`SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Environmental Preservation Committee

BILL:	CS/CS/SB 888
INTRODUCER:	Environmental Preservation Committee, Communications & Public Utilities Committee, Senator Constantine and others
SUBJECT:	Energy
DATE:	April 5, 2006
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	**Favorable/CS**
2.	Branning	Kiger	EP	**Favorable/CS**
3.			WM	
4.				
5.				
6.				

I. Summary:

The committee substitute:

- Creates the Florida Energy Commission to develop recommendations for legislation on a state energy policy;
- Transfers the energy office from the Department of Environmental Protection to the Florida Energy Commission;
- Requires the Public Service Commission to direct a study of the electric transmission grid and report the results;
- Requires the Energy Commission to develop a comprehensive state climate action plan;
- Provides financial incentives for renewable energy technologies, energy efficient appliances, solar energy, biodiesel and ethanol, and biomass;
- Includes the effect of fuel diversity in considerations of the 10-year site plans;
- Revises the safety standard for public utility transmission facilities;
- Revises the Florida Electrical Power Siting Act to streamline and shorten time frames by: combining completeness and sufficiency; eliminating mandatory land use and certification hearings, and changing deadlines;
- Exempts nuclear power plants from the requirement of a competitive bid for a power supply before beginning the certification and determination of need processes;
- Directs the Public Service Commission to consider fuel diversity and reliability in determining the need for a proposed electric power plant;
- Revises the Transmission Line Siting Act to streamline and shorten time frames by: combining completeness and sufficiency; eliminating mandatory land use and certification hearings, and changing deadlines; and

- Requires the Department of Environmental Protection to report on the state's leadership by example in energy conservation and efficiency.

The bill substantially amends the following sections of the Florida Statutes: 212.08, 213.053, 220.02, 220.13, 186.801, 366.04, 366.05, 403.503, 403.504, 403.5055, 403.506, 403.5064, 403.5065, 403.5066, 403.507, 403.508, 403.509, 403.511, 403.5115, 403.513, 403.516, 403.517, 403.5175, 403.518, 403.519, 403.52, 403.521, 403.522, 403.523, 403.524, 403.525, 403.5251, 403.5252, 403.526, 403.527, 403.5271, 403.5272, 403.5275, 403.528, 403.529, 403.531, 403.5312, 403.5315, 403.5365, 403.537, 373.441, 403.061, 403.0876, and 403.809.

The bill creates the following sections of the Florida Statutes: 220.192, 220.193, 220.194, 220.195, 377.801, 377.802, 377.803, 377.804, 377.805, 377.806, 403.50663, 403.50665, 403.5112, 403.5113, 403.5317, 403.5363, 570.954, and 220.192.

The bill repeals the following sections of the Florida Statutes: 403.5067, 403.5253 and 403.5369.

II. Present Situation:

On November 10, 2005, Governor Jeb Bush by Executive Order called for the creation of the 2005 Florida Energy Forum to develop the state's energy plan.

In his Executive Order, the governor stated that:

- Florida ranks fifth nationally in the amount of energy consumed per capita and third in total energy consumption in the U.S.
- Florida's need for electrical generation is expected to grow by approximately 58 percent between 2002 and 2020.
- Florida uses 8.6 million gallons of gasoline per year, and consumption is growing 300 million gallons per year.
- Less than one percent of Floridians own automobiles that use alternative fuels.
- Current trends indicate Florida's dependence on natural gas to generate electricity will continue to increase.
- Florida annually produces less than one percent of crude oil production and depends almost exclusively on other states and countries for supplies of oil.
- Catastrophic hurricane seasons in 2004 and 2005 have underscored Florida's vulnerability to disruptions in energy supply and the resulting impacts to Florida's economy, environment, and quality of life.
- The Governor's Office and the Governor's executive agencies are leading Florida's conservation efforts by adopting multi-phased, event-based, cost-effective, efficient practices, which include, but are not limited to, replacing some traditional motor vehicles with hybrid vehicles, eliminating the use of non-essential equipment and appliances, turning off all lights, computers, and office equipment while not in use, and adjusting thermostats in state buildings.[1]

[1] Executive Order Number 05-241

The panel host for the Energy Forum was Secretary of the Department of Environmental Protection (DEP). Panel participants included utility representatives, Public Service Commission and Public Counsel representatives, oil and gas representatives, state legislative representatives, local government representatives, a representative from the National Nuclear Security Administration, environmental representatives, and business representatives. The purpose of the Energy Forum was to prepare Florida's Energy Plan. As a result of the activities of the Energy Forum, the report, *Florida's Energy Plan*, was issued on January 17, 2006, by the DEP.

The report contains recommendations for achieving a diverse and reliable energy future that is built on the underlying principles of conservation and efficiency. Those recommendations describe administrative actions for immediate implementation, proposals for legislative action during the 2006 Legislative Session and policy improvements that will enhance electric power generation and transportation fuel supply to help provide energy stability over the long-term.[2]

The recommendations included, but were not limited to:

- Streamlining and expediting the siting and permitting of generation resources by revising the provisions of the Florida Electrical Power Plant Siting Act.
- Streamling and expediting the siting and permitting of electrical transmission and distribution resources by revising the provisions of the Transmission Line Siting Act.
- Incorporating the siting of substations into the Transmission Line Siting Act.
- Promoting fuel diversity, fuel supply reliability and energy security.
- Facilitating additional fuel delivery mechanisms in Florida for power generation.
- Establishing an energy council to provide policy advice and counsel to the Governor, Speaker of the House of Representatives, and President of the Senate.
- Expediting state performance contracting with energy service companies.
- Promoting awareness of energy conservation and alternative energy technologies.
- Providing grant funding for research and demonstration projects associated with the development and implementation of renewable energy systems. Expanding solar, hydrogen, biomass, wind, ocean current and other emerging technologies.
- Identifying alternative energy production and distribution industries as Qualified Target Industries[3].
- Providing consumer rebates for purchases of energy efficient ENERGY STAR™ appliances.
- Providing sales and corporate tax incentives for the manufacture, purchase and use of fuel cells for supplemental and backup power.
- Facilitating additional and diverse petroleum supply and distribution mechanisms into and within Florida.
- Encouraging fueling stations to cooperatively adopt a system modeled after the Florida WARN System to facilitate the relocation and use of generators to reestablish service.
- Providing grant funding for applied research and demonstration projects associated with the development and implementation of alternative fuel vehicles and other emerging technologies.

[2] Florida's Energy Plan, January 17, 2006, Department of Environmental Protection, page 10.
[3] As provided in s. 288.106, F.S., a qualified target industry business is a target industry business that has been approved for certain tax refunds by the Office of Tourism, Trade, and Economic Development in consultation with Enterprise Florida, Inc.

- Providing sales and corporate income tax credits for hydrogen vehicles and fueling infrastructure.
- Providing corporate sales and income tax incentives to improve production, develop distribution infrastructure and increase availability of clean fuels, including biodiesel and ethanol.[4]

The Florida Energy Office is the state's primary center for energy policy under Governor Bush and is administratively housed in the DEP. In addition to developing and implementing Florida's energy policy, the Energy Office coordinates all federal energy programs delegated to the state, including energy supply, demand, conservation and allocation.[5]

The Energy Office also coordinates fuel supply and requests for fuel from local governments, law enforcement, and healthcare facilities throughout the state during hurricanes.

The Florida Electrical Power Plant Siting Act (ss. 403.501-403.518, F.S.) was created in 1973 to provide a centralized permitting process for electrical power plants. The intent of the act, as stated in s. 403.502, F.S., was to balance the increasing demands for electrical power plant location and operation with the broad interests of the public. The act intends to seek courses of action that will assure the citizens of Florida that the operation safeguards are technically sufficient to provide for their welfare and protection. Also, the act seeks to assure that there will be a reasonable balance between the need for the facility and the environmental impact resulting from construction and operation of the facility, including air and water quality, fish and wildlife, and the water resources and other natural resources of the state. As provided in s. 403.503, F.S., the act applies to all electrical power plants except that the term "electrical power plant" does not include any steam or solar electrical generating facility of less than 75 megawatts in capacity unless the applicant for such a facility elects to apply for certification under this act.

The Florida Transmission Line Siting Act (ss. 403.52-403.5365, F.S.) was created in 1980 to create a centralized and coordinated permitting process for the location and maintenance of transmission lines. The act generally applies to any transmission line except a transmission line certified pursuant to the Florida Electrical Power Plant Siting Act. The act also does not apply to certain transmission lines for which development approval has been obtained under ch. 380, F.S.; transmission line development in which all construction is limited to established rights-of-way; and transmission lines which are less than 15 miles in length or which do not cross a county line, unless the applicant has elected to apply for certification under the act.

III. Effect of Proposed Changes:

Section 1 creates the Florida Energy Commission and locates it within the Office of Legislative Services for administrative purposes. The commission is to have 19 members, 9 voting members and 10 nonvoting members. The voting members are to be appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives, each of whom will appoint 3 members. The legislative appointments are to be made in consultation with the

[4] Id.
[5] www.dep.state.fl.us/energy/

minority leaders. The voting members have 4-year terms; however, to establish staggered terms, for the initial appointments, each appointing official appoints one member to a 2-year term, one member to a 3-year term, and one member to a 4-year term.

A voting member must be an expert in energy, natural resource conservation, economics, engineering, finance, law, consumer protection, state energy policy, or another field substantially related to the duties and functions of the commission, and the commission membership must fairly represent these fields. Additionally, a voting member cannot have specified financial interests or employment relationships.

The nonvoting members consist of:

- The Chair of the Florida Public Service Commission;
- The Public Counsel;
- The Commissioner of Agriculture;
- The Secretary of the Department of Environmental Protection;
- The Secretary of the Department of Community Affairs;
- The Secretary of the Department of Transportation;
- The Secretary of Health;
- The Director of the Office of Insurance Regulation;
- The Chair of the State Board of Education; and
- The Director of the Florida Solar Energy Center.

The Governor selects the commission chair. Meetings are to be held around the state, at the call of the chair, but the commission must meet at least twice a year. Voting members serve without compensation, but are to be entitled to reimbursement for per diem and travel expenses as provided by s. 112.061, F.S. Nonvoting members serve at the expense of the entity they represent.

The commission may employ staff to assist in performance of its duties, including an executive director, an attorney, a communications person, and an executive assistant. Additionally, agencies whose heads serve as non-voting members must supply staff and resources as necessary to provide information needed by the commission. The commission may appoint focus groups to work on specific issues.

The commission is to develop recommendations for legislation to establish a state energy policy based on the guiding principles of reliability, efficiency, affordability, and diversity. The bill sets out lists of specific issues the commission is to consider relating to fossil fuels used to generate electricity, fuel diversity and alternative energy technology, demand side management and efficiency, transmission and distribution facilities, the relationship between energy and growth management, research, development, and deployment of new or alternative energy technologies, fossil fuels for motor vehicles, alternative fuels for motor vehicles, and research, development, and deployment of these alternative fuels.

The commission is required to report annually, no later than December 31 of each year, to the Governor, Cabinet, the President of the Senate, and the Speaker of the House of Representatives on its progress and recommendations, including draft legislation. The commission’s initial report

must: identify incentives for research, development, or deployment projects involving the goals and issues set forth herein; set forth recommendations on improvements to the electricity transmission and distribution system including recommended incentives to encourage utilities and local governments to work together in good faith on under ground utility issues; set forth the appropriate test for the Public Service Commission to use in determining which energy efficiency programs are cost effective and should be implemented, together with the rationale in selecting the test; and, set forth a plan of action, together with a timetable, for addressing the remaining issues.

The commission is to continually review the statewide energy policy and recommend any necessary changes or improvements to the Legislature.

Also, the commission shall, by December 31, 2006, submit a report to the Governor, the Cabinet, the President of the Senate, and the Speaker of the House of Representatives, which recommends consensus-based public-involvement processes to reduce greenhouse gas emissions in this state and to make such reductions and related economic, energy, and environmental co-benefits a state priority. The report must include steps and a schedule for the development of a comprehensive state climate action plan with statewide greenhouse-gas-reduction goals and a range of specific polity options for all economic sectors to be developed through a public-involvement process, including transportation and land use; power generation; residential, commercial, and industrial activities; waste management; agriculture and forestry; emissions-reporting system; and public education. The committee substitute specifies what the climate action plan must include.

Section 2 transfers, by a type two transfer, the state energy program (known as the Energy Office) from the Department of Environmental Protection to the Florida Energy Commission. The transfer includes all statutory powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds associated with the program.

Section 3 requires the Public Service Commission (PSC) to direct a study of the transmission grid reliability, including hardening of infrastructure, and report to the Governor, the Senate President, and the Speaker of the House by March 1, 2007.

Section 4 provides legislative intent regarding the development of renewable energy technologies and energy efficiency for Florida. The Legislature finds that the state is ideally positioned to stimulate economic development through such renewable energy technologies due to its ongoing and successful research and development track record in these areas, an abundance of natural and renewable energy sources, an ability to attract significant federal research and development funds, and the need to find and secure renewable energy technologies for the benefit of its residents, visitors, and environment.

Section 5 requires the PSC to adopt appropriate goals for increasing the use of Florida renewable energy resources. The commission may change the goals for reasonable cause; however, the time period to review and reset the goals may not exceed 5 years.

In addition to the avoided cost payments authorized by s. 366.91, F.S., and in order to promote the production of energy from Florida renewable energy resources, the commission may approve

bilateral contracts providing for contract payments to producers of such energy in an amount equal to 50 percent above the utility's full avoided costs.

A credit against the corporate income tax shall be granted to the utility in an amount equal to the annual cost of contract payments to Florida renewable energy resources which are in excess of the utility's full avoided cost. Provides that the unused credit may be carried forward.

Section 6 creates s. 377.801, F.S., the "Florida Renewable Energy Technologies and Energy Efficiency Act".

Section 7 creates s. 377.802, F.S., to provide that the purpose of the Florida Renewable Energy Technologies and Energy Efficiency Act is to provide matching grants to stimulate capital investment in the state and to enhance the market for and promote the statewide utilization of renewable energy technologies. The act is also intended to provide incentives for energy-efficient appliances and rebates for installations of solar energy equipment in residential and commercial buildings.

Section 8 creates s. 377.803, F.S., to define the following terms: "act"; "approved metering equipment"; "commission"; "department"; "Energy Star qualified appliance"; "person"; "renewable energy"; "renewable energy technology"; "solar energy system"; "solar photovoltaic system"; and "solar thermal system."

Section 9 creates s. 377.804, F.S., to establish the Renewable Energy Technologies Grants Program in the Department of Environmental Protection (DEP). Specifies who may receive matching grants for renewable energy technology demonstration, commercialization, research, and development projects. Provides the factors which are to be considered in awarding the grants.

Section 10 creates s. 377.805, F.S., to provide for the establishment of the Energy Efficient Appliance Rebate Program in DEP and to provide for financial incentives for the purchase of Energy Star qualified appliances. Any resident of the state who purchases a new Energy Star qualified appliance from July 1, 2006, through June 30, 2010, from a retail store in the state is eligible for a rebate of a portion of the purchase prices of that appliance. A person is limited to one rebate per type of appliance per year. The total dollar amount of all rebates is subject to the total amount of appropriations in any fiscal year for this program.

Section 11 creates s. 377.806, F.S., to create the Florida Solar Energy Incentives Program. Provides definitions. Provides that $1.2 million in recurring General Revenue is appropriated to the Grants and Donations Trust Fund of the Board of Governors each year for 5 years beginning with the 2006-2007 fiscal year for the purposes of supporting the development of a solar energy product market in the state.

A Solar Photovoltaic Incentive Program is created to provides rebates of expenditures made by the owner or tenant for a solar photovoltaic system that is installed after July 1, 2006, and that will be interconnected. Provides eligibility requirements. Provides that the initial rebate amount shall be set at $4 per watt and decrease by 50 cents per watt each year for 5 years. If the solar equipment is manufactured within the state, the initial rebate amount is $5. The maximum

allowable rebate per solar photovoltaic system installation is $20,000 for a residence and $!00,000 for a business, publicly owned or operated facility, or a facility owned or operated by a private, nonprofit organization.

A Solar Thermal Incentive Program is created to provide rebates for the installation of a solar thermal system that is installed after July 1, 2006. Provides eligibility requirements. Provides for the following rebate amounts:

- $300 for a residence. If the solar collector is manufactured in Florida, the rebate amount is $500.
- $15 per 1,000 BTU as certified by the Florida Solar Energy Center for a place of business, a publicly owned or operated facility, or a facility owned or operated by a private, nonprofit organization. The maximum rebate amount is $5,000. An approved metering system is required.

The Florida Solar Energy Center shall certify the performance of solar equipment sold and installed in Florida.

Section 12 amends s. 212.08, F.S., to provide for an exemption from the sales tax for equipment, machinery, and other materials for renewable energy technologies. The following is exempt from the sales tax:

- Hydrogen-powered vehicles, materials incorporated into hydrogen-powered vehicles, and hydrogen-fueling stations, up to $2 million in tax each fiscal year;
- Commercial stationary hydrogen fuel cells, up to $1 million in tax each fiscal year; and
- Materials used in the distribution of biodiesel and ethanol, including fueling infrastructure, transportation, and storage, up to $1 million in tax each fiscal year. The costs of retrofitting a gasoline fueling station pump for ethanol distribution qualifies for the exemption.

The DEP shall determine and publish on a regular basis the amount of sales tax funds remaining each fiscal year.

This exemption is repealed July 1, 2010.

Section 13 amends s. 213.053, F.S., to allow the Department of Revenue to share certain information with the DEP.

Section 14 amends s. 220.02, F.S., to provide for a cross-reference.

Section 15 creates s. 220.192, F.S., to provide for a renewable energy technologies investment tax credit against the corporate income tax. Defines “biodiesel”; “eligible costs”; “ethanol”; and “hydrogen.”

For tax years beginning on or after January 1, 2007, allows for a credit against the corporate income tax in an amount equal to the eligible costs. Credits may be used in tax years beginning January 1, 2007, through December 31, 2010, after which the credit will expire.

Section 16 creates s. 220.193, F.S., to provide for a renewable energy production credit against the corporate income tax. Defines "commission"; "Florida renewable energy resources"; and "renewable energy credit."

Section 17 creates s. 212.099, F.S., to provide for a renewable energy production credit against the sales tax. Defines "commission"; "Florida renewable energy resources"; and "renewable energy credit."

Section 18 creates s. 220.194, F.S., to provide for a renewable energy production credit against the corporate income tax. The purpose is to encourage the generation of renewable energy in Florida. Defines "commission"; "renewable Florida energy"; "affected utility"; "renewable energy project or contract"; "approved renewable energy project or contract"; and "benchmark energy cost."

A credit against the corporate income tax is allowed to an affected utility with respect to sales of renewable Florida energy pursuant to an approved renewable energy project or contract. The credit shall be in an amount equal to the lesser of:

- $5 for each megawatt hour of renewable Florida energy that the affected utility actually delivers to its customer pursuant to an approved renewable energy project or contract during the tax year; or
- 50 percent of the excess, if any, of the renewable Florida energy cost, over the benchmark energy cost, for each megawatt hour of renewable Florida energy that the affected utility actually delivers to its customers pursuant to an approved renewable energy project or contract during the tax year.

Section 19 amends s. 220.13, F.S., to provide a cross-reference.

Section 20 amends s. 186.801, F.S., to require the PSC to consider when reviewing each public utility's 10-year site plan, the effect on fuel diversity within the state.

Section 21 amends s. 366.04, F.S., to provide the minimum safety standards that the PSC may adopt for transmission and distribution facilities is the current standard, the National Electrical Safety Code.

Section 22 amends s. 366.05, F.S., to authorize the PSC to adopt safety standards exceeding this code. It also authorizes the PSC to include in its review of the energy grid a consideration of any inadequacies in fuel diversity or fuel supply reliability.

Sections 23 amends s. 403.503, F.S., to revise certain definitions. "Application" is amended to mean the documents required by the DEP to be filed to initiate a certification review and evaluation, including the initial document filing, amendments, and responses to requests from the department for additional data and information.

"Completeness" means that the application has addressed all applicable sections of the prescribed application format, and those sections are sufficient in comprehensiveness of data or in quality of information to allow the department to determine whether the application provides the reviewing agencies adequate information to prepare certain reports.

"Electrical power plant" is amended to exclude any steam or solar electric generating facility of less than 75 megawatts in capacity unless the applicant elects to apply for certification under the Power Plant Siting Act. The term includes associated facilities to be owned by the licensee which directly support the construction and operation of the electrical power plant such as fuel unloading facilities, pipelines necessary for transporting fuel for the operation of the facility or other fuel transportation facilities, water or wastewater transport pipelines, construction, maintenance and access roads, railway lines necessary for transport of construction equipment or fuel for the operation of the facility and those transmission lines owned by the licensee. Associated facility may include, at the applicant's option, offsite associated facilities that will not be owned by the applicant.

"Licensee" means an applicant that has obtained a certification order the subject project.

"Right-of-way" includes any land necessary for the construction and maintenance of a connected associated linear facility as owned by or proposed to be certified by the applicant.

"Ultimate site capacity" means the maximum generating capacity for a site as certified by the board.

Section 24 amends s. 403.504, F.S., on the powers of DEP. Currently DEP has the power to adopt rules setting forth environmental precautions to be followed in relation to the location and operation of a power plant. The bill adds to this the construction of a power plant.

The DEP is authorized to issue final orders after receipt of the administrative law judge's order relinquishing jurisdiction.

The DEP may act as clerk for the siting board.

The DEP may administer and manage the terms and conditions of the certification order and supporting documents and records for the life of the facility.

The DEP may issue emergency orders on behalf of the board for licensed facilities.

Section 25 amends s. 403.5055, F.S., relating to the application for a permit under the federally approved state National Pollutant Discharge Elimination System (NPDES) Program, to provide that if available at the time the department issues its project analysis, the department shall include in its written project analysis copies of the department's proposed action pursuant to a NPDES permit. The department shall not issue or deny the NPDES permit in advance of the issuance of the electric power plant certification unless required to do so by the provisions of federal law. When possible, a hearing on a NPDES permit shall be conducted in conjunction with the certification hearing.

Section 26 amends s. 403.506, F.S., to provide that the provisions of the Power Plant Siting Act do not apply to any unit capacity extension of 35 megawatts or less of an existing exothermic reactor cogeneration unit that was exempt from act when originally built. However, this exemption does not apply if the unit uses oil or natural gas for purposes other than to start the

unit. Certain new construction of new electrical power plant or expansion is prohibited unless certain conditions are met.

Section 27 amends s. 403.5064, F.S., to establish the formal date of filing a certification application and the beginning of the certification review process. Copies of the application shall be distributed within 5 days by the applicant to any additional agencies entitled to notice and copies of the application.

Within 7 days after the filing of the proposed schedule, the administrative law judge (ALJ) shall issue an order establishing a schedule for the matters addressed in the department's proposed schedule. Provides for notice of the filing of the application.

Section 28 amends s. 403.5065, F.S., to provide that the ALJ is to have all powers and duties granted to ALJs by ch. 120, F.S., and the DEP rules.

Section 29 amends s. 403.5066, F.S., relating to the determination of completeness. Within 30 days after filing of an application, the affected agencies shall file a statement with DEP containing each agency's recommendations on the completeness of the application. Within 40 days after the filing of an application, the DEP shall file a statement with the Division of Administrative Hearings, with the applicant, and with all parties declaring its position regarding completeness of the application. The DEP's statement shall be based upon consultation with the affected agencies.

If the application is declared incomplete, the applicant, within 15 days, shall file with the DEP:

- A withdrawal of the application;
- A statement agreeing to supply the additional information necessary to make the application complete. The additional information shall be provided within 30 days after the issuance of the DEP's statement concerning completeness. The time schedules may not be tolled if the applicant makes the application complete within 30 days after issuance of the DEP's completeness statement.
- A statement contesting the DEP's determination of incompleteness; or
- A statement agreeing with the DEP and requesting additional time beyond 30 days to provide the information necessary to make the application complete.

The parties to a hearing on completeness are specified.

No later than 15 days after the applicant files the additional information, each affected agency may submit a recommendation on whether the agency believes the application is complete.

Section 30 creates s. 403.50663, F.S., to authorize each local government within whose jurisdiction the power plant is proposed to be sited, to hold one informational public meeting in addition to the hearings specifically authorized on any matter associated with the electric power plant proceeding. The informational meeting shall be held by the local government within 70 days after the application is filed. If the local government does not hold the meeting, the regional planning council will hold the meeting. The purpose of an informational public meeting is for the local government or regional planning council to further inform the public about the proposed electric power plant or associated facilities, obtain comments from the public, and formulate its

recommendation with respect to the proposed electric power plant. Informational public meetings are to be held solely at the option of each local government or regional planning council, however, the bill states that it is the legislative intent that local governments or regional planning councils attempt to hold such public meetings. Parties to the certification proceedings are encouraged to attend; however, no party other than the applicant and DEP is required to attend. A local government or regional planning council that intends to conduct an informational public meeting must provide notice of the meeting to all parties not less than 5 days prior to the meeting. The failure to hold an informational public meeting or the procedure used for the informational public meeting are not grounds for the alteration of any time limitation or grounds to deny or condition certification.

Section 31 creates s. 403.50665, F.S., to require that the applicant include with the application a statement concerning the consistency of the site or any directly associated facilities with existing land use plans and zoning ordinances that were in effect on the date the application was filed. Within 80 days after the application is filed, each local government must file a determination with DEP, the applicant, the ALJ, and all parties on the consistency of the site or any directly associated facilities within their jurisdiction with existing land use plans and zoning ordinances which were in effect on the date the application was filed. The applicant must publish notice of the determination in a prescribed manner. If any substantially affected person wishes to dispute the local government's determination, he or she must file a petition with the department within 15 days of the publication of notice of the local government's determination. If a hearing is requested, the provisions of s. 403.508(1), F.S., apply. If a substantially affected person wishes to dispute the local government' determination, a petition may be filed within 15 days after the publication of notice of the local government's determination. The time period may be altered upon an agreement between the applicant, the local government, and the DEP. If it is determined by the local government that the proposed site or directly associated facility does conform with existing land use plans and zoning ordinances in effect as of the date of the application and no petition has been filed, the responsible zoning or planning authority cannot thereafter change these land use plans or zoning ordinances so as to foreclose construction and operation of the proposed site or directly associated facilities unless certification is subsequently denied or withdrawn.

Section 32 repeals s. 403.5067, F.S., which provides for a determination of sufficiency of the application, which is made a part of the determination of completeness in the bill.

Section 33 amends s. 403.507, F.S., to change the date on which each affected agency must submit a preliminary statement of issues to DEP from 60 days after distribution of the complete application to 40 days after the application has been determined to be complete. The committee substitute also changes the date for affected agencies to prepare reports and submit them to DEP and the applicant from within 150 days after distribution of the complete application to no later than 100 days after the determination of completeness. The committee substitute deletes a requirement that the PSC file a report on the determination of need for the power plant at this time, instead requiring that report 150 days from the date the application is filed. It requires that the water management district's report contain the impact on water resources, on regional water supply planning, and on district-owned lands and works. The committee substitute deletes a requirement that each affected local government's report address the consistency of the proposed power plant with adopted local comprehensive plans and land development regulations. It

requires that the Department of Transportation report on the impact of proposed power plant and matters within its jurisdiction. The committee substitute also deletes a requirement that DEP prepare or contract for studies on the impact of the proposed plant on specified items. The committee substitute revises the requirements for each report as to variances. Currently, each report must contain all information on variances, exemptions, and exceptions or other relief which may be required. The committee substitute changes this to require that each report contain a notice of any nonprocedural requirements not specifically listed in the application from which a variance, exemption, or exception or other relief is necessary for the proposed power plant to be certified, and provides that failure to provide this notice is a waiver of such a requirement. Reduces the time in which agencies must initiate the activities in this section from 30 days to 15 days. No later than 150 days after the application is filed, the PSC shall prepare a report as to the present and future need for electric generating capacity to be supplied by the proposed electrical power plant. Reduces the time in which the DEP shall prepare a project analysis from 240 days to 130 days.

Section 34 amends s. 403.508, F.S., regarding land use and certification hearings. The committee substitute provides that if a petition for hearing on land use has been filed, the ALJ shall conduct a land use hearing in the county of the proposed site or directly associated facility not later than 30 days after the department's receipt of the petition. The place of the hearing shall be as close as possible to the proposed site or directly associated facility. If a petition is filed, the hearing must be held regardless of the status of the completeness of the application. Provides that incompleteness of information necessary for a local government to evaluate an application may be claimed by the local government as cause for a statement of inconsistency with existing land use plans and zoning ordinances. Provides for notice of the hearing. If the ALJ determines that the proposed site is not consistent with existing land use plans and zoning ordinances, he may receive evidence of any changes that would render the proposed site consistent and in compliance with the local land use plans and zoning ordinances.

If the proposed site conforms with existing land use plans and zoning ordinances, the local planning authority may not change such land use plans or zoning ordinances so as to foreclose construction and operation of the proposed power plant on the proposed site or directly associated facilities unless certification is subsequently denied or withdrawn.

The board may under certain circumstances authorize an amendment to rezoning, a variance, or other approval to the adopted land use plan and zoning ordinance required to render the proposed site consistent with local land use plans and zoning ordinances.

Provides for notice of the certification hearing and notice of the deadline for filing the notice of intent to be a party.

The Department of Transportation is specifically added to the list of parties to the proceeding.

The order of presentation at the certification hearing is specified.

At the conclusion of the certification hearing, the ALJ shall submit to the board a recommended order no later than 45 days after the filing of the hearing transcript.

No sooner than 29 days before the certification hearing, the DEP or the applicant may request the ALJ to cancel the hearing and relinquish jurisdiction to the DEP if all parties stipulate that there are no disputed issues of fact, and if sufficient time remains to publish the notice of cancellation at least 3 days before the hearing.

The ALJ must issue an order granting or denying the request within 5 days. Parties may submit proposed recommended orders to the DEP no later than 10 days after the ALJ issues an order relinquishing jurisdiction.

The applicant must bear the costs associated with the hearing.

When possible, any hearing on a federally approved or delegated program permit shall be conducted in conjunction with the certification hearing.

Section 35 amends s. 403.509, F.S., to provide that if the ALJ relinquishes jurisdiction, within 40 days thereafter the DEP Secretary must issue a written order granting or denying the application and stating the reasons for the decision. If the ALJ does not relinquish jurisdiction, the application proceeds to the siting board as under current law. The committee substitute establishes criteria to be used by the siting board or the DEP Secretary in determining whether an application should be approved in whole, approved with modifications or conditions, or denied, including whether, and the extent to which, the location of electric power plant and directly associated facilities and their construction and operation will:

- Provide reasonable assurance that operational safeguards are technically sufficient for the public welfare and protection.
- Comply with applicable nonprocedural requirements of agencies.
- Be consistent with applicable local government comprehensive plans and land development regulations.
- Meet the electrical energy needs of the state in an orderly and timely fashion.
- Provide a reasonable balance between the need for the facility and the impacts upon air and water quality, fish and wildlife, water resources, and other natural resources as a result of the construction and operation of the facility.
- Minimize, through the use of reasonable and available methods, the adverse effects on human health, the environment, and the ecology of the land and its wildlife and the ecology of state waters and their aquatic life.

The applicant shall seek any necessary interest in state lands the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund from the board of trustees or the governing board of the water management district before, during, or after the certification proceeding.

Section 36 amends s. 403.511, F.S., to provide that the certification may include conditions which constitute variances, exemptions, or exceptions from nonprocedural requirements of the DEP or any agency which were expressly considered during the proceeding, including, but not limited to, any site-specific criteria, standards, or limitations under local land use or zoning approvals which affect the proposed power plant or its site.

The certification and any order on land use and zoning shall be in lieu of any license, permit, certificate, or similar document required by any state, regional, or local agency, except for permits issued pursuant to any federally delegated or approved permit program.

No term or condition of a site certification shall be interpreted to supersede or control the provisions of a Title V air operation permit.

Electrical power plants are subject to the federal coastal consistency review program.

Section 37 creates s. 403.5112, F.S., to provide for the filing of a notice of a certified corridor route. Within 60 days after certification of a directly associated linear facility pursuant to the power plant siting act, the applicant must file with DEP and the clerk of the circuit court for each county through which the corridor will pass, a notice of the certified route. The notice consists of maps or aerial photographs in the scale of 1:24,000 which clearly show the location of the certified route and must state that the certification of the corridor will result in the acquisition of rights-of-way within the corridor. Each clerk must record the filing in the official record of the county for the duration of the certification or until such time as the applicant certifies to DEP and the clerk that all lands required for the transmission line rights-of-way within the corridor have been acquired within that county, whichever is sooner.

Section 38 creates s. 403.5113, F.S., to provide that if, subsequent to certification by the board, a licensee proposes any material change to the application, the licensee must submit a written request for amendment and a description of the proposed change to the application to DEP. Within 30 days after the receipt of the request for the amendment, DEP must determine whether the proposed change to the application requires a modification of the conditions of certification. If DEP concludes that the change would not require a modification of the conditions of certification, DEP must provide written notification of the approval of the proposed amendment to the licensee, all agencies, and all other interested parties. If DEP concludes that the change would require a modification of the conditions of certification, DEP must provide written notification to the licensee that the proposed change to the application requires a request for modification pursuant to s. 403.516, F.S.

Section 39 amends s. 403.5115, F.S., to require that certain notices be published by the applicant.

- Notice of the filing of a notice of intent within 21 days after the filing of the notice.
- Notice of the filing of the application, including a description of the proceedings, within 21 days after the date of the application filing.
- Notice of the land use determination within 15 days after the determination is filed.
- Notice of the land use hearing no later than 15 days before the hearing.
- Notice of the certification hearing and notice of the deadline for filing notice of intent to be a party at least 65 days before the date set for the certification hearing.
- Notice of the cancellation of the hearing, no later than 3 days before the date of the originally scheduled certification hearing.
- Notice of modification when required by the department:
    - Within 21 days after receipt of a request for modification.

    - If a hearing is to be conducted in response to the request for modification, then notice shall be published no later than 30 days before the hearing.
- Notice of a supplemental application.
- Notice of existing site certification.

The department shall arrange for the publication of the following notices:

- Notice of the filing of the notice of intent within 15 days after receipt of the notice.
- Notice of the filing of the application, no later than 21 days after the application filing.
- Notice of the land use determination within 15 days after the determination is filed.
- Notice of the land use hearing before the ALJ no later than 15 days before the hearing.
- Notice of the land use hearing before the board, if applicable.
- Notice of the certification hearing at least 65 days before the date set for the certification hearing.
- Notice of the hearing before the board, if applicable.
- Notice of stipulations, proposed agency action, or petitions for modifications.

Section 40 amends s. 403.513, F.S., to provide that separate appeals of the certification order and of any DEP permit issued pursuant to a federally delegated or approved program may be consolidated when possible, as opposed to the current requirement that they be consolidated.

Section 41 amends s. 403.516, F.S., to provide that DEP may modify specific conditions of site certification which are inconsistent with the terms of any federally delegated or approved permit, and may do so without further notice if notice has been given under the federally delegated or approved program.

Section 42 amends s. 403.517, F.S., to provide that supplemental applications may be submitted for certification of the construction and operation of power plants to be located on previously certified sites. The applications shall include all new directly associated facilities that support the construction and operation of the electric power plant. The review shall use the same procedures and notices as for an initial application. The time limits for processing of a complete supplemental application shall be designated by the department commensurate with the scope of the supplemental application.

Section 43 amends s. 403.5175, F.S., to provide that applications are to be processed and reviewed using the same procedural steps and notices required for an application for a new facility.

Section 44 amends s. 403.518, F.S., relating to fees and their disposition. Currently the statute provides for 20 percent of the application fee or $25,000, whichever is greater, to be transferred to the Administrative Trust Fund of the Division of Administrative Hearings of the Department of Management Services. The committee substitute changes this to: 5 percent for the initial duties associated with an application for certification, an additional 5 percent if a land use hearing is held, and an additional 10 percent if a certification hearing is held, which corresponds with the changes making a land use hearing and certification hearing before an ALJ optional. Current law requires that DEP reimburse governmental agencies for preparing reports and studies. The committee substitute authorizes these agencies preparing reports or participating in a

land use hearing to submit a written request for reimbursement containing an accounting of expenses incurred.

Section 45 provides that any application for power plant certification pursuant to the Power Plant Siting Act shall be processed under the provisions of law applicable at the time the application is filed, except that the provisions relating to cancellation of the certification hearing under s. 403.508(6), F.S., the provisions relating to the final disposition of the application and issuance of the written order by the secretary, and notice of the cancellation of the certification hearing under 403.5115, F.S., may apply to any application for power plant cerification.

Section 46 amends s. 403.519, F.S., relating to the exclusive forum for determination of need for a proposed power plant. Current law requires that the PSC publish notice of the determination of need proceeding in a newspaper of general circulation in each county in which the proposed power plant will be located at least 45 days prior to the scheduled date for the hearing. The committee substitute changes this to require that the applicant give this notice at least 21 days prior to the hearing, and requires that the PSC give notice as specified in chapter 120[6] at least 21 days prior to the scheduled hearing date. The committee substitute also provides that in making its determination of the need for the power plant, the PSC is to consider the need for fuel diversity and supply reliability.

The committee substitute also provides that Rule 25-22.082, Florida Administrative Code, does not apply to an electrical power plant using nuclear materials for fuel and that an applicant for a determination of need for such a power plant is not required to secure competitive proposals for a power supply before applying for a certificate and filing a petition for a determination of need.

Section 47 amends s. 403.52, F.S., to change the short title of the act, the Transmission Line Siting Act, to the Florida Electric Transmission Line Siting Act.

Section 48 amends s. 403.521, F.S., to make reference to the operation of electric transmission lines, to recognize that they are critical infrastructure facilities, and that they have an effect upon the reliability of the electric power system, the environment, and land use.

Section 49 amends s. 403.522, F.S., which provides definitions relating to the act. The most significant changes include:

- Revising the definition of "completeness" to include the current definition of "sufficiency" to reflect that DEP will now be determining sufficiency of filings at the time of determining their completeness.
- Revising the definition of "electric utility" to include regional transmission organizations, operators of independent transmission systems, or other transmission organizations approved by the Federal Energy Regulatory Commission or the PSC for the operation of transmission facilities.

[6] Section 120.525(1), F.S., provides that except in the case of emergency meetings, each agency shall give notice of public meetings, hearings, and workshops by publication in the Florida Administrative Weekly not less than 7 days before the event.

Section 50 amends s. 403.523, F.S., to authorize DEP to issue final orders in certification proceedings where the ALJ relinquishes jurisdiction, to act as clerk for the siting board, and to issue emergency orders on behalf of the board.

Section 51 amends s. 403.524, F.S., relating to applicability and exemptions. Currently development of a transmission line in which all construction is limited to established rights-of-ways is exempt from the act. For rights-of-way other than for transmission lines, the term includes rights-of-way created both before or after October 1, 1983. For transmission rights-of-way, the term includes only those rights-of-way created before that date. The bill changes this, so that established rights-of-way includes rights-of-way established at any time for roads, highways, railroads, gas, water, oil, electricity, sewage, or any other public purpose which were established at any time. For transmission line rights-of-way, established rights-of-way must have been established at least five years before notice of the start of construction of the new line. If an established transmission line right-of-way is relocated to accommodate a public project, the date of establishment of the original transmission right-of-way continues to apply to the relocation project for purposes of the exemption.

Section 52 amends s. 403.525, F.S., relating to administrative law judges, moving the provision on the administrative law judge's powers and duties from s. 403.527(6), F.S., to this section.

Section 53 amends s. 403.5251, F.S., relating to distribution of the application and schedules. The bill establishes the formal date of filing the application as the date on which the applicant submits copies of the application to DEP and all affected agencies and submits the application fee to DEP. Currently DEP must prepare a schedule for the certification process within 7 days after determining that the application is complete. The bill changes this to within 15 days after the formal date of application filing. Within 7 days after the proposed schedule is filed, the ALJ must issue an order establishing a schedule.

Section 54 amends s. 403.5252, F.S., to consolidate the current determination of completeness and determination of sufficiency. Within 30 days after distribution of an application, the affected agencies must file a statement with DEP with recommendations as to whether the application is complete. Within 7 days after receipt of the completeness statement of all agencies, DEP must state its position on completeness. If DEP declares the application to be incomplete, the applicant has 14 days to file a withdrawal of the application, provide additional information to make the application complete, contest the determination of incompleteness, or agree with the determination and request additional time to provide the necessary information. The statutory parties to a hearing on an issue of completeness include the applicant, DEP, and any agency having jurisdiction over the issue in dispute. Any substantially affected person wishing to become a party must file a motion no later than 10 days prior to the date of the hearing. If the applicant provides additional information to address the issues identified in the determination of incompleteness, each affected agency may submit to DEP, no later than 14 days after the applicant files the additional information, a recommendation on whether the agency believes the application is complete. Within 21 days after receipt of the additional information from the applicant, DEP must determine whether the additional information makes the application complete. If the department finds that the application is still incomplete, the applicant may exercise any of the options listed above as often as is necessary to resolve the dispute.

Section 55 amends s. 403.526, F.S., to change the date on which each affected agency must submit a preliminary statement of issues to DEP from 60 days after distribution of the complete application to 50 days after the filing of the application. The committee substitute requires that the Department of Transportation report on the impact of proposed transmission lines or corridors on roads, railroads, airports, aeronautics, seaports, and other matters within its jurisdiction. The committee substitute also requires the PSC to prepare a report containing its findings as to the determination of need and any comments with respect to any other subject within its jurisdiction. Each report must contain a notice of any nonprocedural requirements not specifically listed in the application from which a variance, exemption, or exception or other relief is necessary for the proposed power plant to be certified, and provides that failure to provide this notice is a waiver of such a requirement.

Section 56 amends s. 403.527, F.S., to provide that no later than 145 days after the application is filed, the ALJ must conduct a certification hearing at a central location in proximity to the proposed transmission line or corridor. Parties to the proceeding are:

- The applicant.
- DEP.
- The PSC.
- The Department of Community Affairs.
- The Fish and Wildlife Conservation Commission.
- The Department of Transportation.
- Each water management district in the jurisdiction of which the proposed transmission line or corridor is to be located.
- The local government.
- The regional planning council.

Any party except the applicant or DEP may waive its right to participate in these proceedings. If any listed party fails to file a notice of its intent to be a party on or before the 30th day before the certification hearing, the party is deemed to have waived its right to be a party unless its participation would not prejudice the rights of any party to the proceeding.

Upon the filing with the ALJ of a notice of intent to be a party by an agency, corporation, or association specified in the bill, or upon the filing of a petition for intervention by specified persons, no later than 30 days before the date set for the certification hearing, those entities or persons may also be parties to the proceeding.

One public hearing where members of the public who are not parties to the certification hearing may testify must be held within the boundaries of each county, at the option of any local government. A local government wanting to have a hearing must notify the ALJ and all parties not later than 21 days after the application has been determined complete. If a filing for an alternate corridor is accepted for consideration by the department and the applicant, any newly affected local government must notify the ALJ and all parties not later than 10 days after the data concerning the alternate corridor has been determined complete as to whether the local government wishes to have such a public hearing. The local government is responsible for providing the location of the public hearing if held separately from the certification hearing.

Within 5 days after notification, the ALJ must determine the date of the public hearing, which must be held before or during the certification hearing. If two or more local governments within one county request a public hearing, the hearing must be consolidated so that only one public hearing is held in any county. The location of a consolidated hearing is to be determined by the ALJ.

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

At the conclusion of the certification hearing, the ALJ must, after consideration of all evidence of record, issue a recommended order disposing of the application no later than 45 days after the transcript of the certification hearing and the public hearings is filed with the Division of Administrative Hearings.

No later than 25 days before the certification hearing, the department or the applicant may request that the ALJ cancel the certification hearing and relinquish jurisdiction to DEP if all parties to the proceeding stipulate that there are no disputed issues of material fact to be raised at the certification hearing. The ALJ must issue an order granting or denying the request within 5 days. If the ALJ grants the request, DEP and the applicant must publish notices of the cancellation of the certification hearing. If the administrative law judge grants the request, DEP must prepare and issue a final order. Parties may submit proposed final orders to DEP no later than 10 days after the ALJ issues an order relinquishing jurisdiction.

Section 57 amends s. 403.5271, F.S., relating to alternate corridors. Current law provides that any party may propose an alternate corridor no later than 50 days before the originally scheduled certification hearing. The committee substitute changes this to no later than 45 days before. Agencies reviewing the proposed alternate corridor must advise DEP of any issues concerning completeness no later than 15 days after submittal of data to the agencies. If DEP determines that the data is not complete, the party proposing the alternate corridor must file additional data within 14 days. If DEP determines that the data is still incomplete, this constitutes a withdrawal of the proposed alternate corridor. The party proposing an alternate corridor has the burden of proving that the corridor can be certified.

Section 58 amends s. 403.5272, F.S., relating to informational public meetings. Existing statutory language limits the authority to conduct early public meetings to local governments. The committee substitute authorizes regional planning councils to conduct these public meetings.

Section 59 amends s. 403.5275, F. S., to provide that amendments made before certification must be sent to the ALJ and all parties.

Section 60 amends s. 403.528, F.S., to provide that a comprehensive application encompassing more than one proposed transmission line may be good cause for alteration of time limits.

Section 61 amends s. 403.529, F.S., relating to final disposition of the application. The committee substitute provides that if the ALJ has relinquished jurisdiction, the DEP Secretary must issue or deny the certification within 40 days of relinquishment and state the reasons for the decision. If the ALJ does not relinquish jurisdiction, the siting board must determine the application within 60 days,

as opposed to the current 30 days, after receipt of the ALJ's recommended order. The committee substitute adds to the criteria to be considered in determining whether to approve an application for the operation of the proposed transmission line, to include consideration of whether the proposed line will meet the electrical needs of the state in an economical fashion, and whether it will effect a reasonable balance between the need for the line as a means of providing reliable, economically efficient electric energy and the impact on the public and the environment resulting from the construction, operation, and maintenance of the line.

Section 62 amends s. 403.531, F.S., to provide that the certification is in lieu of any license, permit, or similar document required by any state, regional, or local agency.

Section 63 amends s. 403.5312, F.S., to require that after a transmission line route is certified, the applicant must file notice of the certified route for a transmission line with DEP.

Section 64 amends s. 403.5315, F.S., to provide that a modification of a certification may be commenced by the licensee or by DEP on its own initiative. If objections to a proposed modification or if DEP denies the proposed modification, the licensee may file a request for a hearing.

Section 65 creates s. 403.5317, F.S., to provide for post-certification amendments. If, subsequent to certification by the board, a licensee proposes any material change to the application or prior amendments, the licensee must submit to DEP a written request for amendment and description of the proposed change to the application. If DEP concludes that the change would not require a modification of the conditions of certification, it is to notify, in writing, the licensee, all agencies, and all parties of the approval of the proposed amendment. If DEP concludes that the change would require a modification of the conditions of certification, it is to notify the licensee that the proposed change to the application requires a request for modification.

Section 66 creates s. 403.5363, F.S., to consolidate public notice provisions from existing sections of the act.

Section 67 amends s. 403.5365, F.S., relating to fees. Currently the statute provides for 20 percent of the application fee to be transferred to the Administrative Trust Fund of the Division of Administrative Hearings of the Department of Management Services. The committee substitute changes this to: 5 percent for the initial duties associated with an application for certification and an additional 10 percent if a certification hearing is held.

Section 68 amends s. 403.537, F.S., to require that the applicant give notice at least 21 days prior to the hearing, and requires that the PSC give notice as specified in chapter 120 at least 21 days prior to the scheduled hearing date. The committee substitute also provides that the PSC is the sole forum in which to determine the need for a transmission line and that the need cannot be raised or be the subject of review in any other proceeding.

Sections 69, 70, 71, and 72 amend ss. 373.411(3), 403.061, 403.0876, and 403.809(3)(b), F.S., to conform references to the re-named Florida Electric Transmission Line Siting Act.

Section 73 repeals s. 403.5253, F.S., relating to the sufficiency determination, as this is made a part of the determination of completeness, and s. 403.5369, F.S., which provides that the act does not apply to any application for certification of an electrical power plant or transmission line corridor which has been determined to be complete prior to July 3, 1990.

Section 74 creates s. 570.954, F.S., to create the Farm to Fuel Program within the Department of Agriculture and Consumer Services (DACS) to promote the use of Florida crops and biomass to produce bioenergy. The program is to provide grants for research, development, and demonstration of commercial applications of bioenergy technology. The bill sets out criteria to obtain a grant.

Section 75 appropriates $5,500,000 from the General Revenue Fund to the Department of Agriculture and Consumer Services for Farm to Fuel Program grants.

Section 76 creates s. 220.195, F.S., to create a farm to fuel production tax credit against corporate income tax for in-state producers of ethanol or biodiesel.

Section 77 requires that by November 1, 2006, DEP report to the Governor, the Senate President, and the Speaker of the House on the state's leadership by example in energy conservation and efficiency, including a description of state programs and the costs of implementation and the current and projected energy and cost savings.

Section 78 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by s. 18, Art. VII, State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

- Provides for a sales tax exemption for equipment, machinery, and other materials for renewable energy technologies.
- Provides for a renewable energy technologies investment credit against the corporate income tax.

- Provides for a renewable energy production credit against the corporate income tax.
- Provides for a renewable energy production credit against the sales tax.
- Provides for a farm to fuel credit against the corporate income tax.

B. Private Sector Impact:

Private citizens, corporate entities, and businesses would benefit from the various tax and rebate provisions in the bill.

The bill provides for a rebate on a portion of the cost of an Energy Star-qualified appliance purchased between July 1, 2006, and June 30, 2010. The person receiving the rebate is limited to one rebate/year. The amount of the rebate is not specified in the bill. It is not know how much of the cost of the appliance would be eligible as a rebate. The bill limits the total amount of the rebates in any given year to the total amount that may be appropriated for that purpose during the fiscal year.

Rebates are provided for expenditures made to install a solar photovoltaic system. The maximum amount for a residence is $20,000 and $100,000 for a business or nonprofit organization.

Rebates are provided for the installation of a solar thermal system. The amount is $300 for a residence ($500 if the collector is manufactured in Florida), and $15 per 1,000 BTU for a business or nonprofit organization up to $5,000.

The bill also provides a sales tax exemption on certain equipment, machinery and other materials for renewable energy technologies. The items that qualify for the exemption include hydrogen-powered vehicles and associated materials in an amount up to $2 million each fiscal year and materials used in the distribution of biodiesel and ethanol in an amount up to $1 million each fiscal year. It is not known how many persons would qualify for this exemption, nor the individual amount of the exemption per person.

The bill further provides exemptions from the corporate income tax for certain capital costs, operational and maintenance costs, research and development costs for renewable energy technologies if such costs are incurred between July 1, 2006, and June 30, 2010. It is not known how much a single person or entity would qualify for in any given fiscal year. The bill does limit the percentage of costs allowed to be claimed for the credit. The bill caps the total amount of the credits in any given fiscal year.

C. Government Sector Impact:

The Department of Environmental Protection has stated that it is seeking to include in the state budget the following amounts per year for a 4-year period: $10 million for its renewable energy technologies grant program, $2.5 million for its energy efficient appliances rebate program, and $2.5 million for its solar energy systems rebate program. The Department’s sales tax exemption for hydrogen vehicles and stations, fuel cells, and biodiesel and ethanol distribution creates the following caps: a cap of $2 million per year

for hydrogen vehicles and stations, a cap of $1 million per year for fuel cells, and a cap of $1 million per year for biodiesel and ethanol distribution. Finally, its renewable energy technologies tax credit has the following provisions and caps: credits for 75% of costs for investment in hydrogen powered vehicles and hydrogen vehicle fueling stations up to a cap of $3 million per year, credits for 75% of costs for an investment in commercial stationary hydrogen fuel cells up to a cap of $1.5 million per year, and credits for 75% of costs for an investment in the production and distribution of biodiesel and ethanol up to a cap of $6.5 million per year.

The Department of Agriculture and Consumer Services has a $5.5 million appropriation from the General Revenue Fund in the bill for its farm to fuel grant program.

Section 40 amends s. 403.518, F.S., on power plant siting act fees and their disposition. Currently the statute provides for twenty percent of the application fee or $25,000, whichever is greater, to be transferred to the Administrative Trust Fund of the Division of Administrative Hearings of the Department of Management Services. The bill changes this to: five percent for the initial duties associated with an application for certification, an additional 5 percent if a land use hearing is held, and an additional 10 percent if a certification hearing is held. Similarly, section 62 amends s. 403.5365, F.S., relating to transmission line siting act fees. Currently the statute provides for 20 percent of the application fee to be transferred to the Administrative Trust Fund of the Division of Administrative Hearings of the Department of Management Services. The bill changes this to: 5 percent for the initial duties associated with an application for certification and an additional 10 percent if a certification hearing is held. These fee changes appear to correspond to procedural hearing changes which may result in a reduced workload for the ALJ. The net effect on the amount of fees collected is indeterminable.

The exact impact of this bill is not known. It is anticipated that this bill will be considered by the Revenue Impact Conference in the near future.

VI. Technical Deficiencies:

Newly created s. 570.954, F.S., creates the Food to Fuel program to promote the use of Florida crops and biomass to produce bioenergy. The bill defines “biomass” but does not define “bioenergy.”

Newly created subsection 403.50663(4), F.S., provides that “the failure to hold an informational public meeting or the procedure used for the informational public meeting are not for the alteration of any time limitation or grounds to deny or condition certification.” It probably should say that neither the failure to hold a meeting nor the procedure used at a meeting are *grounds* for alteration of a time limit.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.