

1 specified agencies to submit reports to the
2 department within a specified period; detailing
3 the contents of the reports; requiring the
4 department to prepare a written analysis of
5 each report; requiring that the reports be sent
6 to specified persons; specifying the content of
7 each analysis; creating s. 403.559, F.S.;
8 providing for notification of the report and
9 analysis to be available to the public;
10 creating s. 403.560, F.S.; providing procedures
11 for the certification proceedings; creating s.
12 403.561, F.S.; providing for the final
13 disposition of an initial application;
14 requiring the Governor and the Cabinet sitting
15 as the Siting Board to prepare written findings
16 setting forth the activities the applicant must
17 complete in order to have the application
18 approved if the certificate is denied; limiting
19 the issues that may be raised in a hearing
20 before the board to those matters raised in the
21 certification hearing; creating s. 403.562,
22 F.S.; providing that any time limit imposed by
23 the act may be altered by the administrative
24 law judge upon stipulation between the
25 department and the applicant under certain
26 circumstances; creating s. 403.563, F.S.;
27 providing that if any provision of the act is
28 in conflict with any law, rule, regulation, or
29 ordinance of this state or any political
30 subdivision, municipality, or agency, the act
31 governs and controls; declaring that the state

1 preempts the siting, regulation, and
2 certification of nuclear power plant sites and
3 nuclear power plants; creating s. 403.564,
4 F.S.; providing that the state license is the
5 sole license of the state and its agencies
6 approving the site and the construction and
7 operation of the proposed nuclear power plant;
8 providing that the certificate authorizes the
9 applicant to construct and operate the proposed
10 nuclear power plant, subject to the conditions
11 set forth in the certificate and those
12 contained in any license or permit required
13 under a federally delegated or approved permit
14 program; providing for the effect of an
15 approved certificate; creating s. 403.565,
16 F.S.; providing for methods of publishing
17 notice under the act; detailing the contents of
18 the notice; providing that the applicant must
19 pay the costs of certain notices; creating s.
20 403.566, F.S.; providing the grounds for which
21 a certificate may be revoked or suspended;
22 creating s. 403.567, F.S.; providing for review
23 procedures for applications for certification
24 which have been denied; creating s. 403.568,
25 F.S.; providing grounds that constitute a
26 violation of the act; creating 403.569, F.S.;
27 providing that the information filed with the
28 department relating to the certification of a
29 nuclear power generating plant is a public
30 record and is available for public inspection
31 and copying during regular office hours, under

1 the provisions of ch. 119, F.S.; creating s.
2 403.570, F.S.; providing procedures for
3 modifying an issued certificate; creating s.
4 403.571, F.S.; providing procedures for filing
5 a supplemental application for an existing
6 nuclear power generation plant; creating s.
7 403.572, F.S.; requiring the department to
8 charge the applicant an application fee,
9 modification fee, or supplemental application
10 fee; requiring that the fee be set by rule on a
11 sliding scale related to the size, type,
12 ultimate site capacity, increase in generating
13 capacity proposed by the application, or the
14 number and size of local governments in whose
15 jurisdiction the nuclear power plant is
16 located; providing for the distribution of the
17 fees; creating s. 403.573, F.S.; requiring the
18 Public Service Commission to determine the need
19 for siting a nuclear power generation plant;
20 providing procedures for the determination of
21 need; amending s. 403.503, F.S.; removing the
22 siting of nuclear power stations from
23 facilities that are subject to the "Florida
24 Electric Power Plant Siting Act"; reenacting
25 ss. 380.23(3)(c) and 403.5175(1), F.S.,
26 relating to consistency reviews for certain
27 federal projects and an application for
28 certification by an electrical utility that
29 owns or operates an existing electrical power
30 plant, to incorporate the amendments made to s.
31

1 403.503, F.S., in references thereto;
2 providing an effective date.
3

4 Be It Enacted by the Legislature of the State of Florida:
5

6 Section 1. Section 403.550, Florida Statutes, is
7 created to read:

8 403.550 Short title.--Sections 403.550-403.573 may be
9 cited as the "Florida Energy Diversity and Efficiency Act."

10 Section 2. Section 403.551, Florida Statutes, is
11 created to read:

12 403.551 Legislative intent.--The Legislature finds
13 that this state, its residents, and economy benefit from
14 diverse sources of fuel for the generation of electricity.
15 Diversity of fuel sources contributes to lower-cost
16 electricity and improved reliability of electric supply
17 because the state will not be over-dependent upon a particular
18 source of fuel. The Legislature finds that nuclear power
19 plants are an important source of electric generation that can
20 contribute to the diversity of fuel sources within the state.
21 The Legislature further finds that the state has five
22 operating nuclear power plants that have operated reliably for
23 the benefit of the state, contributing a stable supply of
24 electricity with minimal effects on the environment of the
25 state. The residents of this state and electric power
26 consumers have benefited from the operation of existing
27 nuclear power plants within the state through low-cost,
28 reliable energy production, electric-grid reliability, and
29 economic and environmental benefits. The Legislature further
30 finds and declares the it is in the public interest and
31 critical to the health, prosperity, and welfare of the state

1 and its residents to promote the expansion of nuclear
2 generation by the siting of new nuclear power plants within
3 the state in order to continue to receive these benefits and
4 to ensure the state's access to safe, reliable, efficient, and
5 affordable electric service, thereby enhancing the state's
6 economic future while protecting the environment. The
7 Legislature finds that recent events have shown that the state
8 is vulnerable to disruptions and price volatility in its
9 electric supplies due to the importation of natural gas and
10 oil from domestic and foreign sources. The Legislature also
11 finds that the federal Energy Policy Act of 2005 contains
12 important provisions to promote the construction and operation
13 of new nuclear power plants in the United States, including
14 financial incentives for qualifying advanced nuclear power
15 plants and incentives that are limited to the first 6,000
16 megawatts of generating capacity from an advanced nuclear
17 power plant licensed in the United States. The Legislature
18 finds that the state would benefit from the timely siting of a
19 qualifying advanced nuclear power plant as a source of
20 low-cost electricity. In consideration of the present and
21 predicted growth in electric power needs in this state and the
22 potential for additional reliable sources of electricity from
23 nuclear power plants, the Legislature finds that there is a
24 need to develop a procedure for selecting and using sites for
25 electrical generating facilities using nuclear energy. The
26 Legislature recognizes that the selection of sites for new or
27 expanded nuclear powered electrical generating plants,
28 including any associated linear facilities, will have a
29 significant effect upon the welfare of the public, the
30 location and growth of industry, and the use of the natural
31 resources of the state. The Legislature finds that the

1 efficiency of the permit application and review process at the
2 state and local level would be improved by implementing a
3 process whereby a permit application for a nuclear power plant
4 would be centrally coordinated and all permit decisions could
5 be reviewed on the basis of uniform standards and
6 recommendations of the relevant agencies. A centrally
7 coordinated permitting process would also enhance the ability
8 of the state to become the location of a qualifying advanced
9 nuclear power plant. The Legislature further finds that
10 nuclear power plants may also be the location of or otherwise
11 promote other public benefits such as water supply projects,
12 industrial development, or other activities. Legislation that
13 addresses issues unique to the siting of nuclear power plants
14 is required to encourage electric utilities to locate and
15 operate new nuclear power plant facilities within the state
16 and to take advantage of provisions of the federal Energy
17 Policy Act of 2005 which operate to reduce the overall costs
18 of such plants. It is the intent of the Legislature that the
19 state promote and approve new nuclear powered electrical
20 generating facilities that will reasonably balance the
21 increasing demands for reliable, cost-effective electric
22 power, electrical power plant location, and construction and
23 operation with the broad interests of the public.

24 Section 3. Section 403.552, Florida Statutes, is
25 created to read:

26 403.552 Definitions.--As used in ss. 403.550-403.573,
27 the term:

28 (1) "Agency" means an official, officer, commission,
29 authority, council, committee, department, division, bureau,
30 board, section, or other unit or entity of government,
31 including a regional or local governmental entity.

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

4 (3) "Applicant" means any electric utility as defined
5 under s. 366.8255(1)(a) and municipalities and towns,
6 counties, public utility districts, electric cooperatives, and
7 joint operating agencies, or combinations thereof, authorized
8 under the laws of this state to engage in the business of
9 generating, transmitting, or distributing electric energy to
10 retail electric customers in the state.

11 (4) "Application" means the documents required by the
12 Department of Environmental Protection which are filed in
13 order to initiate a certification proceeding, including the
14 documents necessary for the department to render a decision on
15 any permit required under any federally delegated or approved
16 permit program.

17 (5) "Associated facilities" means those facilities
18 that directly support the construction or operation of the
19 nuclear power plant, including, but not limited to,
20 substations, transmission lines that connect the electrical
21 power plant to an electrical transmission network, and
22 rights-of-way to which the applicant intends to connect.

23 (6) "Associated transmission line" means any new or
24 upgraded transmission line that connects the electrical power
25 plant to an electrical transmission network or rights-of-way
26 to which the applicant intends to connect, including, at the
27 applicant's option, any proposed terminal or intermediate
28 substations, substation expansions connected to the associated
29 transmission line to be certified, or new transmission lines
30 or upgrades or improvements of existing transmission lines on
31 any portion of the electrical transmission system in the state

1 which are necessary to support the generation injected to the
2 system from the proposed nuclear power plant.

3 (7) "Board" means the Governor and Cabinet sitting as
4 the Nuclear Power Plant Siting Board.

5 (8) "Certification" means the written order of the
6 board approving an application in whole or with such changes
7 or conditions as the board considers appropriate.

8 (9) "Completeness" means that the application has
9 addressed all applicable sections of the prescribed
10 application format, and that those sections are sufficient in
11 comprehensiveness of data or in quality of information
12 provided to allow the department to determine whether the
13 application provides the reviewing agencies adequate
14 information to prepare the reports required by s. 403.558.

15 (10) "Corridor" means the proposed area within which
16 an associated linear facility right-of-way is to be located.
17 The width of the corridor proposed for certification as an
18 associated facility, at the option of the applicant, may be
19 the width of the right-of-way or a wider boundary, not to
20 exceed a width of 1 mile, within which the right-of-way will
21 be located. The area within the corridor in which a
22 right-of-way may be located may be further restricted by a
23 condition of certification. After all property interests
24 required for the right-of-way have been acquired by the
25 applicant, the boundaries of the area certified shall narrow
26 to only that land within the boundaries of the right-of-way.

27 (11) "Department" means the Department of
28 Environmental Protection.

29 (12) "Designated administrative law judge" or
30 "administrative law judge" means the administrative law judge
31 assigned by the Division of Administrative Hearings under

1 chapter 120 to conduct the hearings required under ss.
2 403.550-403.573.

3 (13) "Division" means the Division of Administrative
4 Hearings.

5 (14) "Federally delegated or approved permit program"
6 means any environmental regulatory program approved by an
7 agency of the Federal Government so as to authorize the
8 department to administer and issue licenses under federal law,
9 including, but not limited to, new source review permits,
10 operation permits for major sources of air pollution; and
11 prevention-of-significant-deterioration permits under the
12 Clean Air Act, 42 U.S.C. ss. 7401 et seq.; permits under ss.
13 402 and 404 of the Clean Water Act, 33 U.S.C. ss. 1251 et
14 seq., and permits under the Resource Conservation and Recovery
15 Act, 42 U.S.C. ss. 6901 et seq.

16 (15) "License" means a franchise, permit,
17 certification, registration, charter, comprehensive plan
18 amendment, development order, or permit as defined in chapters
19 163 and 380, or similar form of authorization required by law,
20 including permits issued under a federally delegated or
21 approved permit program. The term does not include a license
22 required primarily for revenue purposes if issuance of the
23 license is merely a ministerial act.

24 (16) "Local government" means a municipality or county
25 in the jurisdiction of which the nuclear power generating
26 facility is proposed to be located, unless the term is
27 expressly stated to also include the local governments in the
28 jurisdiction of which associated facilities or associated
29 transmission lines are located.

30
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1 (17) "Modification" means any change in the
2 certification order after issuance, including a change in the
3 conditions of certification.

4 (18) "Nonprocedural requirements of agencies" means
5 any regulatory requirement of an agency established by
6 statute, rule, ordinance, or comprehensive plan, excluding any
7 provision prescribing forms, fees, procedures, or time limits
8 for the review or processing of information submitted to
9 demonstrate compliance with the regulatory requirements.

10 (19) "Notice of intent" means a notice that is filed
11 with the department on behalf of an applicant before
12 submitting an application under ss. 403.550-403.573 and that
13 notifies the department of its intent to file an application.

14 (20) "Nuclear power plant" means, for the purpose of
15 certification, any electrical generating facility using any
16 process involving nuclear materials, fuels, or processes and,
17 at the applicant's election, includes associated facilities
18 and associated transmission lines.

19 (21) "Nuclear power generating facility" means the
20 nuclear-fueled electrical generating facility within a nuclear
21 power plant, but for purposes of ss. 403.550-403.573, excludes
22 any associated facility or associated transmission line.

23 (22) "Preliminary statement of issues" means a listing
24 and explanation of those issues within the jurisdiction of an
25 agency which are of major concern to the agency in relation to
26 the proposed nuclear power plant.

27 (23) "Public Service Commission" or "commission" means
28 the agency created under chapter 350.

29 (24) "Regional planning council" means a regional
30 planning council as defined in s. 186.503(4) in the
31

1 jurisdiction of which the nuclear power generating facility is
2 proposed to be located.

3 (25) "Right-of-way" means land necessary for the
4 construction and maintenance of an associated linear facility,
5 such as a railroad line, pipeline, or transmission line,
6 including associated facilities and associated transmission
7 lines. The typical width of the right-of-way must be
8 identified in the application. The right-of-way must be
9 located within the certified corridor and must be identified
10 by the applicant after certification in documents filed with
11 the department before construction.

12 (26) "Site" means any proposed location wherein a
13 nuclear power generating facility, or a nuclear power
14 generating facility alteration or addition resulting in an
15 increase in generating capacity, will be located within this
16 state. The site may include appropriate buffers and may
17 accommodate facilities constructed by the applicant or an
18 agency to further an objective of an adopted water supply plan
19 of a water management district. For the purposes of ss.
20 403.550-403.573, the term does not include any associated
21 facilities or associated transmission lines.

22 (27) "Site certification" means the final order issued
23 by the board approving, with any conditions or modifications,
24 a proposed nuclear power plant.

25 (28) "State comprehensive plan" means that plan set
26 forth in chapter 187.

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

29 (30) "Water management district" means a water
30 management district, created under chapter 373, in the
31

1 jurisdiction of which the nuclear power plant is proposed to
2 be located.

3 Section 4. Section 403.553, Florida Statutes, is
4 created to read:

5 403.553 Department of Environmental Protection; powers
6 and duties.--The department shall:

7 (1) Adopt rules pursuant to ss. 120.536(1) and 120.54
8 to administer ss. 403.550-403.573.

9 (2) Prescribe the form and content of the public
10 notices and the notice of intent and the form, content, and
11 necessary supporting documentation and studies to be prepared
12 by the applicant for a nuclear power plant site certification.
13 Until new forms are adopted by the department, the department
14 shall use any existing forms and instructions for applying for
15 a site certification which have been adopted under the Florida
16 Electrical Power Plant Siting Act, ss. 403.501-403.518.

17 (3) Receive applications for the certification of a
18 nuclear power plant site and determine the completeness and
19 sufficiency thereof.

20 (4) Make, or contract for, studies of certification
21 applications for a nuclear power plant site.

22 (5) Administer the processing of applications for the
23 certification of a nuclear power plant site and ensure that
24 the applications are processed as expeditiously as possible.

25 (6) Require such fees as authorized under ss.
26 403.550-403.573.

27 (7) Conduct studies and prepare a written analysis
28 under s. 403.558.

29 (8) Prescribe the means for monitoring continued
30 compliance with terms of the certification.

31

1 (9) Notify all affected agencies of the filing of a
2 notice of intent within 15 days after receipt of the notice.

3 (10) Issue, with the certification of the nuclear
4 power plant, any license required under any federally
5 delegated or approved permit program.

6 Section 5. Section 403.554, Florida Statutes, is
7 created to read:

8 403.554 Applicability and certification.--

9 (1) Sections 403.550-403.573 apply exclusively to any
10 nuclear power plant and to any expansion in steam-generating
11 capacity of any existing nuclear power plant. Construction of
12 any new nuclear power plant or expansion in steam-generating
13 capacity of any existing nuclear power plant may not be
14 undertaken after the effective date of this act without first
15 obtaining certification as required in ss. 403.550-403.573.
16 Except as otherwise provided in this subsection, ss.
17 403.550-403.573 do not apply to a nuclear power plant that is
18 presently operating or that has, on the effective date of this
19 act, applied for a permit or certification under requirements
20 in force before the effective date of this act.

21 (2) Except as provided in the certification, the
22 modification of nuclear fuels, internal related hardware, or
23 operating conditions which is not in conflict with
24 certification and which does not increase the electrical
25 output of a unit to no greater capacity than the maximum
26 operating capacity of the existing electrical generator does
27 not constitute an alteration or addition to generating
28 capacity which requires certification under ss.
29 403.550-403.573.

30 (3) The application for any related department license
31 that is required under any federally delegated or approved

1 permit program must be processed within the time periods
2 authorized under ss. 403.550-403.573, in lieu of those
3 specified in s. 120.60.

4 Section 6. Section 403.555, Florida Statutes, is
5 created to read:

6 403.555 Distribution of application; schedules.--

7 (1) Within 7 days after the filing of an application,
8 the department shall provide to the applicant and the Division
9 of Administrative Hearings the names and addresses of those
10 affected individuals or agencies that are entitled to notice
11 and copies of the application and any amendments.

12 (2) Within 7 days after completeness has been
13 determined, the department shall prepare a schedule of dates
14 for submitting statements of issues, determining sufficiency,
15 and submitting final reports from affected individuals and
16 agencies and other significant dates to be followed during the
17 certification process, including dates for filing notices of
18 appearance to be a party under s. 403.560(2). The schedule
19 must establish the date for conducting any certification
20 hearing set forth in ss. 403.550-403.573. This schedule must
21 be timely provided by the department to the applicant, the
22 administrative law judge, all agencies identified in
23 subsection (1), and all parties.

24 (3) Within 7 days after the department issues the
25 names and addresses of affected individuals or other agencies
26 entitled to notice and copies of the application and any
27 amendments, the applicant shall distribute copies of the
28 application to all agencies identified by the department.
29 Copies of changes and amendments to the application shall be
30 timely distributed by the applicant to all affected agencies
31 and parties.

1 Section 7. Section 403.556, Florida Statutes, is
2 created to read:

3 403.556 Appointment of administrative law
4 judge.--Within 7 days after receipt of an application, whether
5 complete or not, the department shall request the Division of
6 Administrative Hearings to designate an administrative law
7 judge to conduct the hearings required under ss.
8 403.550-403.573. The division director shall designate an
9 administrative law judge within 7 days after receipt of the
10 request from the department.

11 Section 8. Section 403.557, Florida Statutes, is
12 created to read:

13 403.557 Determination of completeness.--

14 (1) Within 45 days after distribution of the
15 application or an amendment to a pending application, the
16 department shall file a statement with the division and with
17 the applicant declaring its position with regard to the
18 completeness of the application or amendment. The department's
19 statement shall be based upon consultation with the affected
20 agencies, which shall submit to the department recommendations
21 concerning the completeness of the application within 30 days
22 after distribution of the application.

23 (2) If the department declares the application or
24 amendment incomplete, the applicant may withdraw the
25 application or amendment. If the applicant declines to
26 withdraw the application or amendment, the applicant may, at
27 its option:

28 (a) Within 40 days after the department files its
29 statement of incompleteness or such later date as authorized
30 by department rules, file additional information necessary to
31 make the application or amendment complete. If the applicant

1 makes its application or amendment complete within this
2 period, the time schedules under ss. 403.550-403.573 are not
3 tolled by the department's statement of incompleteness;

4 (b) Advise the department and the administrative law
5 judge that the information necessary to make the application
6 or amendment complete cannot be supplied within the allotted
7 time authorized in paragraph (a); or

8 (c) Contest the statement of incompleteness by filing
9 a request for hearing with the administrative law judge within
10 15 days after the filing of the statement of incompleteness. A
11 hearing shall be held no later than 21 days after the filing
12 of the statement by the department, and a final decision shall
13 be rendered by the administrative law judge within 10 days
14 after the hearing.

15
16 Any time schedule set forth in ss. 403.550-403.573 is tolled
17 following the date that the department notifies the applicant
18 that its application, or amendment to an application, is
19 declared incomplete. The time remains tolled until the
20 application or amendment is determined complete.

21 (3)(a) If the administrative law judge determines that
22 an application or amendment is complete, all time schedules
23 under ss. 403.550-403.573 shall resume as of the date of the
24 judge's decision.

25 (b) If the administrative law judge agrees that the
26 application is incomplete, all time schedules under ss.
27 403.550-403.573 remain tolled until the applicant files
28 additional information and the application or amendment is
29 determined complete by the department or the administrative
30 law judge.

31

1 (4) If, within 30 days after receipt of the additional
2 information submitted under paragraph (2)(a), paragraph
3 (2)(b), or paragraph (3)(b), based upon the recommendations of
4 the affected agencies, the department determines that the
5 additional information supplied by an applicant does not
6 render the application or amendment complete, the applicant
7 may exercise any of the options specified in subsection (2) as
8 often as necessary to resolve the dispute.

9 Section 9. Section 403.558, Florida Statutes, is
10 created to read:

11 403.558 Preliminary statements of issues, reports, and
12 studies.--

13 (1) Each affected agency identified in paragraph
14 (2)(a) shall submit a preliminary statement of issues to the
15 department and the applicant no later than 45 days after the
16 distribution of the application. The failure to raise an issue
17 in this statement does not preclude the issue from being
18 raised in the agency's report.

19 (2)(a) Each of the following agencies shall prepare a
20 report as provided in this subsection and shall submit the
21 report to the department and the applicant within 60 days
22 after the agency's application is determined complete:

23 1. The Department of Community Affairs shall prepare a
24 report containing recommendations that address the impact upon
25 the public of the proposed nuclear power plant, based on the
26 degree to which the nuclear power plant is consistent with the
27 applicable portions of the state comprehensive plan and other
28 such matters within its jurisdiction.

29 2. The Public Service Commission shall prepare a
30 report as to the present and future need for the electrical
31 generating capacity to be supplied by the proposed nuclear

1 power plant. The report must include the commission's
2 determination under s. 403.573(4) and may include the
3 commission's comments with respect to any other matters within
4 its jurisdiction.

5 3. The water management district shall prepare a
6 report as to matters within its regulatory jurisdiction.

7 4. Each local government in whose jurisdiction the
8 proposed nuclear power plant, including associated facilities
9 and associated transmission lines, is to be located shall
10 prepare a report as to the consistency of the proposed nuclear
11 power plant with all applicable local ordinances, regulations,
12 standards, or criteria that apply to the proposed nuclear
13 power plant, including adopted local comprehensive plans, land
14 development regulations, and any applicable local
15 environmental regulations adopted under s. 403.182 or by other
16 means. Each local government in which the nuclear power
17 generating facility is to be located shall also report on
18 whether the proposed site for a nuclear power generating
19 facility is located in a future land-use category and a zoning
20 district, as adopted by the local government and which were in
21 effect on the date upon which the application was filed, which
22 permits the location of a nuclear power generating facility.
23 If the proposed site for a nuclear power generating facility
24 is not located in a future land-use category or zoning
25 district that allows such a use, the local government shall
26 identify the future land-use category or zoning district that
27 would be required to allow the proposed nuclear power
28 generating facility on the proposed site. If the proposed site
29 for a nuclear power generating facility is not located in a
30 future land-use category or zoning district that allows such a
31 use, the local government shall identify in its report any

1 reasonable and available methods that the local government
2 believes are necessary to make the proposed use of the site
3 for a nuclear power generating facility consistent with the
4 local comprehensive plan future land-use category, in
5 compliance with the local zoning code or compatible with the
6 existing land uses surrounding the proposed site of the
7 nuclear power generating facility.

8 5. The Fish and Wildlife Conservation Commission shall
9 prepare a report as to matters within its jurisdiction.

10 6. The regional planning council shall prepare a
11 report containing recommendations that address the effect upon
12 the public of the proposed nuclear power plant, as identified
13 under the applicable provisions of the strategic regional
14 policy plan adopted under chapter 186.

15 7. The Department of Health shall prepare a report as
16 to matters within its jurisdiction.

17 8. The Department of Transportation shall prepare a
18 report as to the impact of the proposed nuclear power plant
19 and associated linear facilities on roads, railroads,
20 airports, aeronautics, seaports, and other matters within its
21 jurisdiction.

22 9. Any other agency, if requested by the department
23 and upon approval of the assigned administrative law judge,
24 shall also perform studies or prepare reports as to matters
25 within that agency's jurisdiction which may be directly
26 affected by the proposed nuclear power plant.

27 (b) Each report must contain all information
28 concerning variances, exemptions, exceptions, or other relief
29 which may be required by s. 403.564(2) and any proposed
30 conditions of certification concerning matters within the
31 jurisdiction of such agency. For each condition proposed by an

1 agency in its report, the agency must list the specific
2 statute, rule, or ordinance that authorizes the proposed
3 condition. A condition of certification may not be imposed
4 upon a nuclear power plant project that is not directly
5 required to ensure compliance with a specific statute, rule,
6 or ordinance of an agency or the criteria set forth in ss.
7 403.550-403.573.

8 (c) Each agency shall initiate the activities required
9 by this section no later than 30 days after the complete
10 application is distributed.

11 (3) The department shall prepare a written analysis
12 that must be filed with the designated administrative law
13 judge and served on all parties no later than 85 days after
14 the application is determined to be complete but no later than
15 60 days before the scheduled date for the certification
16 hearing if a request for a hearing has been filed. The
17 department's analysis must include:

18 (a) A statement indicating whether the proposed
19 nuclear power plant and ultimate capacity of the site will
20 comply with the rules of the department and with a specific
21 statute, rule, or ordinance of an agency identified in that
22 agency's report.

23 (b) Copies of the studies and reports required by this
24 section and s. 403.573.

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

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

1 recommended by an agency which the department believes should
2 be imposed in any final certification.

3 (e) The recommendation of the department regarding the
4 issuance of any license required under a federally delegated
5 or approved permit program.

6 (4) Except if good cause is shown, if an agency fails
7 to submit a preliminary statement of issues or a report, or
8 fails to submit its preliminary statement of issues or report
9 within the allowed time, any time limitation set forth in ss.
10 403.550-403.573 is not affected. An agency's failure to submit
11 a preliminary statement of issues or a report, or failure to
12 submit an adequate preliminary statement of issues or report,
13 is not a reason to deny or make conditional the certification
14 of a nuclear power plant.

15 Section 10. Section 403.559, Florida Statutes, is
16 created to read:

17 403.559 Notice of department recommendation; petition
18 for certification hearing.--

19 (1) The department and the applicant shall publish a
20 public notice announcing the issuance of the department's
21 recommendation concerning the application for site
22 certification. The notice must be published in the newspaper
23 or newspapers in the locality where the proposed nuclear power
24 plant and any associated facility are to be located. The
25 notice must inform the public of the issuance of the
26 department's report, the conclusion reached in that report,
27 and the locations where the application and the department's
28 report are available for public inspection.

29 (2) Within 14 days after its receipt of the
30 department's recommendation or within 14 days after
31 publication of the newspaper notice of the department's

1 recommendation, whichever occurs first, any party or any
2 person whose substantial interests may be affected by the
3 proposed nuclear power plant may file with the department a
4 petition for a certification hearing. The petition must
5 identify the person filing the petition, the substantial
6 interests alleged to be affected, and, with specificity, those
7 issues that the person alleges require the holding of a
8 certification hearing on the proposed nuclear power plant.

9 (3) If a petition for a certification hearing is not
10 filed, the department's recommendation becomes final and is
11 not subject to a challenge or reversal in any proceeding,
12 including before the siting board. Only those conditions
13 contained in the department's recommendation may be imposed
14 upon the proposed nuclear power plant.

15 Section 11. Section 403.560, Florida Statutes, is
16 created to read:

17 403.560 Certification proceedings, parties,
18 participants.--

19 (1)(a) If a party or person whose substantial
20 interests are affected files a petition for a certification
21 hearing, the hearing must be held before a designated
22 administrative law judge no later than 260 days after the
23 application is filed with the department. However, a
24 certification hearing may not be held unless the commission
25 makes a positive determination of need for the siting of the
26 nuclear plant.

27 (b) If a timely petition for a certification hearing
28 is filed, the hearing must be held at a location in proximity
29 to the proposed site of the nuclear generating plant. The
30 certification hearing is the only hearing allowed by chapter
31 120 to determine the substantial interest of a party regarding

1 any required agency license or a related permit required under
2 any federally delegated or approved permit program.

3 (c) At the conclusion of the hearing, the
4 administrative law judge must submit a recommended order to
5 the board. The order must be sent no later than 60 days after
6 the filing of the hearing transcript. If the administrative
7 law judge fails to issue a recommended order within the
8 allotted time, the administrative law judge must submit a
9 report to the board with a copy to all parties within the
10 60-day period to advise the board of the reason for the delay
11 in the issuance of the recommended order and of the date by
12 which the recommended order will be issued.

13 (2)(a) Parties to a certification hearing include:

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

23 (b) Any party listed in paragraph (a) other than the
24 department or the applicant may waive its right to participate
25 in the certification proceedings. If a listed party fails to
26 file a notice of its intent to be a party to the proceedings
27 on or before the 90th day before the scheduled date for the
28 certification hearing, the party has waived its right to be a
29 party.

1 (c) After filing a notice of its intent to become a
2 party with the administrative law judge, the following shall
3 be named as parties to the proceeding:

4 1. Any agency not listed in paragraph (a) concerning
5 matters within its jurisdiction.

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

14 (d) Notwithstanding paragraph (e), an agency described
15 in subparagraph (c)1. which fails to file a notice of intent
16 to be a party within the time allotted to act, waives its
17 right to participate as a party in the proceeding.

18 (e) A person may intervene in the proceeding after the
19 time designated to file for participation as a party up to 30
20 days before the commencement of the certification hearing.
21 Late intervention under this paragraph may be granted by the
22 administrative law judge upon a showing of good cause that
23 excuses the late intervention and under such conditions as the
24 judge prescribes. Persons who may participate as parties
25 include any person who has failed to timely file a notice of
26 intent to be a party, whose substantial interests are affected
27 and being determined by the proceeding, and who has timely
28 filed a motion to intervene under chapter 120.

29 (f) Any agency, including those whose properties are
30 being affected under s. 403.561(5), shall be made a party upon
31 the request of the department or the applicant.

1 (3)(a) Any person participating as a party must be
2 given the opportunity to present oral or written testimony to
3 the administrative law judge.

4 (b) Any other person may be given the opportunity to
5 present oral or written testimony to the administrative law
6 judge. If the judge proposes to consider such testimony, all
7 parties have the right to cross-examine the witness or
8 challenge or rebut the testimony.

9 (4) The administrative law judge has all powers and
10 duties granted to administrative law judges by chapter 120 and
11 this chapter, including the authority to resolve disputes
12 concerning the completeness and sufficiency of an application
13 for certification.

14 Section 12. Section 403.561, Florida Statutes, is
15 created to read:

16 403.561 Final disposition of application.--

17 (1) Within 60 days after the department issues its
18 recommendations or 60 days after the board receives the
19 recommended order, the board shall issue a written order
20 granting or denying the certification for the siting of a
21 nuclear generating plant. The written order must specifically
22 state the reasons for issuing or denying the certificate. If
23 no hearing has been held, the board must enter a final order
24 approving the proposed nuclear power plant subject only to the
25 conditions of certification contained in the department's
26 recommendation prepared under s. 403.559.

27 (2) When determining whether a certificate should be
28 approved in whole, approved with modifications or conditions,
29 or denied, the board must consider whether and the extent to
30 which the location, construction, or operation of the proposed
31 nuclear power plant will:

1 (a) Meet the electrical energy needs of the state in
2 an orderly and timely fashion, as determined by the
3 commission;

4 (b) Comply with nonprocedural requirements of
5 agencies;

6 (c) Be consistent with applicable local government
7 comprehensive plans and in compliance with applicable zoning
8 ordinances. If the proposed nuclear power plant is not
9 consistent with applicable local government comprehensive
10 plans or does not comply with local zoning ordinances, the
11 board shall order that reasonable and available methods be
12 used to minimize any inconsistency with applicable future
13 land-use categories or applicable local zoning in order to
14 make the proposed nuclear power plant compatible with existing
15 land uses surrounding the site; and

16 (d) Create a reasonable balance between the need for
17 the nuclear power plant as a means of providing abundant,
18 low-cost electrical energy and the impact upon the public and
19 the environment resulting from the location, construction, and
20 operation of the proposed nuclear power plant.

21 (3) After the certification hearing, if the
22 certificate is denied, the board shall set forth in writing
23 the activities the applicant must complete in order to obtain
24 approval of the application.

25 (4) The issues that may be raised in a hearing before
26 the board are limited to those matters raised in the
27 certification hearing before the administrative law judge or
28 raised in the recommended order. Only parties to the
29 certification hearing may appear before the board and are
30 subject to s. 120.66.

31

1 (5) After issuing the certificate, the board may
2 resolve issues relating to the use of property by the nuclear
3 power plant which is held by an agency and direct any such
4 agency to execute, within 30 days after issuing the
5 certificate, the necessary licenses or easements for the use,
6 connection, or crossing of the property.

7 Section 13. Section 403.562, Florida Statutes, is
8 created to read:

9 403.562 Alteration of time limits.--Any time limit
10 imposed by this act may be altered by the administrative law
11 judge upon stipulation between the department and the
12 applicant, unless objected to by any party within 5 days after
13 notice, or for good cause shown by any party.

14 Section 14. Section 403.563, Florida Statutes, is
15 created to read:

16 403.563 Superseded laws, regulations, and
17 certification power.--

18 (1) If any provision of ss. 403.550-403.573 conflicts
19 with any other provision, limitation, or restriction under any
20 law, rule, regulation, or ordinance of this state or any
21 political subdivision, municipality, or agency, ss.
22 403.550-403.573 shall govern and control, and such law, rule,
23 regulation, or ordinance is superseded for the purposes of ss.
24 403.550-403.573.

25 (2) The siting, regulation, and certification of
26 nuclear power plant sites and nuclear power plants as defined
27 in ss. 403.550-403.573 is preempted to the state.

28 (3) The board may adopt rules to administer ss.
29 403.550-403.573 and to give effect to the legislative intent
30 that ss. 403.550-403.573 to provide an efficient, simplified,
31 centrally coordinated, one-stop licensing process.

1 Section 15. Section 403.564, Florida Statutes, is
2 created to read:

3 403.564 Effect of certification.--

4 (1) Except for the issuance of licenses required under
5 any federally delegated or approved permit program and as
6 otherwise provided in subsection (4), any certificate approved
7 by the board is the sole license of the state and its agencies
8 approving the site and the construction and operation of the
9 proposed nuclear power plant. The certificate authorizes the
10 applicant to construct and operate the proposed nuclear power
11 plant, subject to the conditions set forth in the certificate
12 and those contained in any license or permit required under a
13 federally delegated or approved permit program.

14 (2)(a) Except as provided in subsection (4), the
15 certificate may include conditions that constitute variances,
16 exemptions, or exceptions from nonprocedural requirements of
17 the department or any agency which were expressly considered
18 during the proceeding unless waived by the agency as provided
19 and which otherwise would be applicable to the construction
20 and operation of the proposed nuclear power plant. A variance,
21 exemption, exception, or other relief may not be granted from
22 a state statute or rule for the protection of endangered or
23 threatened species, aquatic preserves, Outstanding National
24 Resource Waters, or Outstanding Florida Waters or for the
25 disposal of hazardous waste. However, a variance, exemption,
26 exception, or other relief may be granted to the extent that
27 it is authorized by an applicable statute or rule or upon a
28 finding by the board that the siting of the nuclear power
29 plant at the site proposed by the applicant overrides the
30 public interest protected by a statute or rule from which
31 relief is sought. In addition, a variance may not be granted

1 from a rule of the department which is applicable under any
2 federally delegated or approved permit program, except as
3 expressly allowed in the federal program.

4 (b) Each party shall notify the applicant and other
5 parties no more than 60 days after the application is
6 determined complete of any nonprocedural requirements not
7 specifically listed in the application from which a variance,
8 exemption, exception, or other relief is necessary in order
9 for the board to approve issuing a certificate for a nuclear
10 power plant. If an agency fails to notify the board of such a
11 requirement, the agency waives its right to assert the
12 nonprocedural requirement.

13 (c) If a condition in a certificate issued under ss.
14 403.550-403.573 is inconsistent with or otherwise in conflict
15 with any requirement of a federal law, regulation, or license
16 regulating construction or operation of a nuclear power plant,
17 the condition in the certificate is automatically modified to
18 conform to the federal requirement or is superseded by the
19 federal requirement. The state may not enforce compliance with
20 any federal requirement under ss. 403.550-403.573, except to
21 the extent that the state is authorized to enforce the
22 condition under federal law.

23 (3) The certificate issued under ss. 403.550-403.573
24 supersedes any license, permit, certificate, or similar
25 document required by any agency under, but not limited to,
26 chapter 125, chapter 161, chapter 163, chapter 166, chapter
27 186, chapter 253, chapter 298, chapter 370, chapter 373,
28 chapter 376, chapter 380, chapter 381, chapter 387, chapter
29 403, except for permits issued under s. 403.0885 and except as
30 provided in s. 403.509(3) and (6), chapter 404, the Florida
31 Transportation Code, or 33 U.S.C. s. 1341.

1 (4) Sections 403.550-403.573 do not affect the right
2 of any local government to charge appropriate fees or require
3 that construction be undertaken in compliance with applicable
4 building codes. However, if there is a conflict between
5 requirements of local building codes and federal construction
6 requirements, the federal requirements supersede the local
7 building codes.

8 (5)(a) A nuclear power plant that is issued a
9 certificate under ss. 403.550-403.573 must comply with rules
10 adopted by the department after the issuance of the
11 certificate which prescribe new or stricter criteria, to the
12 extent that the rules are applicable to nuclear power plants.
13 Except if variances, exceptions, exemptions, or other relief
14 have been expressly granted, rules adopted after the effective
15 date of this act which prescribe new or stricter criteria
16 shall operate as automatic modifications to the certificate. A
17 holder of a certificate issued under ss. 403.550-403.573 may
18 apply to the board for relief from the rules to the extent
19 relief is available to other electrical power plants in the
20 state. Any relief must be granted in the same manner as
21 provided for the granting of relief at the time the
22 certificate was originally issued.

23 (b) Upon written notification to the department, a
24 holder of a certificate issued under ss. 403.550-403.573 may
25 choose to operate the nuclear power plant in compliance with
26 any rule adopted by the department which prescribes criteria
27 more lenient than the criteria required by the terms and
28 conditions in the certificate which are not specific to that
29 site.

30 (c) A term or condition in the certificate does not
31 preclude the holder of the certificate or any party from

1 exercising any procedural right it may have under chapter 120,
2 including those related to rulemaking proceedings.

3 Section 16. Section 403.565, Florida Statutes, is
4 created to read:

5 403.565 Notice; costs of proceeding.--

6 (1) The following notices must be published by the
7 applicant in compliance with subsection (2):

8 (a) A notice of filing of the application which must
9 be published no later than 15 days after the application has
10 been determined complete. The notice must include the
11 provisions of s. 403.564(1) and (2).

12 (b) A notice of the issuance of the report and
13 recommendation of the department which must be published no
14 later than 15 days after the report and recommendations are
15 released by the department.

16 (c) If a certification hearing is to be conducted, a
17 notice of the certification hearing.

18 (d) Notice of a request to modify an application.
19 Notice must be published if the department determines that the
20 modification requested will significantly increase the effect
21 the nuclear power plant will have on the environment or the
22 public.

23 1. Notice of receipt of the request to modify the
24 application must be published no later than 21 days after the
25 department receives the request for modification. The
26 newspaper notice must be of a size directed by the department
27 which is commensurate with the scope of the modification.

28 2. Notice of the certification hearing shall be
29 published as specified in paragraph (c).

30 (e) Notice of a supplemental application, which shall
31 be published as follows:

1 1. Notice of receipt of the supplemental application
2 shall be published as specified in paragraph (a).

3 2. Notice of the certification hearing shall be
4 published as specified in paragraph (c).

5 (2) Notices provided by the applicant must be
6 published in newspapers of general circulation within the
7 county or counties in which the proposed nuclear power plant
8 will be located. The newspaper notices must be at least
9 one-half page in size in a standard-size newspaper or a full
10 page in a tabloid-size newspaper and published in a section of
11 the newspaper other than the legal notices section. The
12 notices must include a map generally depicting the project and
13 all associated facility corridors, including associated
14 transmission lines, if any. A newspaper of general circulation
15 is the newspaper that has the largest daily circulation in
16 that county and has its principal office in that county. If
17 the newspaper having the largest daily circulation has its
18 principal office outside the county, the notices must appear
19 in the newspaper having the largest circulation in that county
20 and in a newspaper authorized to publish legal notices in that
21 county.

22 (3) All notices published by the applicant shall be
23 paid for by the applicant and shall be in addition to the
24 application fee.

25 (4) The department shall:

26 (a) Publish in the manner specified in chapter 120
27 notices of the filing of the application or the supplemental
28 application; of the department's report and recommendations;
29 of the certification hearing, if one is to be held; of the
30 hearing before the board; and of stipulations, proposed agency
31 action, or petitions for modification; and

1 (b) Provide copies of those notices to any person who
2 has requested to be placed on the departmental mailing list
3 for this purpose.

4 (5) The applicant shall pay those expenses and costs
5 associated with conducting the hearings and recording and
6 transcribing the proceedings.

7 Section 17. Section 403.566, Florida Statutes, is
8 created to read:

9 403.566 Revocation or suspension of certification.--A
10 certificate may be revoked or suspended for:

11 (1) Any materially false statement in the application
12 or in the supplemental or additional statements of fact or
13 studies required of the applicant if a true answer would have
14 warranted the board's refusal to recommend a certificate in
15 the first instance.

16 (2) Failure to comply with the terms or conditions of
17 the certificate.

18 (3) Violation of the provisions of ss. 403.550-403.573
19 or regulations or orders issued hereunder.

20 Section 18. Section 403.567, Florida Statutes, is
21 created to read:

22 403.567 Review.--Proceedings under ss. 403.550-403.573
23 are subject to judicial review in the Florida Supreme Court.
24 Separate appeals of the certification order issued by the
25 board and of any department permit issued under a federally
26 delegated or approved permit program shall be consolidated for
27 purposes of judicial review. Review on appeal is based solely
28 on the record before the board and briefs to the court and is
29 limited to determining whether the certification order
30 conforms to the State Constitution and the laws of this state
31 and the United States and is within the authority of the board

1 under ss. 403.550-403.573. The court shall proceed to hear and
2 determine the action as expeditiously as practicable and give
3 the action precedence over other matters not accorded similar
4 precedence by law.

5 Section 19. Section 403.568, Florida Statutes, is
6 created to read:

7 403.568 Enforcement of compliance.--Failure to obtain
8 a certificate before operating, failing to comply with the
9 conditions in the certificate, or to comply with ss.
10 403.550-403.573 is a violation of chapter 403.

11 Section 20. Section 403.569, Florida Statutes, is
12 created to read:

13 403.569 Availability of information.--Information
14 filed with the department relating to the certification of a
15 nuclear power generating plant is a public record and shall be
16 made available for public inspection and copying during
17 regular office hours under the provisions of chapter 119.

18 Section 21. Section 403.570, Florida Statutes, is
19 created to read:

20 403.570 Modification of a certificate.--

21 (1) A certificate may be modified after issuance as
22 follows:

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

25 (b) The department may modify the terms and conditions
26 of the certificate if no party to the certification hearing
27 objects in writing to the modification within 45 days after
28 notice by mail to the party's last address of record and if no
29 other person whose substantial interests will be affected by
30 the modification objects in writing within 30 days after
31 issuance of public notice. If objections are raised, the

1 applicant may file a petition for modification under paragraph
2 (c).

3 (c) A petition to modify a certificate may be filed by
4 the applicant or the department setting forth:

5 1. The proposed modification;

6 2. The factual reasons asserted for the modification;

7 and

8 3. The anticipated effects of the proposed
9 modification on the applicant, the public, and the
10 environment.

11
12 The petition to modify a certificate must be filed with the
13 department and the Division of Administrative Hearings.

14 (2) A petition to modify a certificate shall be
15 disposed of in the same manner as an application, but with
16 time periods established by the administrative law judge
17 commensurate with the significance of the modification
18 requested.

19 (3) Any agreement or modification under this section
20 must be in accordance with the terms of ss. 403.550-403.573. A
21 modification to a certification may not be granted which is a
22 variance from standards or rules of the department which are
23 applicable under any federally delegated or approved permit
24 program, except as expressly allowed in the federal program.

25 Section 22. Section 403.571, Florida Statutes, is
26 created to read:

27 403.571 Supplemental applications for sites certified
28 for ultimate site capacity.--

29 (1) The department shall adopt rules governing the
30 processing of a supplemental application for a certificate to
31 construct and operate a nuclear power plant to be located at a

1 site that has been previously certified under ss.
2 403.501-403.518. A supplemental application is limited to a
3 nuclear power plant using the fuel type previously certified
4 for that site. The rules adopted under this section must
5 include provisions for:
6 (a) The prompt appointment of an administrative law
7 judge.
8 (b) The contents of a supplemental application.
9 (c) The resolution of disputes as to the completeness
10 and sufficiency of supplemental applications by the
11 administrative law judge.
12 (d) The public notice of the filing of a supplemental
13 application.
14 (e) The time limits for prompt processing of a
15 supplemental application.
16 (f) The final disposition by the board within 215 days
17 after the filing of a complete supplemental application.
18 (2)(a) The time limits imposed under this section may
19 not exceed any time limit governing the review of an initial
20 application for certification of a site under ss.
21 403.550-403.573.
22 (b) Any time limitation in this section or in rules
23 adopted under this section may be altered by the
24 administrative law judge upon stipulation between the
25 department and the applicant, unless objected to by any party
26 within 5 days after notice or for good cause shown by any
27 party. The parties to the proceeding shall adhere to chapter
28 120 and ss. 403.550-403.573 when considering and processing a
29 supplemental application.
30 (3) A supplemental application shall be reviewed as an
31 initial application.

1 Section 23. Section 403.572, Florida Statutes, is
2 created to read:

3 403.572 Fees; disposition.--The department shall
4 charge the applicant the following fees, which shall be paid
5 into the Florida Permit Fee Trust Fund:

6 (1) An application fee, which may not exceed \$200,000.
7 The fee shall be set by rule on a sliding scale related to the
8 size, type, ultimate site capacity, increase in generating
9 capacity proposed by the application, or the number and size
10 of local governments in whose jurisdiction the nuclear power
11 plant is located.

12 (a) Sixty percent of the fee shall be transferred to
13 the department and used for costs associated with reviewing
14 and acting upon the application, for field services associated
15 with monitoring construction and operation of the facility,
16 and for costs of the public notices published by the
17 department.

18 (b) Twenty percent of the fee or \$25,000, whichever is
19 greater, shall be transferred to the Administrative Trust Fund
20 of the Division of Administrative Hearings of the Department
21 of Management Services.

22 (c) Upon written request and with proper itemized
23 accounting received no later than 90 days after final agency
24 action by the board or the withdrawal of the application, the
25 department shall reimburse the Department of Community
26 Affairs, the Fish and Wildlife Conservation Commission, any
27 water management district, a regional planning council, or the
28 local government in the jurisdiction in which the proposed
29 nuclear power plant is to be located, and any other agency
30 from which the department requests special studies. The fees
31 may be used to reimburse costs related to preparing studies

1 required of the agencies, for agency travel and per diem to
2 attend any hearing, and for local governments to participate
3 in the proceedings. If the amount of fees available to
4 reimburse agencies and others is insufficient to provide for
5 full reimbursement, the reimbursement shall be allocated on a
6 prorated basis.

7 (d) If any sums remain after such reimbursement, the
8 department shall retain the fees for its use in the same
9 manner as is otherwise authorized by ss. 403.550-403.573;
10 however, if the application for a certificate is withdrawn,
11 the remaining sums shall be refunded to the applicant within
12 90 days after the withdrawal of the application.

13 (2) A fee to modify a certificate, which may not
14 exceed \$30,000. The fee must be submitted to the department
15 with the filing of a petition to modify a certificate. The fee
16 shall be established, disbursed, and processed in the same
17 manner as an application fee in subsection (1), except that
18 the division may not receive a portion of the fee unless the
19 petition for modification is referred to the division for a
20 hearing. If the petition is referred for a hearing, only
21 \$10,000 of the fee may be transferred to the Administrative
22 Trust Fund of the Division of Administrative Hearings of the
23 Department of Management Services. The fee to modify a
24 certificate by agreement pursuant to s. 403.570(1)(b) shall be
25 \$10,000 and shall be paid when filing the request to modify
26 the certificate. Any sums remaining after payment of
27 authorized costs shall be refunded to the applicant within 90
28 days after the approval or the denial of the request to modify
29 the certificate or the withdrawal of the request to modify the
30 certificate.

1 (3) A supplemental application fee, not to exceed
2 \$75,000, to cover all reasonable expenses and costs of the
3 review, processing, and proceedings of a supplemental
4 application. The fee shall be established, disbursed, and
5 processed in the same manner as the certification application
6 fee in subsection (1), except that only \$20,000 of the fee
7 shall be transferred to the Administrative Trust Fund of the
8 Division of Administrative Hearings of the Department of
9 Management Services.

10 Section 24. Section 403.573, Florida Statutes, is
11 created to read:

12 403.573 Exclusive forum for determination of need.--

13 (1) At the request of an applicant, the commission
14 shall begin a proceeding to determine the need for a nuclear
15 power plant subject to ss. 403.550-403.573. The commission
16 shall publish a notice of the proceeding in a newspaper of
17 general circulation in each county in which the proposed
18 nuclear power plant will be located. The notice must be at
19 least one-quarter of a page and published at least 45 days
20 before the scheduled date for the proceeding.

21 (2)(a) The commission shall hold a hearing within 90
22 days after the filing of the petition and shall grant or deny
23 the petition no later than 135 days after the date of the
24 filing of the petition. The commission shall be the sole forum
25 for the determination of this matter and the issues addressed
26 therein, which may not be raised in any other forum or in the
27 review of proceedings in another forum. When making its
28 determination to grant or deny a petition for determination of
29 need, the commission shall consider the need for electric
30 system reliability and integrity, including fuel diversity,

31

1 the need for base-load generating capacity, and the need for
2 adequate electricity at a reasonable cost.

3 (b) An applicant's petition must include:

4 1. A description of the need for the generation
5 capacity;

6 2. A description of how the proposed nuclear power
7 plant will enhance the reliability of electric power
8 production within the state by improving the diversity of
9 power plant fuels and reducing this state's dependence on fuel
10 oil and natural gas;

11 3. A description of and a nonbinding estimate of the
12 cost of the nuclear power plant; and

13 4. The annualized base revenue requirement for the
14 first 12 months of operation of the nuclear power plant.

15 (c) The commission shall grant a petition upon a
16 finding that the nuclear power plant will:

17 1. Provide needed base-load capacity;

18 2. Enhance the reliability of electric power
19 production within the state by improving the diversity of
20 power plant fuels and reducing the dependence of this state on
21 fuel oil and natural gas; and

22 3. Provide a cost-effective, although not necessarily
23 the least cost, alternative source of power, taking into
24 account the need to improve the fuel diversity, reduce the
25 dependence of this state on fuel oil and natural gas, mitigate
26 air emission effects within the state, and contribute to the
27 long-term stability and reliability of the electric grid.

28 (3) Rule 25-22.082, Florida Administrative Code, does
29 not apply to a nuclear power plant sited under ss.
30 403.550-403.573 and an applicant is not required to secure
31

1 competitive proposals for power supply before applying for a
2 certificate and filing a petition for a determination of need.

3 (4) A determination of need for a nuclear power plant
4 creates a presumption of public need and necessity and serves
5 as the commission's report required by s. 403.558. An order
6 entered under this section constitutes final agency action. A
7 petition for reconsideration of a final order on a
8 petition-for-need determination must be filed within 5 days
9 after the final order. Within 30 days after the commission's
10 order or a decision denying a request for reconsideration or,
11 if the request for reconsideration is granted, within 30 days
12 after the commission issues its decision on reconsideration,
13 an adversely affected party may petition for judicial review
14 in the Florida Supreme Court. The petition for review must be
15 served upon the executive director of the commission
16 personally or by service at the office of the commission.
17 Review on appeal is limited to the record before the
18 commission and briefs to the court and is limited to
19 determining whether the order issued under subsection (2), or
20 the order on reconsideration, conforms to the State
21 Constitution and laws of this state and the United States and
22 is within the authority of the commission under this section.
23 The Florida Supreme Court shall proceed to hear and determine
24 the action as expeditiously as practicable and give the action
25 precedence over matters not accorded similar precedence by
26 law.

27 (5) After a petition for a determination of need has
28 been granted, the utility shall recover costs incurred before
29 the commercial operation of the nuclear generating plant,
30 including, but not limited to, costs associated with the
31 siting, design, licensing, or construction of the plant. The

1 costs are not subject to challenge unless the commission
2 finds, by clear and convincing evidence adduced at a hearing
3 initiated by the commission under s. 120.57, that the utility
4 was imprudent in incurring costs significantly in excess of
5 the initial, nonbinding estimate provided by the utility under
6 paragraph (2)(b). Imprudence does not include any cost
7 increases due to events beyond the control of the utility,
8 including delays in obtaining necessary governmental agency
9 permits or licenses; delays due to litigation; increased costs
10 for equipment, engineering, material, or construction;
11 increases due to inflation or other economic factors; or
12 increases in costs due to laws, rules, or regulatory
13 conditions imposed by a state or federal governmental agency
14 or court following the issuance of a need-determination order
15 by the commission. In addition, a utility's right to recover
16 costs associated with a nuclear power plant may not be raised
17 in any other forum or in the review of proceedings in such
18 other forum. Appeals shall be governed in accordance with
19 subsection (4).

20 Section 25. Subsection (12) of section 403.503,
21 Florida Statutes, is amended to read:

22 403.503 Definitions relating to Florida Electrical
23 Power Plant Siting Act.--As used in this act:

24 (12) "Electrical power plant" means, for the purpose
25 of certification, any steam or solar electrical generating
26 facility using any process or fuel, ~~including nuclear~~
27 ~~materials,~~ and includes associated facilities which directly
28 support the construction and operation of the electrical power
29 plant and those associated transmission lines which connect
30 the electrical power plant to an existing transmission network
31 or rights-of-way to which the applicant intends to connect,

1 | except that this term does not include any steam or solar
2 | electrical generating facility of less than 75 megawatts in
3 | capacity unless the applicant for such a facility elects to
4 | apply for certification under this act. An associated
5 | transmission line may include, at the applicant's option, any
6 | proposed terminal or intermediate substations or substation
7 | expansions connected to the associated transmission line.

8 | Section 26. For the purpose of incorporating the
9 | amendment made by this act to section 403.503, Florida
10 | Statutes, in a reference thereto, paragraph (c) of subsection
11 | (3) of section 380.23, Florida Statutes, is reenacted to read:

12 | 380.23 Federal consistency.--

13 | (3) Consistency review shall be limited to review of
14 | the following activities, uses, and projects to ensure that
15 | such activities, uses, and projects are conducted in
16 | accordance with the state's coastal management program:

17 | (c) Federally licensed or permitted activities
18 | affecting land or water uses when such activities are in or
19 | seaward of the jurisdiction of local governments required to
20 | develop a coastal zone protection element as provided in s.
21 | 380.24 and when such activities involve:

22 | 1. Permits and licenses required under the Rivers and
23 | Harbors Act of 1899, 33 U.S.C. ss. 401 et seq., as amended.

24 | 2. Permits and licenses required under the Marine
25 | Protection, Research and Sanctuaries Act of 1972, 33 U.S.C.
26 | ss. 1401-1445 and 16 U.S.C. ss. 1431-1445, as amended.

27 | 3. Permits and licenses required under the Federal
28 | Water Pollution Control Act of 1972, 33 U.S.C. ss. 1251 et
29 | seq., as amended, unless such permitting activities have been
30 | delegated to the state pursuant to said act.

31 |

1 4. Permits and licenses relating to the transportation
2 of hazardous substance materials or transportation and dumping
3 which are issued pursuant to the Hazardous Materials
4 Transportation Act, 49 U.S.C. ss. 1501 et seq., as amended, or
5 33 U.S.C. s. 1321, as amended.

6 5. Permits and licenses required under 15 U.S.C. ss.
7 717-717w, 3301-3432, 42 U.S.C. ss. 7101-7352, and 43 U.S.C.
8 ss. 1331-1356 for construction and operation of interstate gas
9 pipelines and storage facilities.

10 6. Permits and licenses required for the siting and
11 construction of any new electrical power plants as defined in
12 s. 403.503(12), as amended, and the licensing and relicensing
13 of hydroelectric power plants under the Federal Power Act, 16
14 U.S.C. ss. 791a et seq., as amended.

15 7. Permits and licenses required under the Mining Law
16 of 1872, 30 U.S.C. ss. 21 et seq., as amended; the Mineral
17 Lands Leasing Act, 30 U.S.C. ss. 181 et seq., as amended; the
18 Mineral Leasing Act for Acquired Lands, 30 U.S.C. ss. 351 et
19 seq., as amended; the Federal Land Policy and Management Act,
20 43 U.S.C. ss. 1701 et seq., as amended; the Mining in the
21 Parks Act, 16 U.S.C. ss. 1901 et seq., as amended; and the OCS
22 Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, for
23 drilling, mining, pipelines, geological and geophysical
24 activities, or rights-of-way on public lands and permits and
25 licenses required under the Indian Mineral Development Act, 25
26 U.S.C. ss. 2101 et seq., as amended.

27 8. Permits and licenses for areas leased under the OCS
28 Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, including
29 leases and approvals of exploration, development, and
30 production plans.

31

1 9. Permits and licenses required under the Deepwater
2 Port Act of 1974, 33 U.S.C. ss. 1501 et seq., as amended.

3 10. Permits required for the taking of marine mammals
4 under the Marine Mammal Protection Act of 1972, as amended, 16
5 U.S.C. s. 1374.

6 Section 27. For the purpose of incorporating the
7 amendment made by this act to section 403.503, Florida
8 Statutes, in a reference thereto, subsection (1) of section
9 403.5175, Florida Statutes, is reenacted to read:

10 403.5175 Existing electrical power plant site
11 certification.--

12 (1) An electric utility that owns or operates an
13 existing electrical power plant as defined in s. 403.503(12)
14 may apply for certification of an existing power plant and its
15 site in order to obtain all agency licenses necessary to
16 assure compliance with federal or state environmental laws and
17 regulation using the centrally coordinated, one-stop licensing
18 process established by this part. An application for site
19 certification under this section must be in the form
20 prescribed by department rule. Applications must be reviewed
21 and processed in accordance with ss. 403.5064-403.5115, except
22 that a determination of need by the Public Service Commission
23 is not required.

24 Section 28. This act shall take effect upon becoming a
25 law.

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SENATE SUMMARY

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3 Creates the "Florida Energy Diversity and Efficiency
4 Act." Specifies the powers and duties of the Department
5 of Environmental Protection relating to nuclear power
6 generating plants. Provides that the act applies to
7 building any new nuclear power plant or expanding
8 steam-generating capacity of any existing nuclear power
9 plant after the effective date of the act. Requires the
10 department to request that the Division of Administrative
11 Hearings designate an administrative law judge to conduct
12 the hearings. Provides the procedures for determining the
13 completeness of an application for siting a nuclear power
14 generating plant. Requires certain specified agencies to
15 submit a preliminary statement of issues to the
16 department and to submit reports within a specified time.
17 Details the contents of the reports. Requires the
18 department to prepare a written analysis of each report.
19 Specifies the content of each analysis. Provides
20 procedures for the certification proceedings. Limits the
21 issues that may be raised in a hearing before the board
22 to those matters raised in the certification hearing.
23 Provides that if any provision of the act is in conflict
24 with any law, rule, regulation, or ordinance of this
25 state or any political subdivision, municipality, or
26 agency, the act governs and controls. Declares that the
27 state preempts the siting, regulation, and certification
28 of nuclear power plants. Provides that the state license
29 is the sole license of the state and its agencies
30 approving the site and the construction and operation of
31 the proposed nuclear power plant. Provides for the
methods of publishing notice under the act. Provides the
grounds for which a certificate may be revoked or
suspended. Provides that the information filed with the
department relating to the certification of a nuclear
power generating plant is a public record and is
available for public inspection and copying. Provides
procedures for filing a supplemental application for
existing nuclear power generation plants. Requires the
department to charge the applicant an application fee,
modification fee, or supplemental application fee.
Provides for the distribution of the fees. Requires the
Public Service Commission to determine the need for
siting a nuclear power generation plant. Provides
procedures for the determination of need.