process established under this part. In the
22 event of a conflict between the certification process and
23 federally required procedures for NPDES permit issuance, the
24 applicable federal requirements shall control.

25 ~~(2) The department's proposed action pursuant to 40~~
26 ~~C.F.R. s. 124.6, including any draft NPDES permit (containing~~
27 ~~the information required under 40 C.F.R. s. 124.6(d)), shall~~
28 ~~within 130 days after the submittal of a complete application~~
29 ~~be publicly noticed and transmitted to the United States~~
30 ~~Environmental Protection Agency for its review pursuant to 33~~
31 ~~U.S.C. s. 1342(d).~~

1 ~~(3) The department shall include in its written~~
2 ~~analysis pursuant to s. 403.507(3) copies of the department's~~
3 ~~proposed action pursuant to 40 C.F.R. s. 124.6 on any~~
4 ~~application for a NPDES permit; any corresponding comments~~
5 ~~received from the United States Environmental Protection~~
6 ~~Agency, the applicant, or the general public; and the~~
7 ~~department's response to those comments.~~

8 (2)(4) The department shall not issue or deny the
9 permit pursuant to s. 403.0885 in advance of the issuance of
10 the electric power plant certification under this part unless
11 required to do so by the provisions of federal law. When
12 possible, any hearing on a permit issued pursuant to s.
13 403.0885, shall be conducted in conjunction with the
14 certification hearing held pursuant to this act. The
15 department's actions on an NPDES permit shall be based on the
16 record and recommended order of the certification hearing, if
17 the hearing on the NPDES was conducted in conjunction with the
18 certification hearing, and of any other proceeding held in
19 connection with the application for an NPDES permit, timely
20 public comments received with respect to the application, and
21 the provisions of federal law. The department's action on an
22 NPDES permit, if issued, shall differ from the actions taken
23 by the siting board regarding the certification order if
24 federal laws and regulations require different action to be
25 taken to ensure compliance with the Clean Water Act, as
26 amended, and implementing regulations. Nothing in this part
27 shall be construed to displace the department's authority as
28 the final permitting entity under the federally approved state
29 NPDES program. Nothing in this part shall be construed to
30 authorize the issuance of a state NPDES permit which does not
31 conform to the requirements of the federally approved state

1 NPDES program. ~~The permit, if issued, shall be valid for no~~
2 ~~more than 5 years.~~

3 ~~(5) The department's action on an NPDES permit~~
4 ~~renewal, if issued, shall differ from the actions taken by the~~
5 ~~siting board regarding the certification order if federal laws~~
6 ~~and regulations require different action to be taken to ensure~~
7 ~~compliance with the Clean Water Act, as amended, and~~
8 ~~implementing regulations.~~

9 Section 22. Section 403.506, Florida Statutes, is
10 amended to read:

11 403.506 Applicability and certification.--

12 (1) The provisions of this act shall apply to any
13 electrical power plant as defined herein, except that the
14 provisions of this act shall not apply to any electrical power
15 plant or steam generating plant of less than 75 megawatts in
16 capacity or to any substation to be constructed as part of an
17 associated transmission line unless the applicant has elected
18 to apply for certification of such plant or substation under
19 this act. No construction of any new electrical power plant or
20 expansion in steam generating capacity as measured by an
21 increase in the maximum normal generator nameplate rating of
22 any existing electrical power plant may be undertaken after
23 October 1, 1973, without first obtaining certification in the
24 manner as herein provided, except that this act shall not
25 apply to any such electrical power plant which is presently
26 operating or under construction or which has, upon the
27 effective date of chapter 73-33, Laws of Florida, applied for
28 a permit or certification under requirements in force prior to
29 the effective date of such act.

30 (2) Except as provided in the certification,
31 modification of nonnuclear fuels, internal related hardware,

1 including increases in steam turbine efficiency, or operating
2 conditions not in conflict with certification which increase
3 the electrical output of a unit to no greater capacity than
4 the maximum operating capacity of the existing generator shall
5 not constitute an alteration or addition to generating
6 capacity which requires certification pursuant to this act.

7 ~~(3) The application for any related department license~~
8 ~~which is required pursuant to any federally delegated or~~
9 ~~approved permit program shall be processed within the time~~
10 ~~periods allowed by this act, in lieu of those specified in s.~~
11 ~~120.60. However, permits issued pursuant to s. 403.0885 shall~~
12 ~~be processed in accordance with 40 C.F.R. part 123.~~

13 Section 23. Section 403.5064, Florida Statutes, is
14 amended to read:

15 403.5064 Distribution of application; schedules.--

16 (1) The formal date of certification application
17 filing and commencement of the certification review process
18 shall be when the applicant submits:

19 (a) Copies of the certification application as
20 prescribed by rule to the department and other agencies
21 identified in s. 403.507(2)(a).

22 (b) The application fee specified under s. 403.518 to
23 the department.

24 ~~(2)(1)~~ Within 7 days after the filing of an
25 application, the department shall provide to the applicant and
26 the Division of Administrative Hearings the names and
27 addresses of any additional ~~those affected or other~~ agencies
28 or persons entitled to notice and copies of the application
29 and any amendments.

30 (3) Any amendment to the application made prior to
31 certification shall be disposed of as part of the original

1 certification proceeding. Amendment of the application may be
2 considered good cause for alteration of time limits pursuant
3 to s. 403.5095.

4 ~~(4)(2)~~ Within 15 7 days after the application filing
5 ~~completeness has been determined~~, the department shall prepare
6 a proposed schedule of dates for determination of
7 completeness, submission of statements of issues,
8 ~~determination of sufficiency, and~~ submittal of final reports,
9 ~~from affected and other agencies~~ and other significant dates
10 to be followed during the certification process, including
11 dates for filing notices of appearance to be a party pursuant
12 to s. 403.508(3)(4). This schedule shall be timely provided by
13 the department to the applicant, the administrative law judge,
14 all agencies identified pursuant to subsection(2)(1), and
15 all parties. Within 7 days after the filing of this proposed
16 schedule, the administrative law judge shall issue an order
17 establishing a schedule for the matters addressed in the
18 department's proposed schedule and other appropriate matters,
19 if any.

20 ~~(5)(3)~~ Within 7 days after ~~completeness has been~~
21 ~~determined, the applicant shall distribute copies of the~~
22 ~~application to all agencies identified by the department~~
23 ~~pursuant to subsection (1)~~. Copies of changes and amendments
24 to the application shall be timely distributed by the
25 applicant to all ~~affected~~ agencies and parties who have
26 received a copy of the application.

27 (6) Notice of the filing of the application shall be
28 published in accordance with the requirements of s. 403.5115.

29 Section 24. Section 403.5065, Florida Statutes, is
30 amended to read:
31

1 403.5065 Appointment of administrative law judge,
2 powers and duties.--

3 (1) Within 7 days after receipt of an application,
4 ~~whether complete or not,~~ the department shall request the
5 Division of Administrative Hearings to designate an
6 administrative law judge to conduct the hearings required by
7 this act. The division director shall designate an
8 administrative law judge within 7 days after receipt of the
9 request from the department. In designating an administrative
10 law judge for this purpose, the division director shall,
11 whenever practicable, assign an administrative law judge who
12 has had prior experience or training in electrical power plant
13 site certification proceedings. Upon being advised that an
14 administrative law judge has been appointed, the department
15 shall immediately file a copy of the application and all
16 supporting documents with the designated administrative law
17 judge, who shall docket the application.

18 (2) The administrative law judge shall have all powers
19 and duties granted to administrative law judges by chapter 120
20 and by the laws and rules of the department.

21 Section 25. Section 403.5066, Florida Statutes, is
22 amended to read:

23 403.5066 Determination of completeness.--

24 (1)(a) Within 30 days after filing of an application,
25 the affected agencies shall file a statement with the
26 department containing each agency's recommendations on the
27 completeness of the application.

28 (b) Within 40 ~~15~~ days after the filing ~~receipt~~ of an
29 application, the department shall file a statement with the
30 Division of Administrative Hearings, ~~and~~ and with the applicant,
31 and with all parties declaring its position with regard to the

1 | completeness, ~~not the sufficiency,~~ of the application. The
2 | department's statement shall be based upon consultation with
3 | the affected agencies.

4 | (2)(1) If the department declares the application to
5 | be incomplete, the applicant, within 15 days after the filing
6 | of the statement by the department, shall file with the
7 | Division of Administrative Hearings, ~~and~~ with the department,
8 | and all parties a statement:

9 | (a) A withdrawal of ~~Agreeing with the statement of the~~
10 | ~~department and withdrawing~~ the application;

11 | (b) Additional information necessary to make the
12 | application complete. If the department first determined that
13 | the application is incomplete, the time schedules under this
14 | act shall not be tolled if the applicant makes the application
15 | complete within the 15-day time period. A subsequent finding
16 | by the department that the application remains incomplete
17 | tolls the time schedules under this act until the application
18 | is determined complete; ~~Agreeing with the statement of the~~
19 | ~~department and agreeing to amend the application without~~
20 | ~~withdrawing it. The time schedules referencing a complete~~
21 | ~~application under this act shall not commence until the~~
22 | ~~application is determined complete; or~~

23 | (c) A statement contesting the department's
24 | determination of incompleteness; or ~~contesting the statement~~
25 | ~~of the department.~~

26 | (d) A statement agreeing with the department and
27 | requesting additional time to provide the information
28 | necessary to make the application complete. If the applicant
29 | exercises this option, the time schedules under this act are
30 | tolled until the application is determined complete.

31 |

1 ~~(3)(a)(2)~~ If the applicant contests the determination
2 by the department that an application is incomplete, the
3 administrative law judge shall schedule a hearing on the
4 statement of completeness. The hearing shall be held as
5 expeditiously as possible, but not later than 21 ~~30~~ days after
6 the filing of the statement by the department. The
7 administrative law judge shall render a decision within 7 ~~10~~
8 days after the hearing.

9 (b) Parties to a hearing on the issue of completeness
10 shall include the applicant, the department, and any agency
11 that has jurisdiction over the matter in dispute. Any
12 substantially affected person who wishes to become a party to
13 the completeness hearing must file a motion to intervene no
14 later than 10 days prior to the date of the hearing.

15 ~~(c)(a)~~ If the administrative law judge determines that
16 the application was not complete ~~as filed~~, the applicant shall
17 withdraw the application or make such additional submittals as
18 necessary to complete it. The time schedules referencing a
19 complete application under this act shall not commence until
20 the application is determined complete.

21 ~~(d)(b)~~ If the administrative law judge determines that
22 the application was complete at the time it was declared
23 incomplete filed, the time schedules referencing a complete
24 application under this act shall commence upon such
25 determination.

26 (4) If the applicant provides additional information
27 to address the issues identified in the determination of
28 incompleteness, each affected agency may submit to the
29 department, no later than 15 days after the applicant files
30 the additional information, a recommendation on whether the
31 agency believes the application is complete. Within 22 days

1 after receipt of the additional information from the applicant
2 submitted under paragraph (2)(b), paragraph (2)(d), or
3 paragraph (3)(c), the department shall determine whether the
4 additional information supplied by an applicant makes the
5 application complete. If the department finds that the
6 application is still incomplete, the applicant may exercise
7 any of the options specified in subsection (2) as often as is
8 necessary to resolve the dispute.

9 Section 26. Section 403.50663, Florida Statutes, is
10 created to read:

11 403.50663 Informational public meetings.--

12 (1) Each local government or regional planning
13 council, in the jurisdiction of which the power plant is
14 proposed to be sited, may hold one informational public
15 meeting in addition to the hearings specifically authorized by
16 this act on any matter associated with the electric power
17 plant proceeding. Such informational public meetings shall be
18 held no later than 70 days after the application is filed. The
19 purpose of an informational public meeting is for the local
20 government or regional planning council to further inform the
21 public about the proposed electric power plant or associated
22 facilities, obtain comments from the public, and formulate its
23 recommendation with respect to the proposed electric power
24 plant.

25 (2) Informational public meetings shall be held solely
26 at the option of each local government or regional planning
27 council. It is the legislative intent that local governments
28 or regional planning councils attempt to hold such public
29 meetings. Parties to the proceedings under this act shall be
30 encouraged to attend; however, no party other than the
31

1 applicant and the department shall be required to attend such
2 informational public meetings.

3 (3) A local government or regional planning council
4 that intends to conduct an informational public meeting must
5 provide notice of the meeting to all parties not less than 5
6 days prior to the meeting.

7 (4) The failure to hold an informational public
8 meeting or the procedure used for the informational public
9 meeting are not for the alteration of any time limitation in
10 this act under s. 403.5095 or grounds to deny or condition
11 certification.

12 Section 27. Section 403.50665, Florida Statutes, is
13 created to read:

14 403.50665 Land use consistency determination.--

15 (1) Within 80 days after the application is filed,
16 each local government shall file a determination with the
17 department and the applicant on the consistency of the site or
18 any directly associated facilities within their jurisdiction
19 with existing land use plans and zoning ordinances which were
20 in effect on the date the application was filed. The applicant
21 shall publish notice of the determination in accordance with
22 the requirements of s. 403.5115. These dates may be altered
23 upon agreement between the applicant, the local government,
24 and the department pursuant to s. 403.5095.

25 (2) If any substantially affected person wishes to
26 dispute the local government's determination, he or she shall
27 file a petition with the department within 15 days of the
28 publication of notice of the local government's determination.
29 If a hearing is requested, the provisions of s. 403.508(1)
30 shall apply.

31

1 (3) If it is determined by the local government that
2 the proposed site or directly associated facility does conform
3 with existing land use plans and zoning ordinances in effect
4 as of the date of the application and no petition has been
5 filed, the responsible zoning or planning authority shall not
6 thereafter change such land use plans or zoning ordinances so
7 as to foreclose construction and operation of the proposed
8 site or directly associated facilities unless certification is
9 subsequently denied or withdrawn.

10 Section 28. Section 403.5067, Florida Statutes, is
11 repealed.

12 Section 29. Section 403.507, Florida Statutes, is
13 amended to read:

14 403.507 Preliminary statements of issues, reports,
15 project analyses, and studies.--

16 (1) Each affected agency identified in paragraph
17 (2)(a) shall submit a preliminary statement of issues to the
18 department, ~~and the applicant, and all parties~~ no later than
19 40 60 days after the certification application has been
20 determined distribution of the complete application. The
21 failure to raise an issue in this statement shall not preclude
22 the issue from being raised in the agency's report.

23 (2)(a) No later than 100 days after the certification
24 application has been determined complete, the following
25 reports shall be submitted to the department and the applicant
26 ~~The following agencies shall prepare reports as provided below~~
27 ~~and shall submit them to the department and the applicant~~
28 ~~within 150 days after distribution of the complete~~
29 ~~application:~~

30 1. The Department of Community Affairs shall prepare a
31 report containing recommendations which address the impact

1 upon the public of the proposed electrical power plant, based
2 on the degree to which the electrical power plant is
3 consistent with the applicable portions of the state
4 comprehensive plan, emergency management, and other such
5 matters within its jurisdiction. The Department of Community
6 Affairs may also comment on the consistency of the proposed
7 electrical power plant with applicable strategic regional
8 policy plans or local comprehensive plans and land development
9 regulations.

10 ~~2. The Public Service Commission shall prepare a~~
11 ~~report as to the present and future need for the electrical~~
12 ~~generating capacity to be supplied by the proposed electrical~~
13 ~~power plant. The report shall include the commission's~~
14 ~~determination pursuant to s. 403.519 and may include the~~
15 ~~commission's comments with respect to any other matters within~~
16 ~~its jurisdiction.~~

17 2.3. The water management district shall prepare a
18 report as to matters within its jurisdiction, including, but
19 not limited to, impact on water resources, impact on regional
20 water supply planning, and impact on district-owned lands and
21 works.

22 3.4. Each local government in whose jurisdiction the
23 proposed electrical power plant is to be located shall prepare
24 a report as to the consistency of the proposed electrical
25 power plant with all applicable local ordinances, regulations,
26 standards, or criteria that apply to the proposed electrical
27 power plant, including ~~adopted local comprehensive plans, land~~
28 ~~development regulations, and~~ any applicable local
29 environmental regulations adopted pursuant to s. 403.182 or by
30 other means.

31

1 ~~4.5-~~ The Fish and Wildlife Conservation Commission
2 shall prepare a report as to matters within its jurisdiction.

3 ~~5.6-~~ Each ~~The~~ regional planning council shall prepare
4 a report containing recommendations that address the impact
5 upon the public of the proposed electrical power plant, based
6 on the degree to which the electrical power plant is
7 consistent with the applicable provisions of the strategic
8 regional policy plan adopted pursuant to chapter 186 and other
9 matters within its jurisdiction.

10 6. The Department of Transportation shall address the
11 impact of the proposed transmission line or corridor on roads,
12 railroads, airports, aeronautics, seaports, and other matters
13 within its jurisdiction.

14 ~~(b)7-~~ Any other agency, if requested by the
15 department, shall also perform studies or prepare reports as
16 to matters within that agency's jurisdiction which may
17 potentially be affected by the proposed electrical power
18 plant.

19 ~~(b) As needed to verify or supplement the studies made~~
20 ~~by the applicant in support of the application, it shall be~~
21 ~~the duty of the department to conduct, or contract for,~~
22 ~~studies of the proposed electrical power plant and site,~~
23 ~~including, but not limited to, the following, which shall be~~
24 ~~completed no later than 210 days after the complete~~
25 ~~application is filed with the department:~~

- 26 ~~1. Cooling system requirements.~~
- 27 ~~2. Construction and operational safeguards.~~
- 28 ~~3. Proximity to transportation systems.~~
- 29 ~~4. Soil and foundation conditions.~~
- 30 ~~5. Impact on suitable present and projected water~~
31 ~~supplies for this and other competing uses.~~

1 ~~6. Impact on surrounding land uses.~~
2 ~~7. Accessibility to transmission corridors.~~
3 ~~8. Environmental impacts.~~
4 ~~9. Requirements applicable under any federally~~
5 ~~delegated or approved permit program.~~
6 ~~(3)(c)~~ Each report described in subsection (2)
7 ~~paragraphs (a) and (b)~~ shall contain:
8 (a) A notice of any nonprocedural requirements not
9 specifically listed in the application from which a variance,
10 exemption, exception, all information on variances,
11 exemptions, exceptions, or other relief is necessary in order
12 for the proposed electric power plant to be certified. Failure
13 of such notification by an agency shall be treated as a waiver
14 from nonprocedural requirements of that agency. However, no
15 variance shall be granted from standards or regulations of the
16 department applicable under any federally delegated or
17 approved permit program, except as expressly allowed in such
18 program. which may be required by s. 403.511(2) and
19 (b) A recommendation for approval or denial of the
20 application.
21 (c) Any proposed conditions of certification on
22 matters within the jurisdiction of such agency. For each
23 condition proposed by an agency in its report, the agency
24 shall list the specific statute, rule, or ordinance which
25 authorizes the proposed condition.
26 (d) The agencies shall initiate the activities
27 required by this section no later than 30 days after the
28 complete application is distributed. The agencies shall keep
29 the applicant and the department informed as to the progress
30 of the studies and any issues raised thereby.
31

1 ~~(3) No later than 60 days after the application for a~~
2 ~~federally required new source review or prevention of~~
3 ~~significant deterioration permit for the electrical power~~
4 ~~plant is complete and sufficient, the department shall issue~~
5 ~~its preliminary determination on such permit. Notice of such~~
6 ~~determination shall be published as required by the~~
7 ~~department's rules for notices of such permits. The department~~
8 ~~shall receive public comments and comments from the United~~
9 ~~States Environmental Protection Agency and other affected~~
10 ~~agencies on the preliminary determination as provided for in~~
11 ~~the federally approved state implementation plan. The~~
12 ~~department shall maintain a record of all comments received~~
13 ~~and considered in taking action on such permits. If a petition~~
14 ~~for an administrative hearing on the department's preliminary~~
15 ~~determination is filed by a substantially affected person,~~
16 ~~that hearing shall be consolidated with the certification~~
17 ~~hearing.~~

18 (4)(a) No later than 150 days after the application is
19 filed, the Public Service Commission shall prepare a report as
20 to the present and future need for electric generating
21 capacity to be supplied by the proposed electrical power
22 plant. The report shall include the commission's determination
23 pursuant to s. 403.519 and may include the commission's
24 comments with respect to any other matters within its
25 jurisdiction.

26 (b) Receipt of an affirmative determination of need by
27 the submittal deadline under paragraph (a) and shall be
28 required for further processing of the application.

29 ~~(5)(4)~~ The department shall prepare a project written
30 analysis, which shall be filed with the designated
31 administrative law judge and served on all parties no later

1 than 130 ~~240~~ days after the ~~complete~~ application is determined
2 complete ~~filed with the department, but no later than 60 days~~
3 ~~prior to the hearing~~, and which shall include:

4 (a) A statement indicating whether the proposed
5 electrical power plant and proposed ultimate site capacity
6 will be in compliance and consistent with matters within the
7 department's standard jurisdiction, including with the rules
8 of the department, as well as whether the proposed electrical
9 power plant and proposed ultimate site capacity will be in
10 compliance with the rules of the affected agencies.

11 (b) Copies of the studies and reports required by this
12 section ~~and s. 403.519.~~

13 (c) The comments received by the department from any
14 other agency or person.

15 (d) The recommendation of the department as to the
16 disposition of the application, of variances, exemptions,
17 exceptions, or other relief identified by any party, and of
18 any proposed conditions of certification which the department
19 believes should be imposed.

20 (e) If available, the recommendation of the department
21 regarding the issuance of any license required pursuant to a
22 federally delegated or approved permit program.

23 ~~(f) Copies of the department's draft of the operation~~
24 ~~permit for a major source of air pollution, which must also be~~
25 ~~provided to the United States Environmental Protection Agency~~
26 ~~for review within 5 days after issuance of the written~~
27 ~~analysis.~~

28 ~~(6)(5)~~ Except when good cause is shown, the failure of
29 any agency to submit a preliminary statement of issues or a
30 report, or to submit its preliminary statement of issues or
31 report within the allowed time, shall not be grounds for the

1 alteration of any time limitation in this act. Neither the
2 failure to submit a preliminary statement of issues or a
3 report nor the inadequacy of the preliminary statement of
4 issues or report ~~are shall be~~ grounds to deny or condition
5 certification.

6 Section 30. Section 403.508, Florida Statutes, is
7 amended to read:

8 403.508 Land use and certification hearings
9 ~~proceedings~~, parties, participants.--

10 (1)(a) If a petition for a hearing on land use has
11 been filed pursuant to s. 403.50665, the designated
12 administrative law judge shall conduct a land use hearing in
13 the county of the proposed site or directly associated
14 facility, as applicable, within 30 ~~90~~ days after the
15 department's receipt of the petition ~~a complete application~~
16 ~~for electrical power plant site certification by the~~
17 ~~department.~~ The place of such hearing shall be as close as
18 possible to the proposed site or directly associated facility.

19 (b) Notice of the land use hearing shall be published
20 in accordance with the requirements of s. 403.5115.

21 (c)~~(2)~~ The sole issue for determination at the land
22 use hearing shall be whether or not the proposed site is
23 consistent and in compliance with existing land use plans and
24 zoning ordinances.

25 (d) The designated administrative law judge's
26 recommended order shall be issued within 30 days after
27 completion of the hearing and shall be reviewed by the board
28 within 60 ~~45~~ days after receipt of the recommended order by
29 the board.

30 (e) If it is determined by the board that the proposed
31 site does conform with existing land use plans and zoning

1 ordinances in effect as of the date of the application, the
2 responsible zoning or planning authority shall not thereafter
3 change such land use plans or zoning ordinances so as to
4 foreclose construction and operation of ~~affect~~ the proposed
5 site or directly associated facilities unless certification is
6 subsequently denied or withdrawn.

7 (f) If it is determined by the board that the proposed
8 site does not conform, ~~it shall be the responsibility of the~~
9 ~~applicant to make the necessary application for rezoning.~~
10 ~~Should the application for rezoning be denied, the applicant~~
11 ~~may appeal this decision to the board, which may, if it~~
12 determines after notice and hearing that it is in the public
13 interest to authorize the use of the land as a site for an
14 electrical power plant, authorize a variance to the adopted
15 land use plan and zoning ordinances. In the event a variance
16 is denied, it shall be the responsibility of the applicant to
17 make the necessary application for rezoning. No further action
18 may be taken on the complete application ~~by the department~~
19 until the proposed site conforms to the adopted land use plan
20 or zoning ordinances or the board grants a variance.

21 ~~(2)(a)(3)~~ A certification hearing shall be held by the
22 designated administrative law judge no later than 250 ~~300~~ days
23 after the ~~complete~~ application is filed with the department;
24 ~~however, an affirmative determination of need by the Public~~
25 ~~Service Commission pursuant to s. 403.519 shall be a condition~~
26 ~~precedent to the conduct of the certification hearing.~~ The
27 certification hearing shall be held at a location in proximity
28 to the proposed site. ~~The certification hearing shall also~~
29 ~~constitute the sole hearing allowed by chapter 120 to~~
30 ~~determine the substantial interest of a party regarding any~~
31 ~~required agency license or any related permit required~~

1 ~~pursuant to any federally delegated or approved permit~~
2 ~~program. At the conclusion of the certification hearing, the~~
3 ~~designated administrative law judge shall, after consideration~~
4 ~~of all evidence of record, submit to the board a recommended~~
5 ~~order no later than 60 days after the filing of the hearing~~
6 ~~transcript. In the event the administrative law judge fails to~~
7 ~~issue a recommended order within 60 days after the filing of~~
8 ~~the hearing transcript, the administrative law judge shall~~
9 ~~submit a report to the board with a copy to all parties within~~
10 ~~60 days after the filing of the hearing transcript to advise~~
11 ~~the board of the reason for the delay in the issuance of the~~
12 ~~recommended order and of the date by which the recommended~~
13 ~~order will be issued.~~

14 ~~(b)(4)(a)~~ Parties to the proceeding shall include:

- 15 1. The applicant.
- 16 2. The Public Service Commission.
- 17 3. The Department of Community Affairs.
- 18 4. The Fish and Wildlife Conservation Commission.
- 19 5. The water management district.
- 20 6. The department.
- 21 7. The regional planning council.
- 22 8. The local government.
- 23 9. The Department of Transportation.

24 ~~(c)(b)~~ Any party listed in paragraph ~~(b)(a)~~ other than
25 the department or the applicant may waive its right to
26 participate in these proceedings. If such listed party fails
27 to file a notice of its intent to be a party on or before the
28 90th day prior to the certification hearing, such party shall
29 be deemed to have waived its right to be a party.

30 ~~(d)(e)~~ Notwithstanding the provisions of chapter 120
31 to the contrary, upon the filing with the administrative law

1 judge of a notice of intent to be a party no later than 30 at
2 ~~least 15~~ days prior to the date of the certification land use
3 hearing, the following shall also be parties to the
4 proceeding:

5 1. Any agency not listed in paragraph ~~(b)(a)~~ as to
6 matters within its jurisdiction.

7 2. Any domestic nonprofit corporation or association
8 formed, in whole or in part, to promote conservation or
9 natural beauty; to protect the environment, personal health,
10 or other biological values; to preserve historical sites; to
11 promote consumer interests; to represent labor, commercial, or
12 industrial groups; or to promote comprehensive planning or
13 orderly development of the area in which the proposed
14 electrical power plant is to be located.

15 ~~(e)(d)~~ Notwithstanding paragraph ~~(f)(e)~~, failure of an
16 agency described in subparagraph ~~(d)1.(e)1.~~ to file a notice
17 of intent to be a party within the time provided herein shall
18 constitute a waiver of the right of that agency to participate
19 as a party in the proceeding.

20 ~~(f)(e)~~ Other parties may include any person, including
21 those persons enumerated in paragraph ~~(d)(e)~~ who have failed
22 to timely file a notice of intent to be a party, whose
23 substantial interests are affected and being determined by the
24 proceeding and who timely file a motion to intervene pursuant
25 to chapter 120 and applicable rules. Intervention pursuant to
26 this paragraph may be granted at the discretion of the
27 designated administrative law judge and upon such conditions
28 as he or she may prescribe any time prior to 30 days before
29 the commencement of the certification hearing.

30 ~~(g)(f)~~ Any agency, including those whose properties or
31 works are being affected pursuant to s. 403.509(4), shall be

1 made a party upon the request of the department or the
2 applicant.

3 (3)(a) The order of presentation at the certification
4 hearing, unless otherwise changed by the administrative law
5 judge to ensure the orderly presentation of witnesses and
6 evidence, shall be:

7 1. The applicant.

8 2. The department.

9 3. State agencies.

10 4. Regional agencies, including regional planning
11 councils and water management districts.

12 5. Local governments.

13 6. Other parties.

14 ~~(b)(5)~~ When appropriate, any person may be given an
15 opportunity to present oral or written communications to the
16 designated administrative law judge. If the designated
17 administrative law judge proposes to consider such
18 communications, then all parties shall be given an opportunity
19 to cross-examine or challenge or rebut such communications.

20 (4) At the conclusion of the certification hearing,
21 the designated administrative law judge shall, after
22 consideration of all evidence of record, submit to the board a
23 recommended order no later than 45 days after the filing of
24 the hearing transcript.

25 (5)(a) No later than 25 days prior to the conduct of
26 the certification hearing, the department or the applicant may
27 request that the administrative law judge cancel the
28 certification hearing and relinquish jurisdiction to the
29 department if all parties to the proceeding stipulate that
30 there are no disputed issues of fact to be raised at the
31 certification hearing.

1 (b) The administrative law judge shall issue an order
2 granting or denying the request within 5 days.

3 (c) If the administrative law judge grants the
4 request, the department and the applicant shall publish
5 notices of the cancellation of the certification hearing, in
6 accordance with s. 403.5115.

7 (d)1. If the administrative law judge grants the
8 request, the department shall prepare and issue a final order
9 in accordance with s. 403.509(1)(a).

10 2. Parties may submit proposed recommended orders to
11 the department no later than 10 days after the administrative
12 law judge issues an order relinquishing jurisdiction.

13 (6) The applicant shall pay those expenses and costs
14 associated with the conduct of the hearings and the recording
15 and transcription of the proceedings. The designated
16 administrative law judge shall have all powers and duties
17 granted to administrative law judges by chapter 120 and this
18 chapter and by the rules of the department and the
19 Administration Commission, including the authority to resolve
20 disputes over the completeness and sufficiency of an
21 application for certification.

22 ~~(7) The order of presentation at the certification~~
23 ~~hearing, unless otherwise changed by the administrative law~~
24 ~~judge to ensure the orderly presentation of witnesses and~~
25 ~~evidence, shall be:~~

26 ~~(a) The applicant.~~

27 ~~(b) The department.~~

28 ~~(c) State agencies.~~

29 ~~(d) Regional agencies, including regional planning~~
30 ~~councils and water management districts.~~

31 ~~(e) Local governments.~~

1 ~~(f) Other parties.~~
2 ~~(7)(8)~~ In issuing permits under the federally approved
3 new source review or prevention of significant deterioration
4 permit program, the department shall observe the procedures
5 specified under the federally approved state implementation
6 plan, including public notice, public comment, public hearing,
7 and notice of applications and amendments to federal, state,
8 and local agencies, to assure that all such permits issued in
9 coordination with the certification of a power plant under
10 this act are federally enforceable and are issued after
11 opportunity for informed public participation regarding the
12 terms and conditions thereof. When possible, any hearing on a
13 federally approved or delegated program permit such as new
14 source review, prevention of significant deterioration permit,
15 or NPDES permit shall be conducted in conjunction with the
16 certification hearing held under this act. ~~The department~~
17 ~~shall accept written comment with respect to an application~~
18 ~~for, or the department's preliminary determination on, a new~~
19 ~~source review or prevention of significant deterioration~~
20 ~~permit for a period of no less than 30 days from the date~~
21 ~~notice of such action is published. Upon request submitted~~
22 ~~within 30 days after published notice, the department shall~~
23 ~~hold a public meeting, in the area affected, for the purpose~~
24 ~~of receiving public comment on issues related to the new~~
25 ~~source review or prevention of significant deterioration~~
26 ~~permit. If requested following notice of the department's~~
27 ~~preliminary determination, the public meeting to receive~~
28 ~~public comment shall be held prior to the scheduled~~
29 ~~certification hearing. The department shall also solicit~~
30 ~~comments from the United States Environmental Protection~~
31 ~~Agency and other affected federal agencies regarding the~~

1 ~~department's preliminary determination for any federally~~
2 ~~required new source review or prevention of significant~~
3 ~~deterioration permit.~~ It is the intent of the Legislature that
4 the issuance of such permits be closely coordinated with the
5 certification process established under this part. In the
6 event of a conflict between the certification process and
7 federally required procedures ~~contained in the state~~
8 ~~implementation plan,~~ the applicable federal requirements ~~of~~
9 ~~the implementation plan~~ shall control.

10 Section 31. Section 403.509, Florida Statutes, is
11 amended to read:

12 403.509 Final disposition of application.--

13 (1)(a) If the administrative law judge has granted a
14 request to cancel the certification hearing and has
15 relinquished jurisdiction to the department under the
16 provisions of s. 403.508(6), within 40 days thereafter, the
17 secretary of the department shall act upon the application by
18 written order in accordance with the terms of this act, and
19 state the reasons for issuance or denial.

20 (b) If the administrative law judge has not granted a
21 request to cancel the certification hearing under the
22 provisions of s. 403.508(6), within 60 days after receipt of
23 the designated administrative law judge's recommended order,
24 the board shall act upon the application by written order,
25 approving ~~certification~~ or denying certification ~~the issuance~~
26 of a certificate, in accordance with the terms of this act,
27 and stating the reasons for issuance or denial. If
28 certification ~~the certificate~~ is denied, the board shall set
29 forth in writing the action the applicant would have to take
30 to secure the board's approval of the application.
31

1 (2) The issues that may be raised in any hearing
2 before the board shall be limited to those matters raised in
3 the certification proceeding before the administrative law
4 judge or raised in the recommended order. All parties, or
5 their representatives, or persons who appear before the board
6 shall be subject to the provisions of s. 120.66.

7 (3) In determining whether an application should be
8 approved in whole, approved with modifications or conditions,
9 or denied, the board, or secretary when applicable, shall
10 consider whether, and the extent to which, the location of
11 electric power plant and directly associated facilities and
12 their construction and operation will:

13 (a) Provide reasonable assurance that operational
14 safeguards are technically sufficient for the public welfare
15 and protection.

16 (b) Comply with applicable nonprocedural requirements
17 of agencies.

18 (c) Be consistent with applicable local government
19 comprehensive plans and land development regulations.

20 (d) Meet the electrical energy needs of the state in
21 an orderly and timely fashion.

22 (e) Provide a reasonable balance between the need for
23 the facility as established pursuant to s. 403.519, and the
24 impacts upon air and water quality, fish and wildlife, water
25 resources, and other natural resources as a result of the
26 construction and operation of the facility.

27 ~~(3) Within 30 days after issuance of the~~
28 ~~certification, the department shall issue and forward to the~~
29 ~~United States Environmental Protection Agency a proposed~~
30 ~~operation permit for a major source of air pollution and must~~
31 ~~issue or deny any other license required pursuant to any~~

1 ~~federally delegated or approved permit program. The~~
2 ~~department's action on the license and its action on the~~
3 ~~proposed operation permit for a major source of air pollution~~
4 ~~shall be based upon the record and recommended order of the~~
5 ~~certification hearing. The department's actions on a federally~~
6 ~~required new source review or prevention of significant~~
7 ~~deterioration permit shall be based on the record and~~
8 ~~recommended order of the certification hearing and of any~~
9 ~~other proceeding held in connection with the application for a~~
10 ~~new source review or prevention of significant deterioration~~
11 ~~permit, on timely public comments received with respect to the~~
12 ~~application or preliminary determination for such permit, and~~
13 ~~on the provisions of the state implementation plan. The~~
14 ~~department's action on a federally required new source review~~
15 ~~or prevention of significant deterioration permit shall differ~~
16 ~~from the actions taken by the siting board regarding the~~
17 ~~certification if the federally approved state implementation~~
18 ~~plan requires such a different action to be taken by the~~
19 ~~department. Nothing in this part shall be construed to~~
20 ~~displace the department's authority as the final permitting~~
21 ~~entity under the federally approved permit program. Nothing in~~
22 ~~this part shall be construed to authorize the issuance of a~~
23 ~~new source review or prevention of significant deterioration~~
24 ~~permit which does not conform to the requirements of the~~
25 ~~federally approved state implementation plan. Any final~~
26 ~~operation permit for a major source of air pollution must be~~
27 ~~issued in accordance with the provisions of s. 403.0872.~~
28 ~~Unless the federally delegated or approved permit program~~
29 ~~provides otherwise, licenses issued by the department under~~
30 ~~this subsection shall be effective for the term of the~~
31 ~~certification issued by the board. If renewal of any license~~

1 ~~issued by the department pursuant to a federally delegated or~~
2 ~~approved permit program is required, such renewal shall not~~
3 ~~affect the certification issued by the board, except as~~
4 ~~necessary to resolve inconsistencies pursuant to s.~~
5 ~~403.516(1)(a).~~

6 (4) In regard to the properties and works of any
7 agency which is a party to the certification hearing, the
8 board shall have the authority to decide issues relating to
9 the use, the connection thereto, or the crossing thereof, for
10 the electrical power plant and its directly associated
11 facilities site and to direct any such agency to execute,
12 within 30 days after the entry of certification, the necessary
13 license or easement for such use, connection, or crossing,
14 subject only to the conditions set forth in such
15 certification.

16 ~~(5) Except for the issuance of any operation permit~~
17 ~~for a major source of air pollution pursuant to s. 403.0872,~~
18 ~~the issuance or denial of the certification by the board and~~
19 ~~the issuance or denial of any related department license~~
20 ~~required pursuant to any federally delegated or approved~~
21 ~~permit program shall be the final administrative action~~
22 ~~required as to that application.~~

23 ~~(6) All certified electrical power plants must apply~~
24 ~~for and obtain a major source air operation permit pursuant to~~
25 ~~s. 403.0872. Major source air operation permit applications~~
26 ~~for certified electrical power plants must be submitted~~
27 ~~pursuant to a schedule developed by the department. To the~~
28 ~~extent that any conflicting provision, limitation, or~~
29 ~~restriction under any rule, regulation, or ordinance imposed~~
30 ~~by any political subdivision of the state, or by any local~~
31 ~~pollution control program, was superseded during the~~

1 ~~certification process pursuant to s. 403.510(1), such rule,~~
2 ~~regulation, or ordinance shall continue to be superseded for~~
3 ~~purposes of the major source air operation permit program~~
4 ~~under s. 403.0872.~~

5 Section 32. Section 403.511, Florida Statutes, is
6 amended to read:

7 403.511 Effect of certification.--

8 (1) Subject to the conditions set forth therein, any
9 certification ~~signed by the Governor~~ shall constitute the sole
10 license of the state and any agency as to the approval of the
11 site and the construction and operation of the proposed
12 electrical power plant, except for the issuance of department
13 licenses required under any federally delegated or approved
14 permit program and except as otherwise provided in subsection
15 (4).

16 (2)(a) The certification shall authorize the licensee
17 ~~applicant~~ named therein to construct and operate the proposed
18 electrical power plant, subject only to the conditions of
19 certification set forth in such certification, and except for
20 the issuance of department licenses or permits required under
21 any federally delegated or approved permit program.

22 (b)1. Except as provided in subsection (4), the
23 certification may include conditions which constitute
24 variances, exemptions, or exceptions from nonprocedural
25 requirements of the department or any agency which were
26 expressly considered during the proceeding unless waived by
27 the agency as provided below and which otherwise would be
28 applicable to the construction and operation of the proposed
29 electrical power plant.

30 2. No variance, exemption, exception, or other relief
31 shall be granted from a state statute or rule for the

1 protection of endangered or threatened species, aquatic
2 preserves, Outstanding National Resource Waters, or
3 Outstanding Florida Waters or for the disposal of hazardous
4 waste, except to the extent authorized by the applicable
5 statute or rule or except upon a finding in the certification
6 order ~~by the siting board~~ that the public interests set forth
7 in s. 403.509(3) ~~403.502~~ in certifying the electrical power
8 plant at the site proposed by the applicant overrides the
9 public interest protected by the statute or rule from which
10 relief is sought. ~~Each party shall notify the applicant and~~
11 ~~other parties at least 60 days prior to the certification~~
12 ~~hearing of any nonprocedural requirements not specifically~~
13 ~~listed in the application from which a variance, exemption,~~
14 ~~exception, or other relief is necessary in order for the board~~
15 ~~to certify any electrical power plant proposed for~~
16 ~~certification. Failure of such notification by an agency shall~~
17 ~~be treated as a waiver from nonprocedural requirements of the~~
18 ~~department or any other agency. However, no variance shall be~~
19 ~~granted from standards or regulations of the department~~
20 ~~applicable under any federally delegated or approved permit~~
21 ~~program, except as expressly allowed in such program.~~

22 (3) The certification shall be in lieu of any license,
23 permit, certificate, or similar document required by any
24 state, regional, or local agency pursuant to, but not limited
25 to, chapter 125, chapter 161, chapter 163, chapter 166,
26 chapter 186, chapter 253, chapter 298, chapter 370, chapter
27 373, chapter 376, chapter 380, chapter 381, chapter 387,
28 chapter 403, except for permits issued pursuant to any
29 federally delegated or approved permit program ~~s. 403.0885~~ and
30 except as provided in ~~s. 403.509(3) and (6)~~, chapter 404 or
31 the Florida Transportation Code, ~~or 33 U.S.C. s. 1341.~~

1 (4) This act shall not affect in any way the
2 ratemaking powers of the Public Service Commission under
3 chapter 366; nor shall this act in any way affect the right of
4 any local government to charge appropriate fees or require
5 that construction be in compliance with applicable building
6 construction codes.

7 (5)(a) An electrical power plant certified pursuant to
8 this act shall comply with rules adopted by the department
9 subsequent to the issuance of the certification which
10 prescribe new or stricter criteria, to the extent that the
11 rules are applicable to electrical power plants. Except when
12 express variances, exceptions, exemptions, or other relief
13 have been granted, subsequently adopted rules which prescribe
14 new or stricter criteria shall operate as automatic
15 modifications to certifications.

16 (b) Upon written notification to the department, any
17 holder of a certification issued pursuant to this act may
18 choose to operate the certified electrical power plant in
19 compliance with any rule subsequently adopted by the
20 department which prescribes criteria more lenient than the
21 criteria required by the terms and conditions in the
22 certification which are not site-specific.

23 (c) No term or condition of certification shall be
24 interpreted to preclude the postcertification exercise by any
25 party of whatever procedural rights it may have under chapter
26 120, including those related to rulemaking proceedings. This
27 subsection shall apply to previously issued certifications.

28 (6) No term or condition of a site certification shall
29 be interpreted to supersede or control the provisions of a
30 final operation permit for a major source of air pollution
31

1 issued by the department pursuant to s. 403.0872 to such
2 facility certified under this part.

3 (7) No term or condition of a site certification shall
4 be interpreted to supersede or control the provisions of a
5 final operation permit for a major source of air pollution
6 issued by the department pursuant to s. 403.0872, to a
7 facility certified under this part.

8 (8) Pursuant to s. 380.23, electrical power plants are
9 subject to the federal coastal consistency review program.
10 Issuance of certification shall constitute the state's
11 certification of coastal zone consistency.

12 Section 33. Section 403.5112, Florida Statutes, is
13 created to read:

14 403.5112 Filing of notice of certified corridor
15 route.--

16 (1) Within 60 days after certification of a directly
17 associated linear facility pursuant to this act, the applicant
18 shall file, in accordance with s. 28.222, with the department
19 and the clerk of the circuit court for each county through
20 which the corridor will pass, a notice of the certified route.

21 (2) The notice shall consist of maps or aerial
22 photographs in the scale of 1:24,000 which clearly show the
23 location of the certified route and shall state that the
24 certification of the corridor will result in the acquisition
25 of rights-of-way within the corridor. Each clerk shall record
26 the filing in the official record of the county for the
27 duration of the certification or until such time as the
28 applicant certifies to the department and the clerk that all
29 lands required for the transmission line rights-of-way within
30 the corridor have been acquired within such county, whichever
31 is sooner.

1 Section 34. Section 403.5113, Florida Statutes, is
2 created to read:

3 403.5113 Postcertification amendments.--

4 (1) If a licensee proposes any material change to the
5 application after certification, the licensee shall submit a
6 written request for amendment and a description of the
7 proposed change to the application to the department. Within
8 30 days after the receipt of the request for the amendment,
9 the department shall determine whether the proposed change to
10 the application requires a modification of the conditions of
11 certification.

12 (2) If the department concludes that the change would
13 not require a modification of the conditions of certification,
14 the department shall provide written notification of the
15 approval of the proposed amendment to the licensee, all
16 agencies, and all other interested parties.

17 (3) If the department concludes that the change would
18 require a modification of the conditions of certification, the
19 department shall provide written notification to the licensee
20 that the proposed change to the application requires a request
21 for modification pursuant to s. 403.516.

22 Section 35. Section 403.5115, Florida Statutes, is
23 amended to read:

24 403.5115 Public notice; costs of proceeding.--

25 (1) The following notices are to be published by the
26 applicant:

27 (a) Notice ~~A notice~~ of the filing of a notice of
28 intent under s. 403.5063, which shall be published within 21
29 days after the filing of the notice. The notice shall be
30 published as specified by subsection (2), except that the
31 newspaper notice shall be one-fourth page in size in a

1 standard size newspaper or one-half page in size in a tabloid
2 size newspaper.

3 (b) Notice ~~A notice~~ of filing of the application,
4 which shall include a description of the proceedings required
5 by this act, within 21 days after the date of the application
6 filing be published as specified in subsection (2), within 15
7 days after the application has been determined complete. Such
8 notice shall give notice of the provisions of s. 403.511(1)
9 and (2) ~~and that the application constitutes a request for a~~
10 ~~federally required new source review or prevention of~~
11 ~~significant deterioration permit.~~

12 (c) Notice of the land use determination made pursuant
13 to s. 403.50665(1) within 15 days after the determination is
14 filed.

15 (d) Notice of the land use hearing, which shall be
16 published as specified in subsection (2), no later than 15 ~~45~~
17 days before the hearing.

18 (e)~~(d)~~ Notice of the certification hearing and notice
19 of the deadline for filing notice of intent to be a party,
20 which shall be published as specified in subsection (2), at
21 least 65 days before the date set for the certification ~~no~~
22 ~~later than 45 days before the hearing.~~

23 (f) Notice of the cancellation of the certification
24 hearing, if applicable, no later than 7 days before the date
25 of the originally scheduled certification hearing.

26 (g)~~(e)~~ Notice of modification when required by the
27 department, based on whether the requested modification of
28 certification will significantly increase impacts to the
29 environment or the public. Such notice shall be published as
30 specified under subsection (2):

31

1 1. Within 21 days after receipt of a request for
2 modification, ~~except that~~ The newspaper notice shall be of a
3 size as directed by the department commensurate with the scope
4 of the modification.

5 2. If a hearing is to be conducted in response to the
6 request for modification, then notice shall be published no
7 later than 30 days before the hearing ~~provided as specified in~~
8 ~~paragraph (d).~~

9 ~~(h)(f)~~ Notice of a supplemental application, which
10 shall be published as specified in paragraph (1)(b) and
11 subsection (2). ~~follows:~~

12 ~~1. Notice of receipt of the supplemental application~~
13 ~~shall be published as specified in paragraph (b).~~

14 ~~2. Notice of the certification hearing shall be~~
15 ~~published as specified in paragraph (d).~~

16 (i) Notice of existing site certification pursuant to
17 s. 403.5175. Notices shall be published as specified in
18 paragraph (1)(b) and subsection (2).

19 (2) Notices provided by the applicant shall be
20 published in newspapers of general circulation within the
21 county or counties in which the proposed electrical power
22 plant will be located. The newspaper notices shall be at least
23 one-half page in size in a standard size newspaper or a full
24 page in a tabloid size newspaper ~~and published in a section of~~
25 ~~the newspaper other than the legal notices section.~~ These
26 notices shall include a map generally depicting the project
27 and all associated facilities corridors. A newspaper of
28 general circulation shall be the newspaper which has the
29 largest daily circulation in that county and has its principal
30 office in that county. If the newspaper with the largest daily
31 circulation has its principal office outside the county, the

1 notices shall appear in both the newspaper having the largest
2 circulation in that county and in a newspaper authorized to
3 publish legal notices in that county.

4 (3) All notices published by the applicant shall be
5 paid for by the applicant and shall be in addition to the
6 application fee.

7 (4) The department shall arrange for publication of
8 the following notices in the manner specified by chapter 120
9 and provide copies of those notices to any persons who have
10 requested to be placed on the departmental mailing list for
11 this purpose:

12 (a) ~~Notice Publish in the Florida Administrative~~
13 ~~Weekly notices~~ of the filing of the notice of intent within 15
14 days after receipt of the notice.†

15 (b) Notice of the filing of the application, no later
16 than 21 days after the application filing.†

17 (c) Notice of the land use hearing before the
18 administrative law judge, if applicable, no later than 15 days
19 before the hearing.†

20 (d) Notice of the land use hearing before the board,
21 if applicable.

22 (e) Notice of the certification hearing at least 65
23 days before the date set for the certification hearing.†

24 (f) Notice of the hearing before the board, if
25 applicable.†

26 (h) Notice and of stipulations, proposed agency
27 action, or petitions for modification.† ~~and~~

28 ~~(b) Provide copies of those notices to any persons who~~
29 ~~have requested to be placed on the departmental mailing list~~
30 ~~for this purpose.~~

31

1 ~~(5) The applicant shall pay those expenses and costs~~
2 ~~associated with the conduct of the hearings and the recording~~
3 ~~and transcription of the proceedings.~~

4 Section 36. Section 403.513, Florida Statutes, is
5 amended to read:

6 403.513 Review.--Proceedings under this act shall be
7 subject to judicial review as provided in chapter 120. When
8 possible, separate appeals of the certification order issued
9 by the board and of any department permit issued pursuant to a
10 federally delegated or approved permit program may ~~shall~~ be
11 consolidated for purposes of judicial review.

12 Section 37. Section 403.516, Florida Statutes, is
13 amended to read:

14 403.516 Modification of certification.--

15 (1) A certification may be modified after issuance in
16 any one of the following ways:

17 (a) The board may delegate to the department the
18 authority to modify specific conditions in the certification.

19 (b)1. The department may modify specific conditions of
20 a site certification which are inconsistent with the terms of
21 any federally delegated or approved final air pollution
22 ~~operation~~ permit for the certified electrical power plant
23 ~~issued by the United States Environmental Protection Agency~~
24 ~~under the terms of 42 U.S.C. s. 7661d.~~

25 2. Such modification may be made without further
26 notice if the matter has been previously noticed under the
27 requirements for any federally delegated or approved permit
28 program.

29 (c) The licensee may file a petition for modification
30 with the department or the department may initiate the
31 modification upon its own initiative.

- 1 1. A petition for modification must set forth:
2 a. The proposed modification.
3 b. The factual reasons asserted for the modification.
4 c. The anticipated environmental effects of the
5 proposed modification.

6 ~~(d)(b)~~ The department may modify the terms and
7 conditions of the certification if no party to the
8 certification hearing objects in writing to such modification
9 within 45 days after notice by mail to such party's last
10 address of record, and if no other person whose substantial
11 interests will be affected by the modification objects in
12 writing within 30 days after issuance of public notice.

13 (e) If objections are raised or the department denies
14 the request, the applicant or department may file a request
15 petition for a hearing on the modification with the
16 department. Such request shall be handled pursuant to chapter
17 120 paragraph (c).

18 ~~(c) A petition for modification may be filed by the~~
19 ~~applicant or the department setting forth:~~

- 20 ~~1. The proposed modification,~~
21 ~~2. The factual reasons asserted for the modification,~~
22 ~~and~~

23 ~~3. The anticipated effects of the proposed~~
24 ~~modification on the applicant, the public, and the~~
25 ~~environment.~~

26
27 ~~The petition for modification shall be filed with the~~
28 ~~department and the Division of Administrative Hearings.~~

29 (f) Requests referred to the Division of
30 Administrative Hearings shall be disposed of in the same
31 manner as an application, but with time periods established by

1 the administrative law judge commensurate with the
2 significance of the modification requested.

3 ~~(g)(d)~~ As required by s. 403.511(5).

4 ~~(2) Petitions filed pursuant to paragraph (1)(c) shall~~
5 ~~be disposed of in the same manner as an application, but with~~
6 ~~time periods established by the administrative law judge~~
7 ~~commensurate with the significance of the modification~~
8 ~~requested.~~

9 ~~(2)(3)~~ Any agreement or modification under this
10 section must be in accordance with the terms of this act. No
11 modification to a certification shall be granted that
12 constitutes a variance from standards or regulations of the
13 department applicable under any federally delegated or
14 approved permit program, except as expressly allowed in such
15 program.

16 Section 38. Section 403.517, Florida Statutes, is
17 amended to read:

18 403.517 Supplemental applications for sites certified
19 for ultimate site capacity.--

20 (1)(a) Supplemental ~~The department shall adopt rules~~
21 ~~governing the processing of supplemental applications may be~~
22 submitted for certification of the construction and operation
23 of electrical power plants to be located at sites which have
24 been previously certified for an ultimate site capacity
25 pursuant to this act. Supplemental applications shall be
26 limited to electrical power plants using the fuel type
27 previously certified for that site. Such applications shall
28 include all new directly associated facilities that support
29 the construction and operation of the electric power plant.
30 ~~The rules adopted pursuant to this section shall include~~
31 ~~provisions for:~~

1 1. ~~Prompt appointment of a designated administrative~~
2 ~~law judge.~~

3 2. ~~The contents of the supplemental application.~~

4 3. ~~Resolution of disputes as to the completeness and~~
5 ~~sufficiency of supplemental applications by the designated~~
6 ~~administrative law judge.~~

7 4. ~~Public notice of the filing of the supplemental~~
8 ~~applications.~~

9 5. ~~Time limits for prompt processing of supplemental~~
10 ~~applications.~~

11 6. ~~Final disposition by the board within 215 days of~~
12 ~~the filing of a complete supplemental application.~~

13 (b) The time limits for processing of a complete
14 supplemental application shall be designated by the department
15 commensurate with the scope of the supplemental application,
16 but shall not exceed any time limitation governing the review
17 of initial applications for site certification pursuant to
18 this act, it being the legislative intent to provide shorter
19 time limitations for the processing of supplemental
20 applications for electrical power plants to be constructed and
21 operated at sites which have been previously certified for an
22 ultimate site capacity.

23 (c) Any time limitation in this section or in rules
24 adopted pursuant to this section may be altered pursuant to s.
25 403.5095 ~~by the designated administrative law judge upon~~
26 ~~stipulation between the department and the applicant, unless~~
27 ~~objected to by any party within 5 days after notice, or for~~
28 ~~good cause shown by any party. The parties to the proceeding~~
29 ~~shall adhere to the provisions of chapter 120 and this act in~~
30 ~~considering and processing such supplemental applications .~~

31

1 (2) ~~Supplemental applications shall be reviewed as~~
2 ~~provided in ss. 403.507-403.511, except that the time limits~~
3 ~~provided in this section shall apply to such supplemental~~
4 ~~applications.~~

5 ~~(3)~~ The land use and zoning consistency determination
6 of s. 403.50665 ~~hearing requirements of s. 403.508(1) and (2)~~
7 shall not be applicable to the processing of supplemental
8 applications pursuant to this section so long as:

9 (a) The previously certified ultimate site capacity is
10 not exceeded; and

11 (b) The lands required for the construction or
12 operation of the electrical power plant which is the subject
13 of the supplemental application are within the boundaries of
14 the previously certified site.

15 ~~(4) For the purposes of this act, the term "ultimate~~
16 ~~site capacity" means the maximum generating capacity for a~~
17 ~~site as certified by the board.~~

18 Section 39. Section 403.5175, Florida Statutes, is
19 amended to read:

20 403.5175 Existing electrical power plant site
21 certification.--

22 (1) An electric utility that owns or operates an
23 existing electrical power plant as defined in s. 403.503(12)
24 may apply for certification of an existing power plant and its
25 site in order to obtain all agency licenses necessary to
26 assure compliance with federal or state environmental laws and
27 regulation using the centrally coordinated, one-stop licensing
28 process established by this part. An application for site
29 certification under this section must be in the form
30 prescribed by department rule. Applications must be reviewed
31 and processed using the same procedural steps and notices as

1 ~~for an application for a new facility in accordance with ss.~~

2 ~~403.5064~~ 403.5115, except that a determination of need by the
3 Public Service Commission is not required.

4 (2) An application for certification under this
5 section must include:

6 (a) A description of the site and existing power plant
7 installations;

8 (b) A description of all proposed changes or
9 alterations to the site or electrical power plant, including
10 all new associated facilities that are the subject of the
11 application;

12 (c) A description of the environmental and other
13 impacts caused by the existing utilization of the site and
14 directly associated facilities, and the operation of the
15 electrical power plant that is the subject of the application,
16 and of the environmental and other benefits, if any, to be
17 realized as a result of the proposed changes or alterations if
18 certification is approved and such other information as is
19 necessary for the reviewing agencies to evaluate the proposed
20 changes and the expected impacts;

21 (d) The justification for the proposed changes or
22 alterations;

23 (e) Copies of all existing permits, licenses, and
24 compliance plans authorizing utilization of the site and
25 directly associated facilities or operation of the electrical
26 power plant that is the subject of the application.

27 (3) The land use and zoning determination ~~hearing~~
28 requirements of s. 403.50665 ~~s. 403.508(1) and (2)~~ do not
29 apply to an application under this section if the applicant
30 does not propose to expand the boundaries of the existing
31 site. If the applicant proposes to expand the boundaries of

1 | the existing site to accommodate portions of the plant or
2 | associated facilities, a land use and zoning determination
3 | shall be made ~~hearing must be held~~ as specified in s.
4 | 403.50665 ~~s. 403.508(1) and (2)~~; provided, however, that the
5 | sole issue for determination ~~through the land use hearing~~ is
6 | whether the proposed site expansion is consistent and in
7 | compliance with the existing land use plans and zoning
8 | ordinances.

9 | (4) In considering whether an application submitted
10 | under this section should be approved in whole, approved with
11 | appropriate conditions, or denied, the board shall consider
12 | whether, and to the extent to which the proposed changes to
13 | the electrical power plant and its continued operation under
14 | certification will:

15 | (a) Comply with the provisions of s. 403.509(3).
16 | ~~applicable nonprocedural requirements of agencies;~~

17 | (b) Result in environmental or other benefits compared
18 | to current utilization of the site and operations of the
19 | electrical power plant if the proposed changes or alterations
20 | are undertaken. ~~;~~

21 | ~~(c) Minimize, through the use of reasonable and~~
22 | ~~available methods, the adverse effects on human health, the~~
23 | ~~environment, and the ecology of the land and its wildlife and~~
24 | ~~the ecology of state waters and their aquatic life; and~~

25 | ~~(d) Serve and protect the broad interests of the~~
26 | ~~public.~~

27 | (5) An applicant's failure to receive approval for
28 | certification of an existing site or an electrical power plant
29 | under this section is without prejudice to continued operation
30 | of the electrical power plant or site under existing agency
31 | licenses.

1 Section 40. Section 403.518, Florida Statutes, is
2 amended to read:

3 403.518 Fees; disposition.--

4 (1) The department shall charge the applicant the
5 following fees, as appropriate, which, unless otherwise
6 specified, shall be paid into the Florida Permit Fee Trust
7 Fund:

8 (a) A fee for a notice of intent pursuant to s.
9 403.5063, in the amount of \$2,500, to be submitted to the
10 department at the time of filing of a notice of intent. The
11 notice-of-intent fee shall be used and disbursed in the same
12 manner as the application fee.

13 (b) An application fee, which shall not exceed
14 \$200,000. The fee shall be fixed by rule on a sliding scale
15 related to the size, type, ultimate site capacity, or increase
16 in electric generating capacity proposed by the application,
17 ~~or the number and size of local governments in whose~~
18 ~~jurisdiction the electrical power plant is located.~~

19 1. Sixty percent of the fee shall go to the department
20 to cover any costs associated with coordinating the review
21 ~~reviewing~~ and acting upon the application, to cover any field
22 services associated with monitoring construction and operation
23 of the facility, and to cover the costs of the public notices
24 published by the department.

25 2. The following percentages ~~Twenty percent of the fee~~
26 ~~or \$25,000, whichever is greater~~, shall be transferred to the
27 Administrative Trust Fund of the Division of Administrative
28 Hearings of the Department of Management Services:--

29 a. Five percent to compensate expenses from the
30 initial exercise of duties associated with the filing of an
31 application.

1 b. An additional 5 percent if a land use hearing is
2 held pursuant to s. 403.508.

3 c. An additional 10 percent if a certification hearing
4 is held pursuant to s. 403.508.

5 3.a. Upon written request with proper itemized
6 accounting within 90 days after final agency action by the
7 board or withdrawal of the application, the agencies that
8 prepared reports pursuant to s. 403.507 or participated in a
9 hearing pursuant to s. 403.508, may submit a written request
10 to the department for reimbursement of expenses incurred
11 during the certification proceedings. The request shall
12 contain an accounting of expenses incurred which may include
13 time spent reviewing the application, the department shall
14 reimburse the Department of Community Affairs, the Fish and
15 Wildlife Conservation Commission, and any water management
16 district created pursuant to chapter 373, regional planning
17 council, and local government in the jurisdiction of which the
18 proposed electrical power plant is to be located, and any
19 other agency from which the department requests special
20 studies pursuant to s. 403.507(2)(a)7. Such reimbursement
21 shall be authorized for the preparation of any studies
22 required of the agencies by this act, and for agency travel
23 and per diem to attend any hearing held pursuant to this act,
24 and for local government's or regional planning council's
25 provision of additional notice of the informational public
26 meetings governments to participate in the proceedings. The
27 department shall review the request and verify that the
28 expenses are valid. Valid expenses shall be reimbursed;
29 however, in the event the amount of funds available for
30 reimbursement allocation is insufficient to provide for full
31

1 ~~compensation complete reimbursement~~ to the agencies requesting
2 reimbursement, reimbursement shall be on a prorated basis.

3 b. If the application review is held in abeyance for
4 more than 1 year, the agencies may submit a request for
5 reimbursement.

6 4. If any sums are remaining, the department shall
7 retain them for its use in the same manner as is otherwise
8 authorized by this act; provided, however, that if the
9 certification application is withdrawn, the remaining sums
10 shall be refunded to the applicant within 90 days after
11 withdrawal.

12 (c)1. A certification modification fee, which shall
13 not exceed \$30,000. The department shall establish rules for
14 determining such a fee based on the equipment redesign, change
15 in site size, type, increase in generating capacity proposed,
16 or change in an associated linear facility location.

17 2. The fee shall be submitted to the department with a
18 ~~formal~~ petition for modification ~~to the department~~ pursuant to
19 s. 403.516. This fee shall be established, disbursed, and
20 processed in the same manner as the application fee in
21 paragraph (b), except that the Division of Administrative
22 Hearings shall not receive a portion of the fee unless the
23 petition for certification modification is referred to the
24 Division of Administrative Hearings for hearing. If the
25 petition is so referred, only \$10,000 of the fee shall be
26 transferred to the Administrative Trust Fund of the Division
27 of Administrative Hearings of the Department of Management
28 Services. ~~The fee for a modification by agreement filed~~
29 ~~pursuant to s. 403.516(1)(b) shall be \$10,000 to be paid upon~~
30 ~~the filing of the request for modification. Any sums remaining~~
31 ~~after payment of authorized costs shall be refunded to the~~

1 ~~applicant within 90 days of issuance or denial of the~~
2 ~~modification or withdrawal of the request for modification.~~

3 (d) A supplemental application fee, not to exceed
4 \$75,000, to cover all reasonable expenses and costs of the
5 review, processing, and proceedings of a supplemental
6 application. This fee shall be established, disbursed, and
7 processed in the same manner as the certification application
8 fee in paragraph (b), ~~except that only \$20,000 of the fee~~
9 ~~shall be transferred to the Administrative Trust Fund of the~~
10 ~~Division of Administrative Hearings of the Department of~~
11 ~~Management Services.~~

12 (e) An existing site certification application fee,
13 not to exceed \$200,000, to cover all reasonable costs and
14 expenses of the review processing and proceedings for
15 certification of an existing power plant site under s.
16 403.5175. This fee must be established, disbursed, and
17 processed in the same manner as the certification application
18 fee in paragraph (b).

19 ~~(2) Effective upon the date commercial operation~~
20 ~~begins, the operator of an electrical power plant certified~~
21 ~~under this part is required to pay to the department an annual~~
22 ~~operation license fee as specified in s. 403.0872(11) to be~~
23 ~~deposited in the Air Pollution Control Trust Fund.~~

24 Section 41. Section 403.519, Florida Statutes, is
25 amended to read:

26 403.519 Exclusive forum for determination of need.--

27 (1) On request by an applicant or on its own motion,
28 the commission shall begin a proceeding to determine the need
29 for an electrical power plant subject to the Florida
30 Electrical Power Plant Siting Act.

31

1 (2) The applicant ~~commission~~ shall publish a notice of
2 the proceeding in a newspaper of general circulation in each
3 county in which the proposed electrical power plant will be
4 located. The notice shall be at least one-quarter of a page
5 and published at least 21 ~~45~~ days prior to the scheduled date
6 for the proceeding. The commission shall publish notice of the
7 proceeding in the manner specified by chapter 120 at least 21
8 days prior to the scheduled date for the proceeding.

9 (3) The commission shall be the sole forum for the
10 determination of this matter, which accordingly shall not be
11 raised in any other forum or in the review of proceedings in
12 such other forum. In making its determination, the commission
13 shall take into account the need for electric system
14 reliability and integrity, the need for adequate electricity
15 at a reasonable cost, the need for fuel diversity and supply
16 reliability, and whether the proposed plant is the most
17 cost-effective alternative available. The commission shall
18 also expressly consider the conservation measures taken by or
19 reasonably available to the applicant or its members which
20 might mitigate the need for the proposed plant and other
21 matters within its jurisdiction which it deems relevant. The
22 commission's determination of need for an electrical power
23 plant shall create a presumption of public need and necessity
24 and shall serve as the commission's report required by s.
25 403.407(2)(b) ~~403.507(2)(a)~~2. An order entered pursuant to
26 this section constitutes final agency action.

27 (4) Rule 25-22.082, Florida Administrative Code, does
28 not apply to an electrical power plant using nuclear materials
29 for fuel and an applicant for such a power plant is not
30 required to secure competitive proposals for a power supply
31

1 before applying for a certificate and filing a petition for
2 determination of need.

3 Section 42. Section 403.52, Florida Statutes, is
4 amended to read:

5 403.52 Short title.--Sections 403.52-403.5365 may be
6 cited as the "Florida Electric Transmission Line Siting Act."

7 Section 43. Section 403.521, Florida Statutes, is
8 amended to read:

9 403.521 Legislative intent.--The legislative intent of
10 this act is to establish a centralized and coordinated
11 licensing ~~permitting~~ process for the location of electric
12 transmission line corridors and the construction, operation,
13 and maintenance of electric transmission lines, which are
14 critical infrastructure facilities. This necessarily involves
15 several broad interests of the public addressed through the
16 subject matter jurisdiction of several agencies. The
17 Legislature recognizes that electric transmission lines will
18 have an effect upon the reliability of the electric power
19 system, the environment, land use, and the welfare of the
20 population. Recognizing the need to ensure electric power
21 system reliability and integrity, and in order to meet
22 electric ~~electrical~~ energy needs in an orderly and timely
23 fashion, the centralized and coordinated licensing ~~permitting~~
24 process established by this act is intended to further the
25 legislative goal of ensuring through available and reasonable
26 methods that the location of transmission line corridors and
27 the construction, operation, and maintenance of electric
28 transmission lines produce minimal adverse effects on the
29 environment and public health, safety, and welfare ~~while not~~
30 ~~unduly conflicting with the goals established by the~~
31 ~~applicable local comprehensive plan.~~ It is the intent of this

1 act to fully balance the need for transmission lines with the
2 broad interests of the public in order to effect a reasonable
3 balance between the need for the facility as a means of
4 providing reliable, economical, and efficient electric
5 ~~abundant low cost electrical~~ energy and the impact on the
6 public and the environment resulting from the location of the
7 transmission line corridor and the construction, operation,
8 and maintenance of the transmission lines. The Legislature
9 intends that the provisions of chapter 120 apply to this act
10 and to proceedings under ~~pursuant to~~ it except as otherwise
11 expressly exempted by other provisions of this act.

12 Section 44. Section 403.522, Florida Statutes, is
13 amended to read:

14 403.522 Definitions relating to the Florida Electric
15 Transmission Line Siting Act.--As used in this act:

16 (1) "Act" means the Florida Electric Transmission Line
17 Siting Act.

18 (2) "Agency," as the context requires, means an
19 official, officer, commission, authority, council, committee,
20 department, division, bureau, board, section, or other unit or
21 entity of government, including a county, municipality, or
22 other regional or local governmental entity.

23 (3) "Amendment" means a material change in information
24 provided by the applicant to the application for certification
25 made after the initial application filing.

26 (4) "Applicant" means any electric utility that ~~which~~
27 applies for certification under ~~pursuant to the provisions of~~
28 this act.

29 (5) "Application" means the documents required by the
30 department to be filed to initiate and support a certification
31 review and evaluation, including the initial document filing,

1 amendments, and responses to requests from the department for
2 additional data and information ~~proceeding~~. An electric
3 utility may file a comprehensive application encompassing all
4 or a part of one or more proposed transmission lines.

5 (6) "Board" means the Governor and Cabinet sitting as
6 the siting board.

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

14 (8) "Commission" means the Florida Public Service
15 Commission.

16 (9) "Completeness" means that the application has
17 addressed all applicable sections of the prescribed
18 application format ~~and, but does not mean~~ that those sections
19 are sufficient in comprehensiveness of data or in quality of
20 information provided to allow the department to determine
21 whether the application provides the reviewing agencies
22 adequate information to prepare the reports required by s.
23 403.526.

24 (10) "Corridor" means the proposed area within which a
25 transmission line right-of-way, including maintenance and
26 access roads, is to be located. The width of the corridor
27 proposed for certification by an applicant or other party, at
28 the option of the applicant, may be the width of the
29 transmission line right-of-way, or a wider boundary, not to
30 exceed a width of 1 mile. The area within the corridor in
31 which a right-of-way may be located may be further restricted

1 | by a condition of certification. After all property interests
2 | required for the transmission line right-of-way and
3 | maintenance and access roads have been acquired by the
4 | applicant, the boundaries of the area certified shall narrow
5 | to only that land within the boundaries of the transmission
6 | line right-of-way. The corridors proper for certification
7 | shall be those addressed in the application, in amendments to
8 | the application filed under ~~pursuant to~~ s. 403.5275, and in
9 | notices of acceptance of proposed alternate corridors filed by
10 | an applicant and the department pursuant to s. 403.5271 for
11 | which the required ~~sufficient~~ information for the preparation
12 | of agency supplemental reports was filed.

13 | (11) "Department" means the Department of
14 | Environmental Protection.

15 | (12) "Electric utility" means cities and towns,
16 | counties, public utility districts, regulated electric
17 | companies, electric cooperatives, regional transmission
18 | organizations, operators of independent transmission systems,
19 | or other transmission organizations approved by the Federal
20 | Energy Regulatory Commission or the commission for the
21 | operation of transmission facilities, and joint operating
22 | agencies, or combinations thereof, engaged in, or authorized
23 | to engage in, the business of generating, transmitting, or
24 | distributing electric energy.

25 | (13) "License" means a franchise, permit,
26 | certification, registration, charter, comprehensive plan
27 | amendment, development order, or permit as defined in chapters
28 | 163 and 380, or similar form of authorization required by law,
29 | but it does not include a license required primarily for
30 | revenue purposes when issuance of the license is merely a
31 | ministerial act.

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

3 ~~(15)(14)~~ "Local government" means a municipality or
4 county in the jurisdiction of which the project is proposed to
5 be located.

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

12 ~~(17)(15)~~ "Modification" means any change in the
13 certification order after issuance, including a change in the
14 conditions of certification.

15 ~~(18)(16)~~ "Nonprocedural requirements of agencies"
16 means any agency's regulatory requirements established by
17 statute, rule, ordinance, or comprehensive plan, excluding any
18 provisions prescribing forms, fees, procedures, or time limits
19 for the review or processing of information submitted to
20 demonstrate compliance with such regulatory requirements.

21 ~~(19)(17)~~ "Person" means an individual, partnership,
22 joint venture, private or public corporation, association,
23 firm, public service company, political subdivision, municipal
24 corporation, government agency, public utility district, or
25 any other entity, public or private, however organized.

26 ~~(20)(18)~~ "Preliminary statement of issues" means a
27 listing and explanation of those issues within the agency's
28 jurisdiction which are of major concern to the agency in
29 relation to the proposed electric ~~electrical~~ transmission line
30 corridor.

31

1 ~~(21)~~~~(19)~~ "Regional planning council" means a regional
2 planning council as defined in s. 186.503(4) in the
3 jurisdiction of which the project is proposed to be located.

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

10 ~~(22)~~~~(21)~~ "Transmission line" or "electric transmission
11 line" means structures, maintenance and access roads, and all
12 other facilities that need to be constructed, operated, or
13 maintained for the purpose of conveying electric power ~~any~~
14 ~~electrical transmission line~~ extending from, but not
15 including, an existing or proposed substation or power plant
16 to, but not including, an existing or proposed transmission
17 network or rights-of-way or substation to which the applicant
18 intends to connect which defines the end of the proposed
19 project and which is designed to operate at 230 kilovolts or
20 more. ~~The starting point and ending point of a transmission~~
21 ~~line must be specifically defined by the applicant and must be~~
22 ~~verified by the commission in its determination of need. A~~
23 ~~transmission line includes structures and maintenance and~~
24 ~~access roads that need to be constructed for the project to~~
25 ~~become operational.~~ The transmission line may include, at the
26 applicant's option, any proposed terminal or intermediate
27 substations or substation expansions necessary to serve the
28 transmission line.

29 ~~(23)~~~~(22)~~ "Transmission line right-of-way" means land
30 necessary for the construction, operation, and maintenance of
31 a transmission line. The typical width of the right-of-way

1 shall be identified in the application. The right-of-way shall
2 be located within the certified corridor and shall be
3 identified by the applicant ~~subsequent to certification~~ in
4 documents filed with the department before ~~prior to~~
5 construction.

6 ~~(24)(23)~~ "Water management district" means a water
7 management district created pursuant to chapter 373 in the
8 jurisdiction of which the project is proposed to be located.

9 Section 45. Section 403.523, Florida Statutes, is
10 amended to read:

11 403.523 Department of Environmental Protection; powers
12 and duties.--The department has ~~shall have~~ the following
13 powers and duties:

14 (1) To adopt procedural rules pursuant to ss.
15 120.536(1) and 120.54 to administer ~~implement the provisions~~
16 ~~of~~ this act and to adopt or amend rules to implement the
17 provisions of subsection (10).

18 (2) To prescribe the form and content of the public
19 notices and the form, content, and necessary supporting
20 documentation, and any required studies, for certification
21 applications. All ~~such~~ data and studies shall be related to
22 the jurisdiction of the agencies relevant to the application.

23 (3) To receive applications for transmission line and
24 corridor certifications and initially determine the
25 completeness ~~and sufficiency~~ thereof.

26 (4) To make or contract for studies of certification
27 applications. All ~~such~~ studies shall be related to the
28 jurisdiction of the agencies relevant to the application. For
29 studies in areas outside the jurisdiction of the department
30 and in the jurisdiction of another agency, the department may
31

1 initiate such studies, but only with the consent of ~~the~~ such
2 agency.

3 (5) To administer the processing of applications for
4 certification and ensure that the applications, including
5 postcertification reviews, are processed on an expeditious and
6 priority basis ~~as expeditiously as possible~~.

7 (6) To collect and process ~~require~~ such fees as
8 allowed by this act.

9 (7) To prepare a report and project ~~written~~ analysis
10 as required by s. 403.526.

11 (8) To prescribe the means for monitoring the effects
12 arising from the location of the transmission line corridor
13 and the construction, operation, and maintenance of the
14 transmission lines to assure continued compliance with the
15 terms of the certification.

16 (9) To make a determination of acceptability of any
17 alternate corridor proposed for consideration under ~~pursuant~~
18 ~~to~~ s. 403.5271.

19 (10) To set requirements that reasonably protect the
20 public health and welfare from the electric and magnetic
21 fields of transmission lines for which an application is filed
22 under ~~after the effective date of~~ this act.

23 (11) To present rebuttal evidence on any issue
24 properly raised at the certification hearing.

25 (12) To issue final orders after receipt of the
26 administrative law judge's order relinquishing jurisdiction
27 pursuant to s. 403.527(6).

28 (13) To act as clerk for the siting board.

29 (14) To administer and manage the terms and conditions
30 of the certification order and supporting documents and
31 records for the life of the facility.

1 (15) To issue emergency orders on behalf of the board
2 for facilities licensed under this act.

3 Section 46. Section 403.524, Florida Statutes, is
4 amended to read:

5 403.524 Applicability; ~~and~~ certification;
6 exemptions.--

7 (1) ~~The provisions of~~ This act applies apply to each
8 transmission line, except a transmission line certified under
9 ~~pursuant to~~ the Florida Electrical Power Plant Siting Act.

10 (2) Except as provided in subsection (1), ~~no~~
11 construction of a any transmission line may not be undertaken
12 without first obtaining certification under this act, but ~~the~~
13 ~~provisions of~~ this act does do not apply to:

14 (a) Transmission lines for which development approval
15 has been obtained under ~~pursuant to~~ chapter 380.

16 (b) Transmission lines that which have been exempted
17 by a binding letter of interpretation issued under s.
18 380.06(4), or in which the Department of Community Affairs or
19 its predecessor agency has determined the utility to have
20 vested development rights within the meaning of s. 380.05(18)
21 or s. 380.06(20).

22 (c) Transmission line development in which all
23 construction is limited to established rights-of-way.
24 Established rights-of-way include ~~such~~ rights-of-way
25 established at any time for roads, highways, railroads, gas,
26 water, oil, electricity, or sewage and any other public
27 purpose rights-of-way. If an established transmission line
28 right-of-way is used to qualify for this exemption, the
29 transmission line right-of-way must have been established at
30 least 5 years before notice of the start of construction under
31 subsection (4) of the proposed transmission line. If an

1 established transmission line right-of-way is relocated to
2 accommodate a public project, the date the original
3 transmission line right-of-way was established applies to the
4 relocated transmission line right-of-way for purposes of this
5 exemption. ~~Except for transmission line rights of way,~~
6 ~~established rights of way include rights of way created before~~
7 ~~or after October 1, 1983. For transmission line rights of way,~~
8 ~~established rights of way include rights of way created before~~
9 ~~October 1, 1983.~~

10 (d) Unless the applicant has applied for certification
11 under this act, transmission lines ~~that which~~ are less than 15
12 miles in length or ~~are located in a single which do not cross~~
13 ~~a county within the state line, unless the applicant has~~
14 ~~elected to apply for certification under the act.~~

15 (3) The exemption of a transmission line under this
16 act does not constitute an exemption for the transmission line
17 from other applicable permitting processes under other
18 provisions of law or local government ordinances.

19 (4) An electric ~~A~~ utility shall notify the department
20 in writing, before ~~prior to~~ the start of construction, of its
21 intent to construct a transmission line exempted under
22 ~~pursuant to~~ this section. The ~~Such~~ notice is ~~shall be~~ only for
23 information purposes, and ~~no~~ action by the department is not
24 ~~shall be~~ required pursuant to the ~~such~~ notice. This notice may
25 be included in any submittal filed with the department before
26 the start of construction demonstrating that a new
27 transmission line complies with the applicable electric and
28 magnetic field standards.

29 Section 47. Section 403.525, Florida Statutes, is
30 amended to read:
31

1 403.525 ~~Appointment of Administrative law judge;~~
2 appointment; powers and duties.--

3 (1)(a) Within 7 days after receipt of an application,
4 whether complete or not, the department shall request the
5 Division of Administrative Hearings to designate an
6 administrative law judge to conduct the hearings required by
7 this act.

8 (b) The division director shall designate an
9 administrative law judge to conduct the hearings required by
10 this act within 7 days after receipt of the request from the
11 department. Whenever practicable, the division director shall
12 assign an administrative law judge who has had prior
13 experience or training in this type of certification
14 proceeding.

15 (c) Upon being advised that an administrative law
16 judge has been designated, the department shall immediately
17 file a copy of the application and all supporting documents
18 with the administrative law judge, who shall docket the
19 application.

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

23 Section 48. Section 403.5251, Florida Statutes, is
24 amended to read:

25 403.5251 ~~Distribution of Application; schedules.--~~

26 (1)(a) The formal date of the filing of the
27 application for certification and commencement of the review
28 process for certification is the date on which the applicant
29 submits:

30 1. Copies of the application for certification in a
31 quantity and format, electronic or otherwise as prescribed by

1 rule, to the department and other agencies identified in s.
2 403.526(2); and

3 2. The application fee as specified under s. 403.5365
4 to the department.

5
6 The department shall provide to the applicant and the Division
7 of Administrative Hearings the names and addresses of any
8 additional agencies or persons entitled to notice and copies
9 of the application and amendments, if any, within 7 days after
10 receiving the application for certification and the
11 application fees.

12 (b) In the application, the starting point and ending
13 point of a transmission line must be specifically defined by
14 the applicant. Within 7 days after the filing of an
15 application, the department shall provide the applicant and
16 the Division of Administrative Hearings the names and
17 addresses of those affected or other agencies entitled to
18 notice and copies of the application and any amendments.

19 (2) Within 15 7 days after the formal date of the
20 application filing completeness has been determined, the
21 department shall prepare a proposed schedule of dates for
22 determination of completeness, submission of statements of
23 issues, determination of sufficiency, and submittal of final
24 reports, from affected and other agencies and other
25 significant dates to be followed during the certification
26 process, including dates for filing notices of appearances to
27 be a party under s. 403.527(2) pursuant to s. 403.527(4). This
28 schedule shall be provided by the department to the applicant,
29 the administrative law judge, and the agencies identified
30 under pursuant to subsection (1). Within 7 days after the
31 filing of this proposed schedule, the administrative law judge

1 shall issue an order establishing a schedule for the matters
2 addressed in the department's proposed schedule and other
3 appropriate matters, if any.

4 (3) ~~Within 7 days after completeness has been~~
5 ~~determined, the applicant shall distribute copies of the~~
6 ~~application to all agencies identified by the department~~
7 ~~pursuant to subsection (1).~~ Copies of changes and amendments
8 to the application shall be timely distributed by the
9 applicant to all agencies and parties who have received a copy
10 of the application.

11 (4) Notice of the filing of the application shall be
12 made in accordance with the requirements of s. 403.5363.

13 Section 49. Section 403.5252, Florida Statutes, is
14 amended to read:

15 403.5252 Determination of completeness.--

16 (1)(a) Within 30 days after distribution of an
17 application, the affected agencies shall file a statement with
18 the department containing the recommendations of each agency
19 concerning the completeness of the application for
20 certification.

21 (b) Within 7 ~~15~~ days after receipt of the completeness
22 statements of each agency ~~an application~~, the department shall
23 file a statement with the Division of Administrative Hearings,
24 ~~and~~ with the applicant, ~~and with all parties~~ declaring its
25 position with regard to the completeness, ~~not the sufficiency,~~
26 of the application. The statement of the department shall be
27 based upon its consultation with the affected agencies.

28 (2)~~(1)~~ If the department declares the application to
29 be incomplete, the applicant, within 14 ~~15~~ days after the
30 filing of the statement by the department, shall file with the
31

1 Division of Administrative Hearings, with all parties, and
2 with the department ~~a statement~~:

3 (a) A withdrawal of ~~Agreeing with the statement of the~~
4 ~~department and withdrawing~~ the application;

5 (b) Additional information necessary to make the
6 application complete. After the department first determines
7 the application to be incomplete, the time schedules under
8 this act are not tolled if the applicant makes the application
9 complete within the 14-day period. A subsequent finding by the
10 department that the application remains incomplete tolls the
11 time schedules under this act until the application is
12 determined complete; ~~Agreeing with the statement of the~~
13 ~~department and agreeing to amend the application without~~
14 ~~withdrawing it. The time schedules referencing a complete~~
15 ~~application under this act shall not commence until the~~
16 ~~application is determined complete; or~~

17 (c) A statement contesting the department's
18 determination of incompleteness; or ~~statement of the~~
19 ~~department.~~

20 (d) A statement agreeing with the department and
21 requesting additional time to provide the information
22 necessary to make the application complete. If the applicant
23 exercises this option, the time schedules under this act are
24 tolled until the application is determined complete.

25 ~~(3)(a)(2)~~ If the applicant contests the determination
26 by the department that an application is incomplete, the
27 administrative law judge shall schedule a hearing on the
28 statement of completeness. The hearing shall be held as
29 expeditiously as possible, but not later than 21 ~~30~~ days after
30 the filing of the statement by the department. The
31

1 administrative law judge shall render a decision within 7 ~~10~~
2 days after the hearing.

3 (b) Parties to a hearing on the issue of completeness
4 shall include the applicant, the department, and any agency
5 that has jurisdiction over the matter in dispute. Any
6 substantially affected person who wishes to become a party to
7 the hearing on the issue of completeness must file a motion no
8 later than 10 days before the date of the hearing.

9 (c)(a) If the administrative law judge determines that
10 the application was not complete ~~as filed~~, the applicant shall
11 withdraw the application or make such additional submittals as
12 necessary to complete it. The time schedules referencing a
13 complete application under this act ~~do shall~~ not commence
14 until the application is determined complete.

15 (d)(b) If the administrative law judge determines that
16 the application was complete at the time it was declared
17 incomplete filed, the time schedules referencing a complete
18 application under this act shall commence upon such
19 determination.

20 (4) If the applicant provides additional information
21 to address the issues identified in the determination of
22 incompleteness, each affected agency may submit to the
23 department, no later than 14 days after the applicant files
24 the additional information, a recommendation on whether the
25 agency believes the application is complete. Within 21 days
26 after receipt of the additional information from the applicant
27 submitted under paragraphs (2)(b), (2)(d), or (3)(c) and
28 considering the recommendations of the affected agencies, the
29 department shall determine whether the additional information
30 supplied by an applicant makes the application complete. If
31 the department finds that the application is still incomplete,

1 the applicant may exercise any of the options specified in
2 subsection (2) as often as is necessary to resolve the
3 dispute.

4 Section 50. Section 403.526, Florida Statutes, is
5 amended to read:

6 403.526 Preliminary statements of issues, reports, and
7 project analyses; and studies.--

8 (1) Each affected agency that is required to file a
9 report which received an application in accordance with this
10 section s. 403.5251(3) shall submit a preliminary statement of
11 issues to the department and all parties the applicant no
12 later than 50 60 days after the filing distribution of the
13 complete application. Such statements of issues shall be made
14 available to each local government for use as information for
15 public meetings held under ~~pursuant to~~ s. 403.5272. The
16 failure to raise an issue in this preliminary statement of
17 issues does shall not preclude the issue from being raised in
18 the agency's report.

19 (2)(a) The following ~~affected~~ agencies shall prepare
20 reports as provided below and shall submit them to the
21 department and the applicant no later than ~~within~~ 90 days
22 after the filing distribution of the ~~complete~~ application:

23 1. The department shall prepare a report as to the
24 impact of each proposed transmission line or corridor as it
25 relates to matters within its jurisdiction.

26 2. Each water management district in the jurisdiction
27 of which a proposed transmission line or corridor is to be
28 located shall prepare a report as to the impact on water
29 resources and other matters within its jurisdiction.

30 3. The Department of Community Affairs shall prepare a
31 report containing recommendations which address the impact

1 upon the public of the proposed transmission line or corridor,
2 based on the degree to which the proposed transmission line or
3 corridor is consistent with the applicable portions of the
4 state comprehensive plan, emergency management, and other
5 matters within its jurisdiction. The Department of Community
6 Affairs may also comment on the consistency of the proposed
7 transmission line or corridor with applicable strategic
8 regional policy plans or local comprehensive plans and land
9 development regulations.

10 4. The Fish and Wildlife Conservation Commission shall
11 prepare a report as to the impact of each proposed
12 transmission line or corridor on fish and wildlife resources
13 and other matters within its jurisdiction.

14 5. Each local government shall prepare a report as to
15 the impact of each proposed transmission line or corridor on
16 matters within its jurisdiction, including the consistency of
17 the proposed transmission line or corridor with all applicable
18 local ordinances, regulations, standards, or criteria that
19 apply to the proposed transmission line or corridor, including
20 local comprehensive plans, zoning regulations, land
21 development regulations, and any applicable local
22 environmental regulations adopted pursuant to s. 403.182 or by
23 other means. A ~~No~~ change by the responsible local government
24 or local agency in local comprehensive plans, zoning
25 ordinances, or other regulations made after the date required
26 for the filing of the local government's report required by
27 this section is not ~~shall be~~ applicable to the certification
28 of the proposed transmission line or corridor unless the
29 certification is denied or the application is withdrawn.

30 6. Each regional planning council shall present a
31 report containing recommendations that address the impact upon

1 the public of the proposed transmission line or corridor based
2 on the degree to which the transmission line or corridor is
3 consistent with the applicable provisions of the strategic
4 regional policy plan adopted under ~~pursuant to~~ chapter 186 and
5 other impacts of each proposed transmission line or corridor
6 on matters within its jurisdiction.

7 7. The Department of Transportation shall prepare a
8 report as to the impact of the proposed transmission line or
9 corridor on state roads, railroads, airports, aeronautics,
10 seaports, and other matters within its jurisdiction.

11 8. The commission shall prepare a report containing
12 its determination under s. 403.537 and the report may include
13 the comments from the commission with respect to any other
14 subject within its jurisdiction.

15 9. Any other agency, if requested by the department,
16 shall also perform studies or prepare reports as to subjects
17 within the jurisdiction of the agency which may potentially be
18 affected by the proposed transmission line.

19 (b) Each report must ~~shall~~ contain:

20 1. A notice of any nonprocedural requirements not
21 specifically listed in the application from which a variance,
22 exemption, exception, or other relief is necessary in order
23 for the proposed corridor to be certified. Failure to include
24 the notice shall be treated as a waiver from the nonprocedural
25 requirements of that agency.

26 2. A recommendation for approval or denial of the
27 application.

28 3. The information on variances required by s.
29 403.531(2) and proposed conditions of certification on matters
30 within the jurisdiction of each agency. For each condition
31 proposed by an agency, the agency shall list the specific

1 statute, rule, or ordinance, as applicable, which authorizes
2 the proposed condition.

3 (c) Each reviewing agency shall initiate the
4 activities required by this section no later than 15 days
5 after the ~~complete~~ application is filed ~~distributed~~. Each
6 agency shall keep the applicant and the department informed as
7 to the progress of its studies and any issues raised thereby.

8 (d) Receipt of an affirmative determination of need
9 from the commission by the submittal deadline for agency
10 reports under paragraph (a) is a condition precedent to
11 further processing of the application.

12 (3) The department shall prepare a project written
13 analysis containing ~~which contains~~ a compilation of agency
14 reports and summaries of the material contained therein which
15 shall be filed with the administrative law judge and served on
16 all parties no later than 115 ~~135~~ days after the application
17 is filed ~~complete application has been distributed to the~~
18 ~~affected agencies~~, and which shall include:

19 (a) A statement indicating whether the proposed
20 electric transmission line will be in compliance with the
21 rules of the department and affected agencies.

22 (b)(a) The studies and reports required by this
23 section and s. 403.537.

24 (c)(b) Comments received from any other agency or
25 person.

26 (d)(c) The recommendation of the department as to the
27 disposition of the application, of variances, exemptions,
28 exceptions, or other relief identified by any party, and of
29 any proposed conditions of certification which the department
30 believes should be imposed.

31

1 (4) The failure of any agency to submit a preliminary
2 statement of issues or a report, or to submit its preliminary
3 statement of issues or report within the allowed time, is
4 ~~shall not be~~ grounds for the alteration of any time limitation
5 in this act under ~~pursuant to~~ s. 403.528. ~~Neither~~ The failure
6 to submit a preliminary statement of issues or a report, or
7 ~~nor~~ the inadequacy of the preliminary statement of issues or
8 report, are not ~~shall be~~ grounds to deny or condition
9 certification.

10 Section 51. Section 403.527, Florida Statutes, is
11 amended to read:

12 (Substantial rewording of section. See
13 s. 403.527, F.S., for present text.)

14 403.527 Certification hearing, parties,
15 participants.--

16 (1)(a) No later than 145 days after the application is
17 filed, the administrative law judge shall conduct a
18 certification hearing pursuant to ss. 120.569 and 120.57 at a
19 central location in proximity to the proposed transmission
20 line or corridor.

21 (b) Notice of the certification hearing and other
22 public hearings provided for in this section and notice of the
23 deadline for filing of notice of intent to be a party shall be
24 made in accordance with the requirements of s. 403.5363.

25 (2)(a) Parties to the proceeding shall be:

26 1. The applicant.

27 2. The department.

28 3. The commission.

29 4. The Department of Community Affairs.

30 5. The Fish and Wildlife Conservation Commission.

31 6. The Department of Transportation.

1 7. Each water management district in the jurisdiction
2 of which the proposed transmission line or corridor is to be
3 located.

4 8. The local government.

5 9. The regional planning council.

6 (b) Any party listed in paragraph (a), other than the
7 department or the applicant, may waive its right to
8 participate in these proceedings. If any listed party fails to
9 file a notice of its intent to be a party on or before the
10 30th day before the certification hearing, the party is deemed
11 to have waived its right to be a party unless its
12 participation would not prejudice the rights of any party to
13 the proceeding.

14 (c) Notwithstanding the provisions of chapter 120 to
15 the contrary, upon the filing with the administrative law
16 judge of a notice of intent to be a party by an agency,
17 corporation, or association described in subparagraphs 1. and
18 2. or a petition for intervention by a person described in
19 subparagraph 3. no later than 30 days before the date set for
20 the certification hearing, the following shall also be parties
21 to the proceeding:

22 1. Any agency not listed in paragraph (a) as to
23 matters within its jurisdiction.

24 2. Any domestic nonprofit corporation or association
25 formed, in whole or in part, to promote conservation of
26 natural beauty; to protect the environment, personal health,
27 or other biological values; to preserve historical sites; to
28 promote consumer interests; to represent labor, commercial, or
29 industrial groups; or to promote comprehensive planning or
30 orderly development of the area in which the proposed
31 transmission line or corridor is to be located.

1 3. Any person whose substantial interests are affected
2 and being determined by the proceeding.

3 (d) Any agency whose properties or works may be
4 affected shall be made a party upon the request of the agency
5 or any party to this proceeding.

6 (3)(a) The order of presentation at the certification
7 hearing, unless otherwise changed by the administrative law
8 judge to ensure the orderly presentation of witnesses and
9 evidence, shall be:

10 1. The applicant.

11 2. The department.

12 3. State agencies.

13 4. Regional agencies, including regional planning
14 councils and water management districts.

15 5. Local governments.

16 6. Other parties.

17 (b) When appropriate, any person may be given an
18 opportunity to present oral or written communications to the
19 administrative law judge. If the administrative law judge
20 proposes to consider such communications, all parties shall be
21 given an opportunity to cross-examine, challenge, or rebut the
22 communications.

23 (4) One public hearing where members of the public who
24 are not parties to the certification hearing may testify shall
25 be held within the boundaries of each county, at the option of
26 any local government.

27 (a) A local government shall notify the administrative
28 law judge and all parties not later than 21 days after the
29 application has been determined complete as to whether the
30 local government wishes to have a public hearing. If a filing
31 for an alternate corridor is accepted for consideration under

1 s. 403.5271(1) by the department and the applicant, any newly
2 affected local government must notify the administrative law
3 judge and all parties not later than 10 days after the data
4 concerning the alternate corridor has been determined complete
5 as to whether the local government wishes to have such a
6 public hearing. The local government is responsible for
7 providing the location of the public hearing if held
8 separately from the certification hearing.

9 (b) Within 5 days after notification, the
10 administrative law judge shall determine the date of the
11 public hearing, which shall be held before or during the
12 certification hearing. If two or more local governments within
13 one county request a public hearing, the hearing shall be
14 consolidated so that only one public hearing is held in any
15 county. The location of a consolidated hearing shall be
16 determined by the administrative law judge.

17 (c) If a local government does not request a public
18 hearing within 21 days after the application has been
19 determined complete, persons residing within the jurisdiction
20 of the local government may testify during that portion of the
21 certification hearing at which public testimony is heard.

22 (5) At the conclusion of the certification hearing,
23 the administrative law judge shall, after consideration of all
24 evidence of record, issue a recommended order disposing of the
25 application no later than 45 days after the transcript of the
26 certification hearing and the public hearings is filed with
27 the Division of Administrative Hearings.

28 (6)(a) No later than 25 days before the certification
29 hearing, the department or the applicant may request that the
30 administrative law judge cancel the certification hearing and
31 relinquish jurisdiction to the department if all parties to

1 the proceeding stipulate that there are no disputed issues of
2 material fact to be raised at the certification hearing.

3 (b) The administrative law judge shall issue an order
4 granting or denying the request within 5 days.

5 (c) If the administrative law judge grants the
6 request, the department and the applicant shall publish
7 notices of the cancellation of the certification hearing in
8 accordance with s. 403.5363.

9 (d)1. If the administrative law judge grants the
10 request, the department shall prepare and issue a final order
11 in accordance with s. 403.529(1)(a).

12 2. Parties may submit proposed final orders to the
13 department no later than 10 days after the administrative law
14 judge issues an order relinquishing jurisdiction.

15 (7) The applicant shall pay those expenses and costs
16 associated with the conduct of the hearing and the recording
17 and transcription of the proceedings.

18 Section 52. Section 403.5271, Florida Statutes, is
19 amended to read:

20 403.5271 Alternate corridors.--

21 (1) No later than 45 ~~50~~ days before ~~prior to~~ the
22 originally scheduled certification hearing, any party may
23 propose alternate transmission line corridor routes for
24 consideration under ~~pursuant to~~ the provisions of this act.

25 (a) A notice of a ~~any such~~ proposed alternate corridor
26 must ~~shall~~ be filed with the administrative law judge, all
27 parties, and any local governments in whose jurisdiction the
28 alternate corridor is proposed. The ~~Such~~ filing must ~~shall~~
29 include the most recent United States Geological Survey
30 1:24,000 quadrangle maps specifically delineating the corridor
31 boundaries, a description of the proposed corridor, and a

1 statement of the reasons the proposed alternate corridor
2 should be certified.

3 (b)1. Within 7 days after receipt of ~~the such~~ notice,
4 the applicant and the department shall file with the
5 administrative law judge and all parties a notice of
6 acceptance or rejection of a proposed alternate corridor for
7 consideration. If the alternate corridor is rejected ~~either~~ by
8 the applicant or the department, the certification hearing and
9 the public hearings shall be held as scheduled. If both the
10 applicant and the department accept a proposed alternate
11 corridor for consideration, the certification hearing and the
12 public hearings shall be rescheduled, if necessary.

13 2. If rescheduled, the certification hearing shall be
14 held no more than 90 days after the previously scheduled
15 certification hearing, unless the data submitted under
16 paragraph (d) is determined to be incomplete, in which case
17 the rescheduled certification hearing shall be held no more
18 than 105 days after the previously scheduled certification
19 hearing. If additional time is needed due to the alternate
20 corridor crossing a local government jurisdiction that was not
21 previously affected, ~~in which case~~ the remainder of the
22 schedule listed below shall be appropriately adjusted by the
23 administrative law judge to allow that local government to
24 prepare a report pursuant to s. 403.526(2)(a)5.

25 (c) Notice of the filing of the alternate corridor, of
26 the revised time schedules, of the deadline for newly affected
27 persons and agencies to file notice of intent to become a
28 party, of the rescheduled hearing date, and of the proceedings
29 ~~pursuant to s. 403.527(1)(b) and (c)~~ shall be published in
30 accordance with s. 403.5363.

31

1 (d) Within 21 ~~25~~ days after acceptance of an alternate
2 corridor by the department and the applicant, the party
3 proposing an alternate corridor shall have the burden of
4 providing all ~~additional~~ data to the agencies listed in s.
5 403.526(2) and newly affected agencies s. 403.526 necessary
6 for the preparation of a supplementary report on the proposed
7 alternate corridor.

8 (e)1. Reviewing agencies shall advise the department
9 of any issues concerning completeness no later than 15 days
10 after the submittal of the data required by paragraph (d).
11 Within 22 days after receipt of the data, the department shall
12 issue a determination of completeness.

13 2. If the department determines that the data required
14 by paragraph (d) is not complete, the party proposing the
15 alternate corridor must file such additional data to correct
16 the incompleteness. This additional data must be submitted
17 within 14 days after the determination by the department.

18 3. If the department, within 14 days after receiving
19 the additional data, determines that the data remains
20 incomplete, the incompleteness of the data is deemed a
21 withdrawal of the proposed alternate corridor. The department
22 may make its determination based on recommendations made by
23 other affected agencies. If the department determines within
24 15 days that this additional data is insufficient, the party
25 proposing the alternate corridor shall file such additional
26 data that corrects the insufficiency within 15 days after the
27 filing of the department's determination. If such additional
28 data is determined insufficient, such insufficiency of data
29 shall be deemed a withdrawal of the proposed alternate
30 corridor. The party proposing an alternate corridor shall have
31 the burden of proof on the certifiability of the alternate

1 ~~corridor at the certification hearing pursuant to s.~~
2 ~~403.529(4). Nothing in this act shall be construed as~~
3 ~~requiring the applicant or agencies not proposing the~~
4 ~~alternate corridor to submit data in support of such alternate~~
5 ~~corridor.~~

6 (f) The agencies listed in s. 403.526(2) and any newly
7 affected agencies ~~s. 403.526~~ shall file supplementary reports
8 with the applicant and the department which address ~~addressing~~
9 the proposed alternate corridors no later than 24 ~~60~~ days
10 after the ~~additional~~ data ~~is~~ submitted pursuant to paragraph
11 (d) or paragraph (e) is determined to be complete.

12 (g) The agency reports on alternate corridors must
13 include all information required by s. 403.526(2) ~~agencies~~
14 ~~shall submit supplementary notice pursuant to s. 403.531(2) at~~
15 ~~the time of filing of their supplemental report.~~

16 (h) The department shall file with the administrative
17 law judge, the applicant, and all parties a project ~~prepare a~~
18 ~~written~~ analysis consistent with s. 403.526(3) no more than 16
19 at least 29 days after submittal of agency reports on ~~prior to~~
20 ~~the rescheduled certification hearing addressing~~ the proposed
21 alternate corridor.

22 (2) If the original certification hearing date is
23 rescheduled, the rescheduling shall not provide the
24 opportunity for parties to file additional alternate corridors
25 to the applicant's proposed corridor or any accepted alternate
26 corridor. However, an amendment to the application which
27 changes the alignment of the applicant's proposed corridor
28 shall require rescheduling of the certification hearing, if
29 necessary, so as to allow time for a party to file alternate
30 corridors to the realigned proposed corridor for which the
31 application has been amended. Any ~~such~~ alternate corridor

1 | proposal shall have the same starting and ending points as the
2 | realigned portion of the corridor proposed by the applicant's
3 | amendment, provided that the administrative law judge for good
4 | cause shown may authorize another starting or ending point in
5 | the area of the applicant's amended corridor.

6 | (3)(a) Notwithstanding the rejection of a proposed
7 | alternate corridor by the applicant or the department, any
8 | party may present evidence at the certification hearing to
9 | show that a corridor proper for certification does not satisfy
10 | the criteria listed in s. 403.529 or that a rejected alternate
11 | corridor would meet the criteria set forth in s. 403.529. ~~No~~
12 | Evidence may not ~~shall~~ be admitted at the certification
13 | hearing on any alternate corridor, unless the alternate
14 | corridor was proposed by the filing of a notice at least ~~45~~ 50
15 | days before ~~prior to~~ the originally scheduled certification
16 | hearing pursuant to this section. Rejected alternate corridors
17 | shall be considered by the board as provided in s. 403.529(4)
18 | and (5).

19 | (b) The party proposing an alternate corridor has the
20 | burden to prove that the alternate corridor can be certified
21 | at the certification hearing. This act does not require an
22 | applicant or agency that is not proposing the alternate
23 | corridor to submit data in support of the alternate corridor.

24 | (4) If an alternate corridor is accepted by the
25 | applicant and the department pursuant to a notice of
26 | acceptance as provided in this subsection and the ~~such~~
27 | corridor is ultimately determined to be the corridor that
28 | would meet the criteria set forth in s. 403.529(4) and (5),
29 | the board shall certify that corridor.

30 | Section 53. Section 403.5272, Florida Statutes, is
31 | amended to read:

1 403.5272 ~~Local governments;~~ Informational public
2 meetings.--

3 (1) A local government whose jurisdiction is to be
4 crossed by a proposed corridor ~~governments~~ may hold one
5 informational public ~~meeting~~ ~~meetings~~ in addition to the
6 hearings specifically authorized by this act on any matter
7 associated with the transmission line proceeding. ~~The~~ Such
8 informational public ~~meeting~~ may be conducted by the local
9 government or the regional planning council and shall ~~meetings~~
10 ~~should~~ be held no later than 55 ~~80~~ days after the application
11 is filed. The purpose of an informational public meeting is
12 for the local government or regional planning council to
13 further inform the ~~general~~ public about the transmission line
14 proposed, obtain comments from the public, and formulate its
15 recommendation with respect to the proposed transmission line.

16 (2) Informational public meetings shall be held solely
17 at the option of each local government or regional planning
18 council. It is the legislative intent that local governments
19 or regional planning councils attempt to hold such public
20 meetings. Parties to the proceedings under this act shall be
21 encouraged to attend; however, a no party other than the
22 applicant and the department is not ~~shall be~~ required to
23 attend the ~~such~~ informational public ~~meetings~~ ~~hearings~~.

24 (3) A local government or regional planning council
25 that intends to conduct an informational public meeting must
26 provide notice of the meeting, with notice sent to all parties
27 listed in s. 403.527(2)(a), not less than 5 days before the
28 meeting.

29 ~~(4)(3)~~ The failure to hold an informational public
30 meeting or the procedure used for the informational public
31 meeting are ~~shall~~ not ~~be~~ grounds for the alteration of any

1 | time limitation in this act ~~under pursuant to~~ s. 403.528 or
2 | grounds to deny or condition certification.

3 | Section 54. Section 403.5275, Florida Statutes, is
4 | amended to read:

5 | 403.5275 Amendment to the application.--

6 | (1) Any amendment made to the application before
7 | certification shall be sent by the applicant to the
8 | administrative law judge and to all parties to the proceeding.

9 | (2) Any amendment to the application made before ~~prior~~
10 | ~~to~~ certification shall be disposed of as part of the original
11 | certification proceeding. Amendment of the application may be
12 | considered "good cause" for alteration of time limits pursuant
13 | to s. 403.528.

14 | Section 55. Section 403.528, Florida Statutes, is
15 | amended to read:

16 | 403.528 Alteration of time limits.--

17 | (1) Any time limitation in this act may be altered by
18 | the administrative law judge upon stipulation between the
19 | department and the applicant unless objected to by any party
20 | within 5 days after notice or for good cause shown by any
21 | party.

22 | (2) A comprehensive application encompassing more than
23 | one proposed transmission line may be good cause for
24 | alternation of time limits.

25 | Section 56. Section 403.529, Florida Statutes, is
26 | amended to read:

27 | 403.529 Final disposition of application.--

28 | (1)(a) If the administrative law judge has granted a
29 | request to cancel the certification hearing and has
30 | relinquished jurisdiction to the department under s.
31 | 403.527(6), within 40 days thereafter, the secretary of the

1 department shall act upon the application by written order in
2 accordance with the terms of this act and state the reasons
3 for issuance or denial.

4 (b) If the administrative law judge does not grant a
5 request to cancel the certification hearing under the
6 provisions of s. 403.527(6) within 60 ~~30~~ days after receipt of
7 the administrative law judge's recommended order, the board
8 shall act upon the application by written order, approving in
9 whole, approving with such conditions as the board deems
10 appropriate, or denying the certification and stating the
11 reasons for issuance or denial.

12 (2) The issues that may be raised in any hearing
13 before the board shall be limited to matters raised in the
14 certification proceeding before the administrative law judge
15 or raised in the recommended order of the administrative law
16 judge. All parties, or their representatives, or persons who
17 appear before the board shall be subject to ~~the provisions of~~
18 s. 120.66.

19 (3) If certification is denied, the board, or
20 secretary if applicable, shall set forth in writing the action
21 the applicant would have to take to secure the approval of the
22 application ~~by the board~~.

23 (4) In determining whether an application should be
24 approved in whole, approved with modifications or conditions,
25 or denied, the board, or secretary when applicable, shall
26 consider whether, and the extent to which, the location of the
27 transmission line corridor and the construction, operation,
28 and maintenance of the transmission line will:

29 (a) Ensure electric power system reliability and
30 integrity;

31

1 (b) Meet the electrical energy needs of the state in
2 an orderly, economical, and timely fashion;

3 (c) Comply with applicable nonprocedural requirements
4 of agencies;

5 (d) Be consistent with applicable provisions of local
6 government comprehensive plans, if any; and

7 (e) Effect a reasonable balance between the need for
8 the transmission line as a means of providing reliable,
9 economically efficient electric energy, as determined by the
10 commission, under s. 403.537, ~~abundant low cost electrical~~
11 ~~energy~~ and the impact upon the public and the environment
12 resulting from the location of the transmission line corridor
13 and the construction, operation, and maintenance of the
14 transmission lines.

15 (5)(a) Any transmission line corridor certified by the
16 board, or secretary if applicable, shall meet the criteria of
17 this section. When more than one transmission line corridor is
18 proper for certification under ~~pursuant to~~ s. 403.522(10) and
19 meets the criteria of this section, the board, or secretary if
20 applicable, shall certify the transmission line corridor that
21 has the least adverse impact regarding the criteria in
22 subsection (4), including costs.

23 (b) If the board, or secretary if applicable, finds
24 that an alternate corridor rejected pursuant to s. 403.5271
25 meets the criteria of subsection (4) and has the least adverse
26 impact regarding the criteria in subsection (4), including
27 cost, of all corridors that meet the criteria of subsection
28 (4), ~~then~~ the board, or secretary if applicable, shall deny
29 certification or shall allow the applicant to submit an
30 amended application to include the ~~such~~ corridor.
31

1 (c) If the board, or secretary if applicable, finds
2 that two or more of the corridors that comply with ~~the~~
3 ~~provisions of~~ subsection (4) have the least adverse impacts
4 regarding the criteria in subsection (4), including costs, and
5 that ~~the such~~ corridors are substantially equal in adverse
6 impacts regarding the criteria in subsection (4), including
7 costs, ~~then~~ the board, or secretary if applicable, shall
8 certify the corridor preferred by the applicant if the
9 corridor is one proper for certification under ~~pursuant to~~ s.
10 403.522(10).

11 (6) The issuance or denial of the certification is by
12 ~~the board shall be~~ the final administrative action required as
13 to that application.

14 Section 57. Section 403.531, Florida Statutes, is
15 amended to read:

16 403.531 Effect of certification.--

17 (1) Subject to the conditions set forth therein,
18 certification shall constitute the sole license of the state
19 and any agency as to the approval of the location of
20 transmission line corridors and the construction, operation,
21 and maintenance of transmission lines. The certification is
22 ~~shall be~~ valid for the life of the transmission line, if
23 ~~provided that~~ construction on, or condemnation or acquisition
24 of, the right-of-way is commenced within 5 years after ~~of~~ the
25 date of certification or such later date as may be authorized
26 by the board.

27 (2)(a) The certification authorizes ~~shall authorize~~
28 the licensee applicant to locate the transmission line
29 corridor and to construct and maintain the transmission lines
30 subject only to the conditions of certification set forth in
31 the such certification.

1 (b) The certification may include conditions that
2 ~~which~~ constitute variances and exemptions from nonprocedural
3 standards or rules ~~regulations~~ of the department or any other
4 agency, which were expressly considered during the
5 certification review ~~proceeding~~ unless waived by the agency as
6 provided in s. 403.526 ~~below~~ and which otherwise would be
7 applicable to the location of the proposed transmission line
8 corridor or the construction, operation, and maintenance of
9 the transmission lines. ~~Each party shall notify the applicant~~
10 ~~and other parties at the time scheduled for the filing of the~~
11 ~~agency reports of any nonprocedural requirements not~~
12 ~~specifically listed in the application from which a variance,~~
13 ~~exemption, exception, or other relief is necessary in order~~
14 ~~for the board to certify any corridor proposed for~~
15 ~~certification. Failure of such notification shall be treated~~
16 ~~as a waiver from the nonprocedural requirements of that~~
17 ~~agency.~~

18 (3)(a) The certification shall be in lieu of any
19 license, permit, certificate, or similar document required by
20 any state, regional, or local agency under ~~pursuant to~~, but
21 not limited to, chapter 125, chapter 161, chapter 163, chapter
22 166, chapter 186, chapter 253, chapter 258, chapter 298,
23 chapter 370, chapter 372, chapter 373, chapter 376, chapter
24 380, chapter 381, ~~chapter 387~~, chapter 403, chapter 404, the
25 Florida Transportation Code, or 33 U.S.C. s. 1341.

26 (b) On certification, any license, easement, or other
27 interest in state lands, except those the title of which is
28 vested in the Board of Trustees of the Internal Improvement
29 Trust Fund, shall be issued by the appropriate agency as a
30 ministerial act. The applicant shall ~~be required to~~ seek any
31 necessary interest in state lands the title to which is vested

1 | in the Board of Trustees of the Internal Improvement Trust
2 | Fund from the board of trustees before, during, or after the
3 | certification proceeding, and certification may be made
4 | contingent upon issuance of the appropriate interest in
5 | realty. However, ~~neither~~ the applicant and ~~nor~~ any party to
6 | the certification proceeding may not directly or indirectly
7 | raise or relitigate any matter that ~~which~~ was or could have
8 | been an issue in the certification proceeding in any
9 | proceeding before the Board of Trustees of the Internal
10 | Improvement Trust Fund wherein the applicant is seeking a
11 | necessary interest in state lands, but the information
12 | presented in the certification proceeding shall be available
13 | for review by the board of trustees and its staff.

14 | (4) This act does ~~shall~~ not in any way affect the
15 | ratemaking powers of the commission under chapter 366. This
16 | act does ~~shall also~~ not in any way affect the right of any
17 | local government to charge appropriate fees or require that
18 | construction be in compliance with the National Electrical
19 | Safety Code, as prescribed by the commission.

20 | (5) A ~~No~~ term or condition of certification may not
21 | ~~shall~~ be interpreted to preclude the postcertification
22 | exercise by any party of whatever procedural rights it may
23 | have under chapter 120, including those related to rulemaking
24 | proceedings.

25 | Section 58. Section 403.5312, Florida Statutes, is
26 | amended to read:

27 | 403.5312 Filing Recording of notice of certified
28 | corridor route.--

29 | (1) Within 60 days after certification of a directly
30 | associated transmission line under ~~pursuant to~~ ss.
31 | 403.501-403.518 or a transmission line corridor under ~~pursuant~~

1 ~~to~~ ss. 403.52-403.5365, the applicant shall file with the
2 department and, in accordance with s. 28.222, with the clerk
3 of the circuit court for each county through which the
4 corridor will pass, a notice of the certified route.

5 (2) The notice must ~~shall~~ consist of maps or aerial
6 photographs in the scale of 1:24,000 which clearly show the
7 location of the certified route and must ~~shall~~ state that the
8 certification of the corridor will result in the acquisition
9 of rights-of-way within the corridor. Each clerk shall record
10 the filing in the official record of the county for the
11 duration of the certification or until such time as the
12 applicant certifies to the department and the clerk that all
13 lands required for the transmission line rights-of-way within
14 the corridor have been acquired within the ~~such~~ county,
15 whichever is sooner.

16 (3) The recording of this notice does ~~shall~~ not
17 constitute a lien, cloud, or encumbrance on real property.

18 Section 59. Section 403.5315, Florida Statutes, is
19 amended to read:

20 403.5315 Modification of certification.--A
21 certification may be modified after issuance in any one of the
22 following ways:

23 (1) The board may delegate to the department the
24 authority to modify specific conditions in the certification.

25 (2) The licensee may file a petition for modification
26 with the department or the department may initiate the
27 modification upon its own initiative.

28 (a) A petition for modification must set forth:

29 1. The proposed modification;

30 2. The factual reasons asserted for the modification;

31 and

1 3. The anticipated additional environmental effects of
2 the proposed modification.

3 ~~(b)(2)~~ The department may modify the terms and
4 conditions of the certification if no party objects in writing
5 to ~~the~~ such modification within 45 days after notice by mail
6 to the last address of record in the certification proceeding,
7 and if no other person whose substantial interests will be
8 affected by the modification objects in writing within 30 days
9 after issuance of public notice.

10 (c) If objections are raised or the department denies
11 the proposed modification, the licensee may file a request for
12 hearing on the modification with the department. Such a
13 request shall be handled pursuant to chapter 120.

14 (d) A request for hearing referred to the Division of
15 Administrative Hearings shall be disposed of in the same
16 manner as an application but with time periods established by
17 the administrative law judge commensurate with the
18 significance of the modification requested. ~~If objections are~~
19 raised, the applicant may file a petition for modification
20 pursuant to subsection (3).

21 ~~(3) The applicant or the department may file a~~
22 ~~petition for modification with the department and the Division~~
23 ~~of Administrative Hearings setting forth:~~

24 ~~(a) The proposed modification;~~

25 ~~(b) The factual reasons asserted for the modification;~~

26 ~~and~~

27 ~~(c) The anticipated additional environmental effects~~
28 ~~of the proposed modification.~~

29 ~~(4) Petitions filed pursuant to subsection (3) shall~~
30 ~~be disposed of in the same manner as an application but with~~
31 ~~time periods established by the administrative law judge~~

1 ~~commensurate with the significance of the modification~~
2 ~~requested.~~

3 Section 60. Section 403.5317, Florida Statutes, is
4 created to read:

5 403.5317 Postcertification activities.--

6 (1)(a) If, subsequent to certification, a licensee
7 proposes any material change to the application or prior
8 amendments, the licensee shall submit to the department a
9 written request for amendment and description of the proposed
10 change to the application. The department shall, within 30
11 days after the receipt of the request for the amendment,
12 determine whether the proposed change to the application
13 requires a modification of the conditions of certification.

14 (b) If the department concludes that the change would
15 not require a modification of the conditions of certification,
16 the department shall notify, in writing, the licensee, all
17 agencies, and all parties of the approval of the amendment.

18 (c) If the department concludes that the change would
19 require a modification of the conditions of certification, the
20 department shall notify the licensee that the proposed change
21 to the application requires a request for modification under
22 s. 403.5315.

23 (2) Postcertification submittals filed by a licensee
24 with one or more agencies are for the purpose of monitoring
25 for compliance with the issued certification. Each submittal
26 must be reviewed by each agency on an expedited and priority
27 basis because each facility certified under this act is a
28 critical infrastructure facility. Postcertification review may
29 not be completed more than 90 days after complete information
30 for a segment of the certified transmission line is submitted
31 to the reviewing agencies.

1 Section 61. Section 403.5363, Florida Statutes, is
2 created to read:

3 403.5363 Public notices; requirements.--

4 (1)(a) The applicant shall arrange for the publication
5 of the notices specified in paragraph (b).

6 1. The notices shall be published in newspapers of
7 general circulation within counties crossed by the
8 transmission line corridors proper for certification. The
9 required newspaper notices for filing of an application and
10 for the certification hearing shall be one-half page in size
11 in a standard-size newspaper or a full page in a tabloid-size
12 newspaper and published in a section of the newspaper other
13 than the section for legal notices. These two notices must
14 include a map generally depicting all transmission corridors
15 proper for certification. A newspaper of general circulation
16 shall be the newspaper within a county crossed by a
17 transmission line corridor proper for certification which
18 newspaper has the largest daily circulation in that county and
19 has its principal office in that county. If the newspaper
20 having the largest daily circulation has its principal office
21 outside the county, the notices must appear in both the
22 newspaper having the largest circulation in that county and in
23 a newspaper authorized to publish legal notices in that
24 county.

25 2. The department shall adopt rules specifying the
26 content of the newspaper notices.

27 3. All notices published by the applicant shall be
28 paid for by the applicant and shall be in addition to the
29 application fee.

30 (b) Public notices that must be published under this
31 section include:

1 1. The notice of the filing of an application, which
2 must include a description of the proceedings required by this
3 act. The notice must describe the provisions of s. 403.531(1)
4 and (2) and give the date by which notice of intent to be a
5 party or a petition to intervene in accordance with s.
6 403.527(2) must be filed. This notice must be published no
7 more than 21 days after the application is filed.

8 2. The notice of the certification hearing and any
9 other public hearing permitted under s. 403.527. The notice
10 must include the date by which a person wishing to appear as a
11 party must file the notice to do so. The notice of the
12 certification hearing must be published at least 65 days
13 before the date set for the certification hearing.

14 3. The notice of the cancellation of the certification
15 hearing, if applicable. The notice must be published at least
16 3 days before the date of the originally scheduled
17 certification hearing.

18 4. The notice of the filing of a proposal to modify
19 the certification submitted under s. 403.5315, if the
20 department determines that the modification would require
21 relocation or expansion of the transmission line right-of-way
22 or a certified substation.

23 (2) The proponent of an alternate corridor shall
24 arrange for the publication of the filing of the proposal for
25 an alternate corridor, the revised time schedules, the date by
26 which newly affected persons or agencies may file the notice
27 of intent to become a party, and the date of the rescheduled
28 hearing. A notice listed in this subsection must be published
29 in a newspaper of general circulation within the county or
30 counties crossed by the proposed alternate corridor and comply
31 with the content requirements set forth in paragraph (1)(a).

1 The notice must be published not less than 50 days before the
2 rescheduled certification hearing.

3 (3) The department shall arrange for the publication
4 of the following notices in the manner specified by chapter
5 120:

6 (a) The notice of the filing of an application and the
7 date by which a person intending to become a party must file
8 the notice of intent. The notice must be published no later
9 than 21 days after the application has been filed.

10 (b) The notice of any administrative hearing for
11 certification, if applicable. The notice must be published not
12 less than 65 days before the date set for a hearing, except
13 that notice for a rescheduled certification hearing after
14 acceptance of an alternative corridor must be published not
15 less than 50 days before the date set for the hearing.

16 (c) The notice of the cancellation of a certification
17 hearing, if applicable. The notice must be published not later
18 than 7 days before the date of the originally scheduled
19 certification hearing.

20 (d) The notice of the hearing before the siting board,
21 if applicable.

22 (e) The notice of stipulations, proposed agency
23 action, or a petition for modification.

24 Section 62. Section 403.5365, Florida Statutes, is
25 amended to read:

26 403.5365 Fees; disposition.--The department shall
27 charge the applicant the following fees, as appropriate,
28 which, unless otherwise specified, shall be paid into the
29 Florida Permit Fee Trust Fund:

30 (1) An application fee.
31

1 (a) ~~The application fee shall be of~~ \$100,000, plus
2 \$750 per mile for each mile of corridor in which the
3 transmission line right-of-way is proposed to be located
4 within an existing electric ~~electrical~~ transmission line
5 right-of-way or within any existing right-of-way for any road,
6 highway, railroad, or other aboveground linear facility, or
7 \$1,000 per mile for each mile of electric transmission line
8 corridor proposed to be located outside ~~the such~~ existing
9 right-of-way.

10 ~~(b)(a)~~ Sixty percent of the fee shall go to the
11 department to cover any costs associated with coordinating the
12 review of ~~reviewing~~ and acting upon the application and any
13 costs for field services associated with monitoring
14 construction and operation of the electric transmission line
15 facility.

16 ~~(c)(b)~~ The following percentage ~~Twenty percent of the~~
17 ~~fees specified under this section, except postcertification~~
18 ~~fees,~~ shall be transferred to the Administrative Trust Fund of
19 the Division of Administrative Hearings of the Department of
20 Management Services:-

21 1. Five percent to compensate for expenses from the
22 initial exercise of duties associated with the filing of an
23 application.

24 2. An additional 10 percent if an administrative
25 hearing under s. 403.527 is held.

26 ~~(d)1.(c)~~ Upon written request with proper itemized
27 accounting within 90 days after final agency action by the
28 siting board or the department or the withdrawal of the
29 application, the agencies that prepared reports under s.
30 403.526 or s. 403.5271 or participated in a hearing under s.
31 403.527 or s. 403.5271 may submit a written request to the

1 department for reimbursement of expenses incurred during the
2 certification proceedings. The request must contain an
3 accounting of expenses incurred, which may include time spent
4 reviewing the application, department shall reimburse the
5 ~~expenses and costs of the Department of Community Affairs, the~~
6 ~~Fish and Wildlife Conservation Commission, the water~~
7 ~~management district, regional planning council, and local~~
8 ~~government in the jurisdiction of which the transmission line~~
9 ~~is to be located. Such reimbursement shall be authorized for~~
10 ~~the preparation of any studies required of the agencies by~~
11 ~~this act, and for agency travel and per diem to attend any~~
12 ~~hearing held under pursuant to this act, and for the local~~
13 government or regional planning council providing additional
14 notice of the informational public meeting. The department
15 shall review the request and verify whether a claimed expense
16 is valid. Valid expenses shall be reimbursed; however, if to
17 ~~participate in the proceedings. In the event the amount of~~
18 funds available for reimbursement allocation is insufficient
19 to provide for full compensation ~~complete reimbursement~~ to the
20 agencies, reimbursement shall be on a prorated basis.

21 2. If the application review is held in abeyance for
22 more than 1 year, the agencies may submit a request for
23 reimbursement under subparagraph 1.

24 (e)(d) If any sums are remaining, the department shall
25 retain them for its use in the same manner as is otherwise
26 authorized by this section; ~~provided, however, that~~ if the
27 certification application is withdrawn, the remaining sums
28 shall be refunded to the applicant within 90 days after
29 withdrawal.

30 (2) An amendment fee.

31

1 (a) If no corridor alignment change is proposed by the
2 amendment, no amendment fee shall be charged.

3 (b) If a corridor alignment change under s. 403.5275
4 is proposed by the applicant, an additional fee of a minimum
5 of \$2,000 and \$750 per mile shall be submitted to the
6 department for use in accordance with this act.

7 (c) If an amendment is required to address issues,
8 including alternate corridors under ~~pursuant to~~ s. 403.5271,
9 raised by the department or other parties, no fee for the ~~such~~
10 amendment shall be charged.

11 (3) A certification modification fee.

12 (a) If no corridor alignment change is proposed by the
13 licensee ~~applicant~~, the modification fee shall be \$4,000.

14 (b) If a corridor alignment change is proposed by the
15 licensee ~~applicant~~, the fee shall be \$1,000 for each mile of
16 realignment plus an amount not to exceed \$10,000 to be fixed
17 by rule on a sliding scale based on the load-carrying
18 capability and configuration of the transmission line for use
19 in accordance with subsection (1) ~~(2)~~.

20 Section 63. Subsection (1) of section 403.537, Florida
21 Statutes, is amended to read:

22 403.537 Determination of need for transmission line;
23 powers and duties.--

24 (1)(a) Upon request by an applicant or upon its own
25 motion, the Florida Public Service Commission shall schedule a
26 public hearing, after notice, to determine the need for a
27 transmission line regulated by the Florida Electric
28 Transmission Line Siting Act, ss. 403.52-403.5365. The ~~Such~~
29 notice shall be published at least 21 ~~45~~ days before the date
30 set for the hearing and shall be published by the applicant in
31 at least one-quarter page size notice in newspapers of general

1 circulation, and by the commission in the manner specified in
2 chapter 120 in the Florida Administrative Weekly, by giving
3 notice to counties and regional planning councils in whose
4 jurisdiction the transmission line could be placed, and by
5 giving notice to any persons who have requested to be placed
6 on the mailing list of the commission for this purpose. Within
7 21 days after receipt of a request for determination by an
8 applicant, the commission shall set a date for the hearing.
9 The hearing shall be held pursuant to s. 350.01 within 45 days
10 after the filing of the request, and a decision shall be
11 rendered within 60 days after such filing.

12 (b) The commission shall be the sole forum in which to
13 determine the need for a transmission line. The need for a
14 transmission line may not be raised or be the subject of
15 review in another proceeding.

16 (c)(b) In the determination of need, the commission
17 shall take into account the need for electric system
18 reliability and integrity, the need for abundant, low-cost
19 electrical energy to assure the economic well-being of the
20 residents ~~citizens~~ of this state, the appropriate starting and
21 ending point of the line, and other matters within its
22 jurisdiction deemed relevant to the determination of need. The
23 appropriate starting and ending points of the electric
24 transmission line must be verified by the commission in its
25 determination of need.

26 (d)(c) The determination by the commission of the need
27 for the transmission line, as defined in s. 403.522(22) ~~s.~~
28 ~~403.522(21)~~, is binding on all parties to any certification
29 proceeding under ~~pursuant to~~ the Florida Electric Transmission
30 Line Siting Act and is a condition precedent to the conduct of
31

1 the certification hearing prescribed therein. An order entered
2 pursuant to this section constitutes final agency action.

3 Section 64. Subsection (3) of section 373.441, Florida
4 Statutes, is amended to read:

5 373.441 Role of counties, municipalities, and local
6 pollution control programs in permit processing.--

7 (3) The department shall review environmental resource
8 permit applications for electrical distribution and
9 transmission lines and other facilities related to the
10 production, transmission, and distribution of electricity
11 which are not certified under ss. 403.52-403.5365, the Florida
12 Electric Transmission Line Siting Act, regulated under this
13 part.

14 Section 65. Subsection (30) of section 403.061,
15 Florida Statutes, is amended to read:

16 403.061 Department; powers and duties.--The department
17 shall have the power and the duty to control and prohibit
18 pollution of air and water in accordance with the law and
19 rules adopted and promulgated by it and, for this purpose, to:

20 (30) Establish requirements by rule that reasonably
21 protect the public health and welfare from electric and
22 magnetic fields associated with existing 230 kV or greater
23 electrical transmission lines, new 230 kV and greater
24 electrical transmission lines for which an application for
25 certification under the Florida Electric Transmission Line
26 Siting Act, ss. 403.52-403.5365, is not filed, new or existing
27 electrical transmission or distribution lines with voltage
28 less than 230 kV, and substation facilities. Notwithstanding
29 any other provision in this chapter or any other law of this
30 state or political subdivision thereof, the department shall
31 have exclusive jurisdiction in the regulation of electric and

1 magnetic fields associated with all electrical transmission
2 and distribution lines and substation facilities. However,
3 nothing herein shall be construed as superseding or repealing
4 the provisions of s. 403.523(1) and (10).

5
6 The department shall implement such programs in conjunction
7 with its other powers and duties and shall place special
8 emphasis on reducing and eliminating contamination that
9 presents a threat to humans, animals or plants, or to the
10 environment.

11 Section 66. Paragraph (a) of subsection (3) of section
12 403.0876, Florida Statutes, is amended to read:

13 403.0876 Permits; processing.--

14 (3)(a) The department shall establish a special unit
15 for permit coordination and processing to provide expeditious
16 processing of department permits which the district offices
17 are unable to process expeditiously and to provide accelerated
18 processing of certain permits or renewals for economic and
19 operating stability. The ability of the department to process
20 applications under ~~pursuant to~~ this subsection in a more
21 timely manner than allowed by subsections (1) and (2) is
22 dependent upon the timely exchange of information between the
23 applicant and the department and the intervention of outside
24 parties as allowed by law. An applicant may request the
25 processing of its permit application by the special unit if
26 the application is from an area of high unemployment or low
27 per capita income, is from a business or industry that is the
28 primary employer within an area's labor market, or is in an
29 industry with respect to which the complexities involved in
30 the review of the application require special skills uniquely
31 available in the headquarters office. The department may

1 require the applicant to waive the 90-day time limitation for
2 department issuance or denial of the permit once for a period
3 not to exceed 90 days. The department may require a special
4 fee to cover the direct cost of processing special
5 applications in addition to normal permit fees and costs. The
6 special fee may not exceed \$10,000 per permit required.
7 Applications for renewal permits, but not applications for
8 initial permits, required for facilities pursuant to the
9 Electrical Power Plant Siting Act or the Florida Electric
10 Transmission Line Siting Act may be processed under this
11 subsection. Personnel staffing the special unit shall have
12 lengthy experience in permit processing.

13 Section 67. Paragraph (b) of subsection (3) of section
14 403.809, Florida Statutes, is amended to read:

15 403.809 Environmental districts; establishment;
16 managers; functions.--

17 (3)

18 (b) The processing of all applications for permits,
19 licenses, certificates, and exemptions shall be accomplished
20 at the district center or the branch office, except for those
21 applications specifically assigned elsewhere in the department
22 under s. 403.805 or to the water management districts under s.
23 403.812 and those applications assigned by interagency
24 agreement as provided in this act. However, the secretary, as
25 head of the department, may not delegate to district or
26 subdistrict managers, water management districts, or any unit
27 of local government the authority to act on the following
28 types of permit applications:

29 1. Permits issued under s. 403.0885, except such
30 permit issuance may be delegated to district managers.

31 2. Construction of major air pollution sources.

1 3. Certifications under the Florida Electrical Power
2 Plant Siting Act or the Florida Electric Transmission Line
3 Siting Act and the associated permit issued under s. 403.0885,
4 if applicable.

5 4. Permits issued under s. 403.0885 to steam electric
6 generating facilities regulated pursuant to 40 C.F.R. part
7 423.

8 5. Permits issued under s. 378.901.

9 Section 68. Sections 403.5253 and 403.5369, Florida
10 Statutes, are repealed.

11 Section 69. Section 570.954, Florida Statutes, is
12 created to read:

13 570.954 Farm to fuel.--

14 (1) This section may be cited as the "Florida Farm to
15 Fuel Act."

16 (2) The Legislature finds that:

17 (a) Utilization of Florida crops and biomass for
18 production of bioenergy is important for the state's future
19 energy stability, protection of its environment, and continued
20 viability of its agriculture industry.

21 (b) Development of bioenergy will help to reduce
22 demand for foreign fuels, reduce pollution, and promote
23 economic growth.

24 (c) Assistance in the production and distribution of
25 bioenergy in the state is needed.

26 (d) Production of bioenergy in the state is ideal due
27 to the state's vast amount of farm acreage and mild climate,
28 which permit crops to be grown virtually year round, and the
29 availability of other biomass.

30 (3) This section is intended to provide grants to:
31

1 (a) Stimulate capital investment in the state and
2 enhance the market for and promote the production and
3 distribution of bioenergy.

4 (b) Advance the already growing establishment of
5 bioenergy technologies in the state and attract additional
6 bioenergy production to the state.

7 (c) Demonstrate technologies or processes that convert
8 Florida-grown crops, agricultural wastes and residues, and
9 other biomass into bioenergy.

10 (4) As used in this section, the term:

11 (a) "Biomass" means a power source that is comprised
12 of, but not limited to, combustible residues or gases from
13 forest products manufacturing, agricultural and orchard crops,
14 waste products from livestock and poultry operations and food
15 processing, urban wood waste, municipal solid waste, municipal
16 liquid waste treatment operations, and landfills.

17 (b) "Department" means the Department of Agriculture
18 and Consumer Services.

19 (c) "Person" means an individual, partnership, joint
20 venture, private or public corporation, association, firm,
21 public service company, or any other entity, public or
22 private, however organized.

23 (5) The Farm to Fuel Grants Program is established
24 within the department to provide grants for research,
25 development, and demonstration of commercial applications of
26 bioenergy technology.

27 (a) Grants made under this section for bioenergy
28 projects may be made to any person who meets the criteria in
29 this section.

30 (b) Factors the department may consider in awarding
31 grants include, but are not limited to, the degree to which:

1 1. The project stimulates in-state capital investment
2 and economic development in metropolitan and rural areas,
3 including the creation of jobs and the future development of a
4 commercial market for bioenergy.

5 2. The project produces bioenergy from Florida-grown
6 crops or biomass.

7 3. The project demonstrates efficient use of energy
8 and material resources.

9 4. The project fosters overall understanding and
10 appreciation of bioenergy technologies.

11 5. Matching funds and in-kind contributions from an
12 applicant are available.

13 6. The project duration and the timeline for
14 expenditures are acceptable.

15 7. The project has a reasonable assurance of enhancing
16 the value of agricultural products or will expand agribusiness
17 in the state.

18 8. Preliminary market and feasibility research has
19 been conducted by the applicant or others and shows there is a
20 reasonable assurance of a potential market.

21 (c) The department may conduct a statewide
22 comprehensive information and education program aimed at
23 informing the business sector of the availability of the
24 grants while also educating the general public about the
25 benefits of renewable energy and the use of alternative fuels.

26 (6) Pursuant to s. 570.0705, the Commissioner of
27 Agriculture and Consumer Services may appoint a Florida Farm
28 to Fuel Advisory Council consisting of a diverse group of
29 stakeholders that includes, but is not limited to,
30 representatives of the agriculture industry, researchers, fuel
31 suppliers, technology manufacturers, and environmental

1 interests. The council shall provide advice and counsel to the
2 Commissioner of Agriculture and Consumer Services on the
3 production of bioenergy in the state.

4 (7) The department may adopt rules pursuant to ss.
5 120.536(1) and 120.54 to administer the provisions of this
6 section.

7 Section 70. The sum of \$5.5 million is appropriated
8 from the General Revenue Fund to the Department of Agriculture
9 and Consumer Services for the purpose of implementing s.
10 570.954(5), Florida Statutes.

11 Section 71. Section 220.192, Florida Statutes, is
12 created to read:

13 220.192 Farm to fuel production tax credit.--

14 (1) For tax years beginning on or after January 1,
15 2007, a credit against the tax imposed under this chapter
16 shall be granted in an amount to be determined as follows:

17 (a) A taxpayer who produces ethanol at a facility
18 located in this state is entitled to a credit against the
19 taxpayer's state tax liability equal to the product of 20
20 cents multiplied by the number of gallons of ethanol produced
21 at the facility using Florida-grown commodities.

22 (b) A taxpayer who produces biodiesel at a facility
23 located in this state is entitled to a credit against the
24 taxpayer's state tax liability equal to the product of 20
25 cents multiplied by the number of gallons of biodiesel
26 produced at the facility using Florida-grown commodities.

27 (2) The department shall adopt rules relating to the
28 forms required to claim a tax credit under this section, the
29 requirements and basis for establishing an entitlement to a
30 credit, and the examination and audit procedures required to
31 administer this section.

1 (3) This section is repealed July 1, 2010.

2 Section 72. By November 1, 2006, the Department of
3 Environmental Protection shall provide to the Governor, the
4 President of the Senate, and the Speaker of the House of
5 Representatives a report detailing the state's leadership by
6 example in energy conservation and energy efficiency. The
7 report must include a description of state programs designed
8 to achieve energy conservation and energy efficiency at
9 state-owned facilities, such as the guaranteed energy
10 performance savings contracting pursuant to s. 489.145,
11 Florida Statutes, and the inclusion of alternative fuel
12 vehicles in state fleets. The report must describe the costs
13 of implementation, details of the programs, and current and
14 projected energy and cost savings.

15 Section 73. This act shall take effect July 1, 2006.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 888

4 The Committee Substitute for Senate Bill 888:

5 -creates the Florida Energy Commission to develop
6 recommendations for legislation on a state energy policy;

7 -transfers the energy office from the Department of
8 Environmental Protection to the Florida Energy Commission;

9 -requires the Public Service Commission to direct a study of
10 the electric transmission grid and report the results;

11 -provides financial incentives for renewable energy
12 technologies, energy efficient appliances, solar energy,
13 biodiesel and ethanol, and biomass;

14 -includes the effect of fuel diversity in considerations of
15 the 10-year site plans;

16 -revises the safety standard for public utility transmission
17 facilities;

18 -revises the Florida Electrical Power Siting Act to streamline
19 and shorten time frames by: combining completeness and
20 sufficiency; eliminates mandatory land use and certification
21 hearings, and changes deadlines;

22 -exempts nuclear power plants from the requirement of a
23 competitive bid for a power supply before beginning the
24 certification and determination of need processes;

25 -directs the Public Service Commission to consider fuel
26 diversity and reliability in determining the need for a
27 proposed electric power plant;

28 -revises the Transmission Line Siting Act to streamline and
29 shorten time frames by: combining completeness and
30 sufficiency; eliminates mandatory land use and certification
31 hearings, and changes deadlines; and

-requires the Department of Environmental Protection to report
on the state's leadership by example in energy conservation
and efficiency.