

1 A bill to be entitled
2 An act relating to energy; creating the Florida
3 Energy Commission, which is located within the
4 Office of Legislative Services for
5 administrative purposes; providing for the
6 membership of the commission; providing for
7 appointment, terms of office, and
8 qualifications of members; providing for voting
9 members to be reimbursed for per diem and
10 travel expenses; providing for meetings of the
11 commission; authorizing the commission to
12 employ staff; requiring that the commission
13 develop policy recommendations; requiring an
14 annual report to the Legislature; requiring a
15 study and a report to the Governor and
16 Legislature concerning the electric
17 transmission grid; creating s. 377.801, F.S.;
18 creating the "Florida Renewable Energy
19 Technologies and Energy Efficiency Act";
20 creating s. 377.802, F.S.; stating the purpose
21 of the act; creating s. 377.803, F.S.;
22 providing definitions; creating s. 377.804,
23 F.S.; creating the Renewable Energy
24 Technologies Grants Program; providing program
25 requirements and procedures, including matching
26 funds; requiring the Department of
27 Environmental Protection to coordinate with the
28 Department of Agriculture and Consumer
29 Services; requiring joint departmental approval
30 for the funding of any bioenergy project;
31 creating s. 377.805, F.S.; creating the Energy

1 Efficient Appliance Rebate Program; providing
2 program requirements, procedures, and
3 limitations; creating s. 377.8055, F.S.;
4 providing a sales tax holiday for energy
5 efficient products; providing for rules;
6 creating s. 377.806, F.S.; creating the Solar
7 Energy System Incentives Program; providing
8 definitions; creating the solar photovoltaic
9 incentive program; providing eligibility
10 requirements; providing rebate amounts;
11 creating the solar thermal incentive program;
12 providing for eligibility; providing rebate
13 amounts; providing rulemaking authority to the
14 Public Service Commission; requiring the
15 Florida Solar Energy Center to certify the
16 performance of solar equipment sold and
17 installed in the state; amending s. 212.08,
18 F.S.; providing definitions for the terms
19 "biodiesel" and "ethanol"; providing tax
20 exemptions for the sale or use of certain
21 energy efficient products; providing
22 eligibility requirements and tax credit limits;
23 directing the department to adopt rules;
24 directing the department to determine and
25 publish certain information relating to such
26 exemptions; amending s. 213.053, F.S.;
27 authorizing the Department of Revenue to share
28 certain information with the Department of
29 Environmental Protection for specified
30 purposes; amending s. 220.02, F.S.; providing
31 the order of application of the renewable

1 energy technologies investment tax credit;
2 creating s. 220.192, F.S.; establishing a
3 corporate tax credit for certain costs related
4 to renewable energy technologies; providing
5 eligibility requirements and credit limits;
6 providing certain authority to the Department
7 of Environmental Protection and the Department
8 of Revenue; directing the Department of
9 Environmental Protection to determine and
10 publish certain information; amending s.
11 220.13, F.S.; providing an addition to the
12 definition of "adjusted federal income";
13 amending s. 186.801, F.S.; revising the
14 provisions of electric utility 10-year site
15 plans to include the effect on fuel diversity;
16 amending s. 366.04, F.S.; revising the safety
17 standards for public utilities; amending s.
18 366.05, F.S.; authorizing the Public Service
19 Commission to adopt certain construction
20 standards and make certain determinations;
21 amending s. 403.503, F.S.; revising and
22 providing definitions applicable to the Florida
23 Electrical Power Plant Siting Act; amending s.
24 403.504, F.S.; providing the Department of
25 Environmental Protection with additional powers
26 and duties relating to the Florida Electrical
27 Power Plant Siting Act; amending s. 403.505,
28 F.S.; revising provisions for certain permits
29 associated with applications for electrical
30 power plant certification; amending s. 403.506,
31 F.S.; revising provisions relating to

1 applicability and certification of certain
2 power plants; amending s. 403.5064, F.S.;
3 revising provisions for distribution of
4 applications and schedules relating to
5 certification; amending s. 403.5065, F.S.;
6 revising provisions relating to the appointment
7 of administrative law judges; amending s.
8 403.5066, F.S.; revising provisions relating to
9 the determination of completeness for certain
10 applications; creating s. 403.50663, F.S.;
11 authorizing certain local governments and
12 regional planning councils to hold an
13 informational public meeting; providing
14 requirements and procedures therefor; creating
15 s. 403.50665, F.S.; requiring local governments
16 to file certain land use determinations;
17 providing requirements and procedures therefor;
18 repealing s. 403.5067, F.S.; relating to the
19 determination of sufficiency for certain
20 applications; amending s. 403.507, F.S.;
21 revising required statement provisions for
22 affected agencies; amending s. 403.508, F.S.;
23 revising provisions related to land use and
24 certification proceedings; requiring certain
25 notice; amending s. 403.509, F.S.; revising
26 provisions related to the final disposition of
27 certain applications; providing requirements
28 and provisions with respect thereto; amending
29 s. 403.511, F.S.; revising provisions related
30 to the effect of certification for the
31 construction and operation of proposed power

1 plants; providing that issuance of
2 certification meets certain consistency
3 requirements; creating s. 403.5112, F.S.;
4 requiring filing of notice for certified
5 corridor routes; providing requirements and
6 procedures with respect thereto; creating s.
7 403.5113, F.S.; authorizing postcertification
8 amendments for power plant site certification
9 applications; providing requirements and
10 procedures with respect thereto; amending s.
11 403.5115, F.S.; requiring certain public notice
12 for activities related to power plant site
13 application, certification, and land use
14 determination; providing requirements and
15 procedures with respect thereto; directing the
16 Department of Environmental Protection to
17 maintain certain lists and provide copies to of
18 certain publications; amending s. 403.513,
19 F.S.; revising provisions for judicial review
20 of appeals related to power plant site
21 certification; amending s. 403.516, F.S.;
22 revising provisions relating to modification of
23 certification for power plant sites; amending
24 s. 403.517, F.S.; revising the provisions
25 relating to supplemental applications for
26 certain power plant sites; amending s.
27 403.5175, F.S.; revising provisions relating to
28 existing power plant site certification;
29 revising the procedure for reviewing and
30 processing applications; requiring additional
31 information to be included in certain

1 applications; amending s. 403.518, F.S.;

2 revising the allocation of proceeds from

3 certain fees collected; providing for

4 reimbursement of certain expenses; directing

5 the Department of Environmental Protection to

6 establish rules for determination of certain

7 fees; eliminating certain operational license

8 fees; providing that applications for power

9 plant certification be processed under laws

10 applicable at the time the application is

11 filed; providing exceptions; amending s.

12 403.519, F.S.; directing the Public Service

13 Commission to consider fuel diversity and

14 reliability in certain determinations;

15 providing for determination of need for nuclear

16 power plants; providing an exemption from

17 purchased power supply bid rule; creating s.

18 366.93, F.S.; providing definitions; requiring

19 the Public Service Commission to implement

20 rules related to nuclear power plant cost

21 recovery; requiring a report; amending s.

22 403.52, F.S.; changing the short title to the

23 "Florida Electric Transmission Line Siting

24 Act"; amending s. 403.521, F.S.; revising

25 legislative intent; amending s. 403.522, F.S.;

26 revising definitions; defining the terms

27 "licensee" and "maintenance and access roads";

28 amending s. 403.523, F.S.; revising powers and

29 duties of the Department of Environmental

30 Protection; requiring the department to collect

31 and process fees, to prepare a project

1 analysis, to act as clerk for the siting board,
2 and to administer and manage the terms and
3 conditions of the certification order and
4 supporting documents and records; amending s.
5 403.524, F.S.; revising provisions for
6 applicability, certification, and exemptions
7 under the act; revising provisions for notice
8 by an electric utility of its intent to
9 construct an exempt transmission line; amending
10 s. 403.525, F.S.; providing for powers and
11 duties of the administrative law judge
12 designated by the Division of Administrative
13 Hearings to conduct the required hearings;
14 amending s. 403.5251, F.S.; revising
15 application procedures and schedules; providing
16 for the formal date of filing an application
17 for certification and commencement of the
18 certification review process; requiring the
19 department to prepare a proposed schedule of
20 dates for determination of completeness and
21 other significant dates to be followed during
22 the certification process; providing for the
23 formal date of application distribution;
24 requiring the applicant to provide notice of
25 filing the application; amending s. 403.5252,
26 F.S.; revising timeframes and procedures for
27 determination of completeness of the
28 application; requiring the department to
29 consult with affected agencies; revising
30 requirements for the department to file a
31 statement of its determination of completeness

1 with the Division of Administrative Hearings,
2 the applicant, and all parties within a certain
3 time after distribution of the application;
4 revising requirements for the applicant to file
5 a statement with the department, the division,
6 and all parties, if the department determines
7 the application is not complete; providing for
8 the statement to notify the department whether
9 the information will be provided; revising
10 timeframes and procedures for contests of the
11 determination by the department; providing for
12 parties to a hearing on the issue of
13 completeness; amending s. 403.526, F.S.;
14 revising criteria and procedures for
15 preliminary statements of issues, reports, and
16 studies; revising timeframes; requiring that
17 the preliminary statement of issues from each
18 affected agency be submitted to the department
19 and the applicant; revising criteria for the
20 Department of Community Affairs' report;
21 requiring the Department of Transportation, the
22 Public Service Commission, and any other
23 affected agency to prepare a project report;
24 revising required content of the report;
25 providing for notice of any nonprocedural
26 requirements not listed in the application;
27 providing for failure to provide such
28 notification; providing for a recommendation
29 for approval or denial of the application;
30 providing that receipt of an affirmative
31 determination of need is a condition precedent

1 to further processing of the application;
2 requiring that the department prepare a project
3 analysis to be filed with the administrative
4 law judge and served on all parties within a
5 certain time; amending s. 403.527, F.S.;
6 revising procedures and timeframes for the
7 certification hearing conducted by the
8 administrative law judge; revising provisions
9 for notices and publication of notices, public
10 hearings held by local governments, testimony
11 at the public-hearing portion of the
12 certification hearing, the order of
13 presentations at the hearing, and consideration
14 of certain communications by the administrative
15 law judge; requiring the applicant to pay
16 certain expenses and costs; requiring the
17 administrative law judge to issue a recommended
18 order disposing of the application; requiring
19 that certain notices be made in accordance with
20 specified requirements and within a certain
21 time; requiring the Department of
22 Transportation to be a party to the
23 proceedings; providing for the administrative
24 law judge to cancel the certification hearing
25 and relinquish jurisdiction to the Department
26 of Environmental Protection upon request by the
27 applicant or the department; requiring the
28 department and the applicant to publish notice
29 of such cancellation; providing for parties to
30 submit proposed recommended orders to the
31 department when the certification hearing has

1 | been canceled; providing that the department
2 | prepare a recommended order for final action by
3 | the siting board when the hearing has been
4 | canceled; amending s. 403.5271, F.S.; revising
5 | procedures and timeframes for consideration of
6 | proposed alternate corridors; revising notice
7 | requirements; providing for notice of the
8 | filing of the alternate corridor and revised
9 | time schedules; providing for notice to
10 | agencies newly affected by the proposed
11 | alternate corridor; requiring the person
12 | proposing the alternate corridor to provide all
13 | data to the agencies within a certain time;
14 | providing for a determination by the department
15 | that the data is not complete; providing for
16 | withdrawal of the proposed alternate corridor
17 | upon such determination; requiring that
18 | agencies file reports with the applicant and
19 | the department which address the proposed
20 | alternate corridor; requiring that the
21 | department file with the administrative law
22 | judge, the applicant, and all parties a project
23 | analysis of the proposed alternate corridor;
24 | providing that the party proposing an alternate
25 | corridor has the burden of proof concerning the
26 | certifiability of the alternate corridor;
27 | amending s. 403.5272, F.S.; revising procedures
28 | for informational public meetings; providing
29 | for informational public meetings held by
30 | regional planning councils; revising
31 | timeframes; amending s. 403.5275, F.S.;

1 revising provisions for amendment to the
2 application prior to certification; amending s.
3 403.528, F.S.; providing that a comprehensive
4 application encompassing more than one proposed
5 transmission line may be good cause for
6 altering established time limits; amending s.
7 403.529, F.S.; revising provisions for final
8 disposition of the application by the siting
9 board; providing for the administrative law
10 judge's or department's recommended order;
11 amending s. 403.531, F.S.; revising provisions
12 for conditions of certification; amending s.
13 403.5312, F.S.; requiring the applicant to file
14 notice of a certified corridor route with the
15 department; amending s. 403.5315, F.S.;
16 revising the circumstances under which a
17 certification may be modified after the
18 certification has been issued; providing for
19 procedures if objections are raised to the
20 proposed modification; creating s. 403.5317,
21 F.S.; providing procedures for changes proposed
22 by the licensee after certification; requiring
23 the department to determine within a certain
24 time if the proposed change requires
25 modification of the conditions of
26 certification; requiring notice to the
27 licensee, all agencies, and all parties of
28 changes that are approved as not requiring
29 modification of the conditions of
30 certification; creating s. 403.5363, F.S.;
31 requiring publication of certain notices by the

1 applicant, the proponent of an alternate
2 corridor, and the department; requiring the
3 department to adopt rules specifying the
4 content of such notices; amending s. 403.5365,
5 F.S.; revising application fees and the
6 distribution of fees collected; revising
7 procedures for reimbursement of local
8 governments and regional planning
9 organizations; amending s. 403.537, F.S.;
10 revising the schedule for notice of a public
11 hearing by the Public Service Commission in
12 order to determine the need for a transmission
13 line; providing that the commission is the sole
14 forum in which to determine the need for a
15 transmission line; amending ss. 373.441,
16 403.061, 403.0876, and 403.809, F.S.;
17 conforming terminology to changes made by the
18 act; repealing ss. 403.5253 and 403.5369, F.S.,
19 relating to determination of sufficiency of
20 application or amendment to the application and
21 the application of the act to applications
22 filed before a certain date; requiring a report
23 to the Governor and Legislature; providing
24 appropriations; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Florida Energy Commission.--
29 (1) The Florida Energy Commission is created and shall
30 be located within the Office of Legislative Services for
31 administrative purposes. The commission shall be comprised of

1 a total of 13 members, of whom nine shall be voting members
2 and four shall be nonvoting members, as follows:

3 (a) The voting members shall be appointed as follows:
4 the President of the Senate and the Speaker of the House of
5 Representatives shall appoint, in consultation with the
6 minority office of their respective chamber, four members
7 each. The President and the Speaker shall jointly appoint a
8 ninth member, who shall be the chair. Voting members shall be
9 appointed to 2-year terms; however, in order to establish
10 staggered terms, for the initial appointments each appointing
11 official shall appoint two members to a 1-year term and two
12 members to a 2-year term. Voting members must meet the
13 following qualifications and restrictions:

14 1. A voting member must be an expert in one or more of
15 the following fields: energy, natural resource conservation,
16 economics, engineering, finance, law, consumer protection,
17 state energy policy, or another field substantially related to
18 the duties and functions of the commission. The commission
19 shall fairly represent the fields specified in this
20 subparagraph.

21 2. A voting member may not, at the time of appointment
22 or during his or her term of office:

23 a. Have any financial interest, other than ownership
24 of shares in a mutual fund, in any business entity that,
25 directly or indirectly, owns or controls, or is an affiliate
26 or subsidiary of, any business entity that may profit by the
27 policy recommendations developed by the commission.

28 b. Be employed by or engaged in any business activity
29 with any business entity that, directly or indirectly, owns or
30 controls, or is an affiliate or subsidiary of, any business
31

1 entity that may profit by the policy recommendations developed
2 by the commission.

3 (b) The nonvoting members shall include:

4 1. The chair of the Florida Public Service Commission;

5 2. The Public Counsel;

6 3. The Commissioner of Agriculture, or his or her
7 designee; and

8 4. The director of the Office of Insurance Regulation,
9 or his or her designee.

10 (c) The following persons may also attend meetings and
11 provide information and advice:

12 1. The director of the Florida Solar Energy Center;

13 2. The Secretary of Health;

14 3. The chair of the State Board of Education;

15 4. The Secretary of Community Affairs;

16 5. The Secretary of Transportation; and

17 6. The Secretary of Environmental Protection.

18 (2) Voting members shall serve without compensation,
19 but are entitled to reimbursement for per diem and travel
20 expenses as provided by s. 112.061, Florida Statutes.

21 Nonvoting members shall serve at the expense of the entity
22 they represent.

23 (3) Meetings of the commission shall be held in
24 various locations around the state and at the call of the
25 chair; however, the commission must meet at least twice each
26 year.

27 (4)(a) The commission may employ staff to assist in
28 the performance of its duties, including an executive
29 director, an attorney, a communications person, and an
30 executive assistant.

31

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

4 (c) The commission may appoint focus groups to
5 consider specific issues.

6 (5) The commission shall develop recommendations for
7 legislation to establish a state energy policy. The
8 recommendations of the commission shall be based on the
9 guiding principles of reliability, efficiency, affordability,
10 and diversity as provided in subsection (7). The commission
11 shall continually review the state energy policy and shall
12 recommend to the Legislature any additional necessary changes
13 or improvements.

14 (6)(a) The commission shall report by December 31 of
15 each year to the President of the Senate and the Speaker of
16 the House of Representatives on its progress and
17 recommendations, including draft legislation.

18 (b) The commission's initial report must be filed by
19 December 31, 2007, and must identify incentives for research,
20 development, or deployment projects involving the goals and
21 issues set forth in this section; set forth recommendations
22 for improvements to the electricity transmission and
23 distribution system, including recommended incentives to
24 encourage electric utilities and local governments to work
25 together in good faith on issues of underground utilities; set
26 forth the appropriate test for the Florida Public Service
27 Commission to use in determining which energy efficiency
28 programs are cost-effective and should be implemented,
29 together with the rationale in selecting the test; and set
30 forth a plan of action, together with a timetable, for
31 addressing additional issues.

1 (c)1. The commission's initial report shall also
2 recommend consensus-based public-involvement processes to
3 reduce greenhouse gas emissions in this state and to make such
4 reductions and related economic, energy, and environmental
5 co-benefits a state priority.

6 2. The report must include recommended steps and a
7 schedule for the development of a comprehensive state climate
8 action plan with statewide greenhouse-gas-reduction goals and
9 a range of specific policy options for all economic sectors to
10 be developed through a public-involvement process, including
11 transportation and land use; power generation; residential,
12 commercial, and industrial activities; waste management;
13 agriculture and forestry; emissions-reporting systems; and
14 public education.

15 3. The climate action plan must include:

16 a. Recommendations for the development of an annual
17 greenhouse-gas-emissions inventory by the Department of
18 Environmental Protection, recommendations for the development
19 of a current comprehensive inventory of state greenhouse gas
20 emissions since 1990 and a similar forecast of state
21 greenhouse gas emissions from the present to the year 2020 or
22 later.

23 b. Recommended steps to identify areas where specific
24 greenhouse-gas-reduction policies are feasible; the costs and
25 benefits of each recommendation; methods for helping
26 individuals, institutions, and businesses reduce emissions; an
27 implementation schedule; and identification of funding
28 requirements for the development and implementation of
29 strategies.

30 c. Consideration of the feasibility of establishing by
31 law a greenhouse-gas-reduction target to lower greenhouse gas

1 emissions in the state below the forecasted levels of
2 emissions growth in the future at maximum achievable levels.

3 (7) In developing its recommendations, the commission
4 shall be guided by the principles of reliability, efficiency,
5 affordability, and diversity, and more specifically as
6 follows:

7 (a) The state should have a reliable electric supply,
8 with adequate reserves.

9 (b) The transmission and delivery of electricity
10 should be reliable.

11 (c) The generation, transmission, and delivery of
12 electricity should be accomplished with the least detriment to
13 the environment and public health.

14 (d) The generation, transmission, and delivery of
15 electricity should be accomplished compatibly with the goals
16 for growth management.

17 (e) Electricity generation, transmission, and delivery
18 facilities should be reasonably secure from damage, taking all
19 factors into consideration, and recovery from damage should be
20 prompt.

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

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

27 (h) In-state research, development, and deployment of
28 alternative energy technologies and alternative motor vehicle
29 fuels should be encouraged.

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

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

3
4 In choosing between conflicting or competing goals, the
5 commission shall balance the projected benefits of affordable,
6 reliable energy supplies against detrimental cost and
7 environmental impacts and recommend the best solution, with a
8 complete and detailed explanation of the factors considered
9 and the rationale for the decision.

10 Section 2. (1) The Florida Public Service Commission
11 shall direct a study of the electric transmission grid in the
12 state. The study shall look at electric system reliability to
13 examine the efficiency and reliability of power transfer and
14 emergency contingency conditions. In addition, the study shall
15 examine the hardening of infrastructure to address issues
16 arising from the 2004 and 2005 hurricane seasons. A report of
17 the results of the study shall be provided to the Governor,
18 the President of the Senate, and the Speaker of the House of
19 Representatives by March 1, 2007.

20 (2) The commission shall conduct a review to determine
21 what should be done to enhance the reliability of Florida's
22 transmission and distribution grids during extreme weather
23 events, including the strengthening of distribution and
24 transmission facilities. Considerations may include:

25 (a) Recommendations for promoting and encouraging
26 underground electric distribution for new service or
27 construction provided by public utilities.

28 (b) Recommendations for promoting and encouraging the
29 conversion of existing overhead distribution facilities to
30 underground facilities, including any recommended incentives

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1 to local governments for local-government-sponsored
2 conversions.

3 (c) Recommendations as to whether incentives for
4 local-government-sponsored conversions should include
5 participation by a public utility in the conversion costs as
6 an investment in the reliability of the grid in total, with
7 such investment recognized as a new plant in service for
8 regulatory purposes.

9 (d) Recommendations for promoting and encouraging the
10 use of road rights-of-way for the location of underground
11 facilities in any local-government-sponsored conversion
12 project, provided the customers of the public utility do not
13 incur increased liability and future relocation costs.

14 (3) This section does not limit the existing
15 jurisdiction or powers of the commission. It may not be
16 construed to delay or defer any activities that are currently
17 docketed which relate to matters to be addressed by the study
18 required by this section, nor may it be construed to delay or
19 defer any case or proceeding that may be initiated before the
20 commission pursuant to current statutory powers of the
21 commission.

22 Section 3. Section 377.801, Florida Statutes, is
23 created to read:

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

27 Section 4. Section 377.802, Florida Statutes, is
28 created to read:

29 377.802 Purpose.--This act is intended to provide
30 matching grants to stimulate capital investment in the state
31 and to enhance the market for and promote the statewide

1 utilization of renewable energy technologies. The targeted
2 grants program is designed to advance the already growing
3 establishment of renewable energy technologies in the state
4 and encourage the use of other incentives such as tax
5 exemptions and regulatory certainty to attract additional
6 renewable energy technology producers, developers, and users
7 to the state. This act is also intended to provide incentives
8 for energy-efficient appliances and rebates for installations
9 of solar energy equipment in residential and commercial
10 buildings.

11 Section 5. Section 377.803, Florida Statutes, is
12 created to read:

13 377.803 Definitions.--As used in this act, the term:

14 (1) "Act" means the Florida Renewable Energy
15 Technologies and Energy Efficiency Act.

16 (2) "Approved metering equipment" means a device
17 capable of measuring the energy output of a solar thermal
18 system that has been approved by the commission.

19 (3) "Commission" means the Florida Public Service
20 Commission.

21 (4) "Department" means the Department of Environmental
22 Protection.

23 (5) "Energy Star qualified appliance" means a
24 refrigerator, residential model clothes washer including a
25 residential style coin operated clothes washer, or dishwasher
26 that has been designated by the United States Environmental
27 Protection Agency and the United States Department of Energy
28 as meeting or exceeding the energy saving efficiency
29 requirements under each agency's Energy Star program.

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1 (6) "Person" means an individual, partnership, joint
2 venture, private or public corporation, association, firm,
3 public service company, or any other public or private entity.

4 (7) "Renewable energy" means electrical, mechanical,
5 or thermal energy produced from a method that uses one or more
6 of the following fuels or energy sources: hydrogen, biomass,
7 solar energy, geothermal energy, wind energy, ocean energy,
8 waste heat, and hydroelectric power.

9 (8) "Renewable energy technology" means any technology
10 that generates or utilizes a renewable energy resource.

11 (9) "Solar energy system" means equipment that
12 provides for the collection and use of incident solar energy
13 for water heating, space heating or cooling, or other
14 applications that normally require a conventional source of
15 energy such as petroleum products, natural gas, or electricity
16 and that performs primarily with solar energy. In other
17 systems in which solar energy is used in a supplemental way,
18 only those components that collect and transfer solar energy
19 shall be included in this definition.

20 (10) "Solar photovoltaic system" means a device that
21 converts incident sunlight into electrical current.

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

24 Section 6. Section 377.804, Florida Statutes, is
25 created to read:

26 377.804 Renewable Energy Technologies Grants
27 Program.--

28 (1) The Renewable Energy Technologies Grants Program
29 is established within the department to provide renewable
30 energy matching grants for demonstration, commercialization,
31

1 research, and development projects relating to renewable
2 energy technologies.

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

6 (a) Municipalities and county governments.

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

9 (c) Universities and colleges in the state.

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

11 (e) Not-for-profit organizations.

12 (f) Other qualified persons, as determined by the
13 department.

14 (3) The department may adopt rules pursuant to ss.
15 120.536(1) and 120.54 to provide for application requirements,
16 provide for ranking of applications, and administer the
17 awarding of grants under this program.

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

20 (a) The availability of matching funds or other
21 in-kind contributions applied to the total project from an
22 applicant. The department shall give greater preference to
23 projects that provide such matching funds or other in-kind
24 contributions.

25 (b) The degree to which the project stimulates
26 in-state capital investment and economic development in
27 metropolitan and rural areas, including the creation of jobs
28 and the future development of a commercial market for
29 renewable energy technologies.

30 (c) The extent to which the proposed project has been
31 demonstrated to be technically feasible based on pilot-project

1 demonstrations, laboratory testing, scientific modeling, or
2 engineering or chemical theory that supports the proposal.

3 (d) The degree to which the project incorporates an
4 innovative new technology or an innovative application of an
5 existing technology.

6 (e) The degree to which a project generates thermal,
7 mechanical, or electrical energy by means of a renewable
8 energy resource that has substantial long-term production
9 potential.

10 (f) The degree to which a project demonstrates
11 efficient use of energy and material resources.

12 (g) The degree to which the project fosters overall
13 understanding and appreciation of renewable energy
14 technologies.

15 (h) The ability to administer a complete project.

16 (i) Project duration and timeline for expenditures.

17 (j) The geographic area in which the project is to be
18 conducted in relation to other projects.

19 (k) The degree of public visibility and interaction.

20 (5) The department shall solicit the expertise of
21 other state agencies when evaluating project proposals. State
22 agencies shall cooperate with the Department of Environmental
23 Protection and provide such assistance as requested.

24 (6) The department shall coordinate and actively
25 consult with the Department of Agriculture and Consumer
26 Services during the review and approval process of grants
27 relating to bioenergy projects for renewable energy
28 technology, and the departments shall jointly determine the
29 grant awards to these bioenergy projects. No grant funding
30 shall be awarded to any bioenergy project without such joint
31

1 approval. Factors for consideration in awarding grants may
2 include, but are not limited to, the degree to which:

3 (a) The project stimulates in-state capital investment
4 and economic development in metropolitan and rural areas,
5 including the creation of jobs and the future development of a
6 commercial market for bioenergy.

7 (b) The project produces bioenergy from Florida-grown
8 crops or biomass.

9 (c) The project demonstrates efficient use of energy
10 and material resources.

11 (d) The project fosters overall understanding and
12 appreciation of bioenergy technologies.

13 (e) Matching funds and in-kind contributions from an
14 applicant are available.

15 (f) The project duration and the timeline for
16 expenditures are acceptable.

17 (g) The project has a reasonable assurance of
18 enhancing the value of agricultural products or will expand
19 agribusiness in the state.

20 (h) Preliminary market and feasibility research has
21 been conducted by the applicant or others and shows there is a
22 reasonable assurance of a potential market.

23 Section 7. Section 377.805, Florida Statutes, is
24 created to read:

25 377.805 Energy Efficient Appliance Rebate Program.--

26 (1) The Energy Efficient Appliance Rebate Program is
27 established within the department to provide for financial
28 incentives for the purchase of Energy Star qualified
29 appliances as specified in this section.

30 (2) Except during the time period designated as an
31 energy-efficient product sales tax holiday pursuant to s.

1 377.8055, any resident of the state who purchases a new Energy
2 Star qualified appliance from July 1, 2006, through June 30,
3 2010, from a retail store in the state is eligible for a
4 rebate of a portion of the purchase price of that Energy Star
5 qualified appliance.

6 (3) The department shall adopt rules pursuant to ss.
7 120.536(1) and 120.54 to designate rebate amounts and
8 administer the issuance of rebates. The department's rules may
9 include separate incentives for low-income families to
10 purchase Energy Star qualified appliances.

11 (4) Application for a rebate must be made within 90
12 days after the purchase of the Energy Star qualified
13 appliance.

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

16 (6) The total dollar amount of all rebates issued by
17 the department is subject to the total amount of
18 appropriations in any fiscal year for this program. If funds
19 are insufficient during the current fiscal year, any requests
20 for rebates received during that fiscal year may be processed
21 during the following fiscal year. A request for rebate
22 received in one fiscal year but processed during the following
23 fiscal year shall be given priority over requests for rebates
24 that are applied for during that following fiscal year.

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

28 Section 8. Section 377.8055, Florida Statutes, is
29 created to read:

30 377.8055 Energy-efficient products sales tax
31 holiday.--

1 (1) The period from 12:01 a.m., October 5, through
2 midnight, October 11, in each year from 2006 to 2009 shall be
3 designated "Energy Efficiency Week," and the tax levied under
4 chapter 212 may not be collected on the sale of a new
5 energy-efficient product having a selling price of \$1,500 or
6 less per product during that period. As used in this
7 subsection, the term "energy-efficient product" means a
8 dishwasher, clothes washer, air conditioner, ceiling fan,
9 incandescent or florescent light bulb, dehumidifier,
10 programmable thermostat, or refrigerator that has been
11 designated by the United States Environmental Protection
12 Agency and by the United States Department of Energy as
13 meeting or exceeding each agency's requirements for energy
14 efficiency under the Energy Star Program of either agency.

15 (2)(a) The exemption in this section applies only when
16 the energy-efficient product is purchased for noncommercial
17 home or personal use and does not apply when the product is
18 purchased for trade, business, or resale.

19 (b) Purchases made under this section may not be made
20 using a business or company credit or debit card or check.

21 (c) Any construction company, building contractor, or
22 commercial business or entity that purchases or attempts to
23 purchase the energy-efficient products exempt as provided in
24 this section commits an unfair method of competition in
25 violation of s. 501.204, punishable as provided in s.
26 501.2075.

27 (3) The Department of Revenue may adopt rules pursuant
28 to ss. 120.536(1) and 120.54 to administer this section.

29 Section 9. Section 377.806, Florida Statutes, is
30 created to read:

31 377.806 Florida Solar Energy Incentives Program.--

1 (1) DEFINITIONS.--As used in this section, unless the
2 context otherwise indicates, the following terms have the
3 following meanings:
4 (a) "Approved metering equipment" means a device
5 capable of measuring the energy output of a solar thermal
6 system either in BTU or KWH equivalents that has been approved
7 by the commission.
8 (b) "Certified" means tested by the Florida Solar
9 Energy Center to verify rated output or thermal performance.
10 (c) "Commission" means the Florida Public Service
11 Commission.
12 (d) "Interconnected" means connected to a utility's
13 electrical grid.
14 (e) "Solar photovoltaic system" means a solar energy
15 system, including devices and related equipment, with a peak
16 generating capacity of 100 kilowatts or less used for
17 generating electricity for use in a residence, a place of
18 business, a publicly owned or operated facility, or a facility
19 owned or operated by a private, not-for-profit organization.
20 (f) "Solar thermal system" means a solar energy device
21 that provides domestic hot water for use in a residence, a
22 place of business, a publicly owned or operated facility, or a
23 facility owned or operated by a private, not-for-profit
24 organization.
25 (2) SOLAR PHOTOVOLTAIC INCENTIVE PROGRAM.--To the
26 extent that funds are available pursuant to subsection (2), an
27 owner or tenant of property in this state that is a residence,
28 a place of business, a publicly owned or operated facility, or
29 a facility owned or operated by a private, not-for-profit
30 organization is entitled to a rebate for expenditures made by
31 the owner or tenant for a solar photovoltaic system that is

1 installed in accordance with this subsection after July 1,
2 2006, and that will be interconnected.

3 (a) Eligibility requirements.--A solar photovoltaic
4 system qualifies for a rebate if:

5 1. The system is installed by a state-licensed master
6 electrician, electrical contractor, or solar contractor.

7 2. The system complies with state interconnection
8 standards as provided by the commission.

9 3. The system complies with all applicable building
10 codes as defined by the local jurisdictional authority.

11 4. The system includes minimum service and warranty
12 contracts.

13 (b) Rebate amounts.--The initial rebate amount shall
14 be set at \$4 per watt and decrease by 50 cents per watt each
15 year for 5 years. If the solar equipment is manufactured
16 within the state, the initial rebate amount shall be set at \$5
17 per watt and decrease by 50 cents per watt each year for 5
18 years. In the case of a newly constructed residence, the
19 rebate must be available to the original owner or occupant
20 using the dwelling as his or her principal residence. The
21 maximum allowable rebate per solar photovoltaic system
22 installation shall be as follows:

23 1. For a residence, \$20,000.

24 2. For a place of business, a publicly owned or
25 operated facility, or a facility owned or operated by a
26 private, not-for-profit organization, \$100,000.

27 (3) SOLAR THERMAL INCENTIVE PROGRAM.--To the extent
28 that funds are available pursuant to subsection (2), an owner
29 or tenant of property in this state that is a residence, a
30 place of business, a publicly owned or operated facility, or a
31 facility owned or operated by a private, not-for-profit

1 organization is entitled to a rebate for expenditures made by
 2 the owner or tenant for a solar thermal system that is
 3 installed in accordance with this subsection after July 1,
 4 2006.

5 (a) Eligibility requirements.--A solar thermal system
 6 qualifies for a rebate if:

7 1. The system is installed by a state-licensed solar
 8 or plumbing contractor.

9 2. The system complies with all applicable building
 10 codes as defined by the local jurisdictional authority.

11 3. The system includes minimum service and warranty
 12 contracts.

13 (b) Rebate amounts.--Authorized rebates for
 14 installation of solar thermal systems shall be as follows:

15 1. For a residence, the rebate amount is \$300. If the
 16 solar collector is manufactured within the state, the rebate
 17 amount is \$500.

18 2. For a place of business, a publicly owned or
 19 operated facility, or a facility owned or operated by a
 20 private, not-for-profit organization, the rebate amount is \$15
 21 per 1,000 BTU as certified by the Florida Solar Energy Center.
 22 The maximum rebate amount is \$5,000. An approved metering
 23 system is required.

24 (4) RULES.--

25 (a) The commission shall adopt rules pursuant to ss.
 26 120.536(1) and 120.54 necessary to amend current
 27 interconnection standards for solar energy systems up to 100
 28 kilowatts.

29 (b) The department shall adopt rules pursuant to ss.
 30 120.536(1) and 120.54 necessary to implement the Florida
 31

1 Renewable Energy Technologies and Energy Efficiency Act,
2 including the administration of grants and incentives.

3 (5) PERFORMANCE CERTIFICATION.--The Florida Solar
4 Energy Center shall certify the performance of solar equipment
5 sold and installed in the state in accordance with this
6 section and s. 377.705.

7 Section 10. Paragraph (ccc) is added to subsection (7)
8 of section 212.08, Florida Statutes, to read:

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

15 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to
16 any entity by this chapter do not inure to any transaction
17 that is otherwise taxable under this chapter when payment is
18 made by a representative or employee of the entity by any
19 means, including, but not limited to, cash, check, or credit
20 card, even when that representative or employee is
21 subsequently reimbursed by the entity. In addition, exemptions
22 provided to any entity by this subsection do not inure to any
23 transaction that is otherwise taxable under this chapter
24 unless the entity has obtained a sales tax exemption
25 certificate from the department or the entity obtains or
26 provides other documentation as required by the department.
27 Eligible purchases or leases made with such a certificate must
28 be in strict compliance with this subsection and departmental
29 rules, and any person who makes an exempt purchase with a
30 certificate that is not in strict compliance with this
31

1 subsection and the rules is liable for and shall pay the tax.

2 The department may adopt rules to administer this subsection.

3 (ccc) Equipment, machinery, and other materials for
4 renewable energy technologies.--

5 1. As used in this paragraph, the term:

6 a. "Biodiesel" means the mono-alkyl esters of
7 long-chain fatty acids derived from plant or animal matter for
8 use as a source of energy and meeting the specifications for
9 biodiesel and biodiesel blends with petroleum products as
10 adopted by the Department of Agriculture and Consumer
11 Services. Biodiesel may refer to biodiesel blends designated
12 BXX, where XX represents the volume percentage of biodiesel
13 fuel in the blend.

14 b. "Ethanol" means nominally anhydrous denatured
15 alcohol produced by the fermentation of plant sugars and
16 meeting the specifications for fuel ethanol and fuel ethanol
17 blends with petroleum products as adopted by the Department of
18 Agriculture and Consumer Services. Ethanol may refer to fuel
19 ethanol blends designated EXX, where XX represents the volume
20 percentage of fuel ethanol in the blend.

21 c. "Hydrogen fuel cells" means equipment using
22 hydrogen or a hydrogen-rich fuel in an electrochemical process
23 to generate energy, electricity, or the transfer of heat.

24 2. The sale or use of the following is exempt from the
25 tax imposed by this chapter:

26 a. Hydrogen-powered vehicles, materials incorporated
27 into hydrogen-powered vehicles, and hydrogen-fueling stations,
28 up to \$2 million in tax each state fiscal year.

29 b. Commercial stationary hydrogen fuel cells, up to \$1
30 million in tax each state fiscal year.

31

1 c. Materials used in the distribution of biodiesel
2 (B10-B100) and ethanol (E10-E100), including fueling
3 infrastructure, transportation, and storage, up to \$1 million
4 in tax each state fiscal year. The costs of retrofitting a
5 gasoline fueling station pump for ethanol (E10-E100)
6 distribution qualifies for the exemption provided by this
7 subsection.

8 3. The Department of Environmental Protection shall
9 provide to the department a list of items eligible for the
10 exemption.

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

13 b. To be eligible to receive the exemption, a
14 purchaser shall file an application with the Department of
15 Environmental Protection. The application shall be developed
16 by the Department of Environmental Protection, in consultation
17 with the department, and shall require:

18 (I) The name and address of the person claiming the
19 refund.

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

23 (III) The sales invoice or other proof of purchase
24 showing the amount of sales tax paid, the date of purchase,
25 and the name and address of the sales tax dealer from whom the
26 property was purchased.

27 (IV) A sworn statement that the information provided
28 is accurate.

29 c. Within 30 days after receipt of an application, the
30 Department of Environmental Protection shall review the
31 application and shall notify the applicant of any

1 deficiencies. Upon receipt of a completed application, the
2 Department of Environmental Protection shall evaluate the
3 application for exemption and issue a written certification
4 that the applicant is eligible for a refund or issue a written
5 denial of such certification within 60 days. The Department of
6 Environmental Protection shall provide the department with a
7 copy of each certification issued upon approval of an
8 application.

9 d. Each certified applicant shall be responsible for
10 forwarding a certified copy of the application and copies of
11 all required documentation to the department within 6 months
12 after certification by the Department of Environmental
13 Protection.

14 e. The provisions of s. 212.095 do not apply to any
15 refund application made pursuant to this paragraph. A refund
16 approved pursuant to this paragraph shall be made within 30
17 days after formal approval by the department.

18 f. The department shall adopt rules governing the
19 manner and form of refund applications and may establish
20 guidelines as to the requisites for an affirmative showing of
21 qualification for exemption under this paragraph.

22 g. The Department of Environmental Protection shall be
23 responsible for ensuring that the exemptions do not exceed the
24 limits provided in subparagraph 2.

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

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

29 Section 11. Paragraph (y) is added to subsection (7)
30 of section 213.053, Florida Statutes, to read:

31 213.053 Confidentiality and information sharing.--

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

3 (y) Information relative to ss. 212.08(7)(ccc) and
4 220.192 to the Department of Environmental Protection for use
5 in the conduct of its official business.

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

14 Section 12. Subsection (8) of section 220.02, Florida
15 Statutes, is amended to read:

16 220.02 Legislative intent.--

17 (8) It is the intent of the Legislature that credits
18 against either the corporate income tax or the franchise tax
19 be applied in the following order: those enumerated in s.
20 631.828, those enumerated in s. 220.191, those enumerated in
21 s. 220.181, those enumerated in s. 220.183, those enumerated
22 in s. 220.182, those enumerated in s. 220.1895, those
23 enumerated in s. 221.02, those enumerated in s. 220.184, those
24 enumerated in s. 220.186, those enumerated in s. 220.1845,
25 those enumerated in s. 220.19, those enumerated in s. 220.185,
26 ~~and~~ those enumerated in s. 220.187, and those enumerated in
27 ss. 220.192 and 220.193.

28 Section 13. Section 220.192, Florida Statutes, is
29 created to read:

30 220.192 Renewable energy technologies investment tax
31 credit.--

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

3 (a) "Biodiesel" means biodiesel as defined in s.
4 212.08(7)(ccc).

5 (b) "Eligible costs" means:

6 1. Seventy-five percent of all capital costs,
7 operation and maintenance costs, and research and development
8 costs incurred between July 1, 2006, and June 30, 2010, up to
9 \$3 million per state fiscal year for all taxpayers, in
10 connection with an investment in hydrogen powered vehicles and
11 hydrogen vehicle fueling stations in the state, including, but
12 not limited to, the costs of constructing, installing, and
13 equipping such technologies in the state.

14 2. Seventy-five percent of all capital costs,
15 operation and maintenance costs, and research and development
16 costs incurred between July 1, 2006, and June 30, 2010, up to
17 a limit of \$1.5 million per state fiscal year for all
18 taxpayers, and limited to a maximum of \$12,000 per fuel cell,
19 in connection with an investment in commercial stationary
20 hydrogen fuel cells in the state, including, but not limited
21 to, the costs of constructing, installing, and equipping such
22 technologies in the state.

23 3. Seventy-five percent of all capital costs,
24 operation and maintenance costs, and research and development
25 costs incurred between July 1, 2006, and June 30, 2010, up to
26 a limit of \$6.5 million per state fiscal year for all
27 taxpayers, in connection with an investment in the production,
28 storage, and distribution of biodiesel (B10-B100) and ethanol
29 (E10-E100) in the state, including, but not limited to, the
30 costs of constructing, installing, and equipping such
31 technologies in the state. The costs of retrofitting a

1 gasoline fueling station pump for ethanol (E10-E100)
2 distribution qualifies as an eligible cost under this
3 subsection.

4 (c) "Ethanol" means ethanol as defined in s.
5 212.08(7)(ccc).

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

8 (2) TAX CREDIT.--For tax years beginning on or after
9 January 1, 2007, a credit against the tax imposed by this
10 chapter shall be granted in an amount equal to the eligible
11 costs. Credits may be used in tax years beginning January 1,
12 2007, through December 31, 2010, after which the credit shall
13 expire. If the credit is not fully used in any one tax year
14 because of insufficient tax liability on the part of the
15 corporation, the unused amount may be carried forward and used
16 in tax years beginning January 1, 2007, through December 31,
17 2012, after which the credit carryover expires and may not be
18 used. A taxpayer that files a consolidated return in this
19 state as a member of an affiliated group under s. 220.131(1)
20 may be allowed the credit on a consolidated return basis up to
21 the amount of tax imposed upon the consolidated group. Any
22 eligible cost for which a credit is claimed and which is
23 deducted or otherwise reduces federal taxable income shall be
24 added back in computing adjusted federal income under s.
25 220.13.

26 (3) APPLICATION PROCESS.--Any corporation wishing to
27 obtain tax credits available under this section must submit to
28 the Department of Environmental Protection an application for
29 tax credit that includes a complete description of all
30 eligible costs for which the corporation is seeking a credit
31 and a description of the total amount of credits sought. The

1 Department of Environmental Protection shall make a
2 determination on the eligibility of the applicant for the
3 credits sought and certify the determination to the applicant
4 and the Department of Revenue. The corporation must attach the
5 Department of Environmental Protection's certification to the
6 tax return on which the credit is claimed. The Department of
7 Environmental Protection shall ensure that the corporate
8 income tax credits granted in each fiscal year do not exceed
9 the tax credit limits set forth in this section. The
10 Department of Environmental Protection is authorized to adopt
11 the necessary rules, guidelines, and application materials for
12 the application process.

13 (4) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
14 CREDITS.--

15 (a) In addition to its existing audit and
16 investigation authority, the Department of Revenue may perform
17 any additional financial and technical audits and
18 investigations, including examining the accounts, books, and
19 records of the tax credit applicant, that are necessary to
20 verify the eligible costs included in the tax credit return
21 and to ensure compliance with this section. The Department of
22 Environmental Protection shall provide technical assistance
23 when requested by the Department of Revenue on any technical
24 audits or examinations performed pursuant to this section.

25 (b) It is grounds for forfeiture of previously claimed
26 and received tax credits if the Department of Revenue
27 determines, as a result of either an audit or examination or
28 from information received from the Department of Environmental
29 Protection, that a taxpayer received tax credits pursuant to
30 this section to which the taxpayer was not entitled. The
31 taxpayer is responsible for returning forfeited tax credits to

1 the Department of Revenue, and such funds shall be paid into
2 the General Revenue Fund of the state.

3 (c) The Department of Environmental Protection may
4 revoke or modify any written decision granting eligibility for
5 tax credits under this section if it is discovered that the
6 tax credit applicant submitted any false statement,
7 representation, or certification in any application, record,
8 report, plan, or other document filed in an attempt to receive
9 tax credits under this section. The Department of
10 Environmental Protection shall immediately notify the
11 Department of Revenue of any revoked or modified orders
12 affecting previously granted tax credits. Additionally, the
13 taxpayer must notify the Department of Revenue of any change
14 in its tax credit claimed.

15 (d) The taxpayer shall file with the Department of
16 Revenue an amended return or such other report as the
17 Department of Revenue prescribes by rule and shall pay any
18 required tax and interest within 60 days after the taxpayer
19 receives notification from the Department of Environmental
20 Protection that previously approved tax credits have been
21 revoked or modified. If the revocation or modification order
22 is contested, the taxpayer shall file as provided in this
23 paragraph within 60 days after a final order is issued
24 following proceedings.

25 (e) A notice of deficiency may be issued by the
26 Department of Revenue at any time within 3 years after the
27 taxpayer receives formal notification from the Department of
28 Environmental Protection that previously approved tax credits
29 have been revoked or modified. If a taxpayer fails to notify
30 the Department of Revenue of any changes to its tax credit
31 claimed, a notice of deficiency may be issued at any time.

1 (5) RULES.--The Department of Revenue shall have the
2 authority to adopt rules relating to the forms required to
3 claim a tax credit under this section, the requirements and
4 basis for establishing an entitlement to a credit, and the
5 examination and audit procedures required to administer this
6 section.

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

10 Section 14. Paragraph (a) of subsection (1) of section
11 220.13, Florida Statutes, is amended to read:

12 220.13 "Adjusted federal income" defined.--

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

18 (a) Additions.--There shall be added to such taxable
19 income:

20 1. The amount of any tax upon or measured by income,
21 excluding taxes based on gross receipts or revenues, paid or
22 accrued as a liability to the District of Columbia or any
23 state of the United States which is deductible from gross
24 income in the computation of taxable income for the taxable
25 year.

26 2. The amount of interest which is excluded from
27 taxable income under s. 103(a) of the Internal Revenue Code or
28 any other federal law, less the associated expenses disallowed
29 in the computation of taxable income under s. 265 of the
30 Internal Revenue Code or any other law, excluding 60 percent
31 of any amounts included in alternative minimum taxable income,

1 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
2 taxpayer pays tax under s. 220.11(3).

3 3. In the case of a regulated investment company or
4 real estate investment trust, an amount equal to the excess of
5 the net long-term capital gain for the taxable year over the
6 amount of the capital gain dividends attributable to the
7 taxable year.

8 4. That portion of the wages or salaries paid or
9 incurred for the taxable year which is equal to the amount of
10 the credit allowable for the taxable year under s. 220.181.
11 The provisions of this subparagraph shall expire and be void
12 on June 30, 2005.

13 5. That portion of the ad valorem school taxes paid or
14 incurred for the taxable year which is equal to the amount of
15 the credit allowable for the taxable year under s. 220.182.
16 The provisions of this subparagraph shall expire and be void
17 on June 30, 2005.

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

22 7. That portion of assessments to fund a guaranty
23 association incurred for the taxable year which is equal to
24 the amount of the credit allowable for the taxable year.

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

30 9. The amount taken as a credit for the taxable year
31 under s. 220.1895.

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

4 11. The amount taken as a credit for the taxable year
5 under s. 220.187.

6 12. The amount taken as a credit for the taxable year
7 under s. 220.192.

8 Section 15. Subsection (2) of section 186.801, Florida
9 Statutes, is amended to read:

10 186.801 Ten-year site plans.--

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

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

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

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

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

4 ~~(e)(d)~~ The views of appropriate local, state, and
5 federal agencies, including the views of the appropriate water
6 management district as to the availability of water and its
7 recommendation as to the use by the proposed plant of salt
8 water or fresh water for cooling purposes.

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

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

13 Section 16. Subsection (6) of section 366.04, Florida
14 Statutes, is amended to read:

15 366.04 Jurisdiction of commission.--

16 (6) The commission shall further have exclusive
17 jurisdiction to prescribe and enforce safety standards for
18 transmission and distribution facilities of all public
19 electric utilities, cooperatives organized under the Rural
20 Electric Cooperative Law, and electric utilities owned and
21 operated by municipalities. In adopting safety standards, the
22 commission shall, at a minimum:

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

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

27
28 The standards prescribed by the current 1984 edition of the
29 National Electrical Safety Code (ANSI C2) shall constitute
30 acceptable and adequate requirements for the protection of the
31 safety of the public, and compliance with the minimum

1 requirements of that code shall constitute good engineering
2 practice by the utilities. The administrative authority
3 referred to in the 1984 edition of the National Electrical
4 Safety Code is the commission. However, nothing herein shall
5 be construed as superseding, repealing, or amending the
6 provisions of s. 403.523(1) and (10).

7 Section 17. Subsections (1) and (8) of section 366.05,
8 Florida Statutes, are amended to read:

9 366.05 Powers.--

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

27 (8) If the commission determines that there is
28 probable cause to believe that inadequacies exist with respect
29 to the energy grids developed by the electric utility
30 industry, including inadequacies in fuel diversity or fuel
31 supply reliability, it shall have the power, after proceedings

1 as provided by law, and after a finding that mutual benefits
2 will accrue to the electric utilities involved, to require
3 installation or repair of necessary facilities, including
4 generating plants and transmission facilities, with the costs
5 to be distributed in proportion to the benefits received, and
6 to take all necessary steps to ensure compliance. The electric
7 utilities involved in any action taken or orders issued
8 pursuant to this subsection shall have full power and
9 authority, notwithstanding any general or special laws to the
10 contrary, to jointly plan, finance, build, operate, or lease
11 generating and transmission facilities and shall be further
12 authorized to exercise the powers granted to corporations in
13 chapter 361. This subsection shall not supersede or control
14 any provision of the Florida Electrical Power Plant Siting
15 Act, ss. 403.501-403.518.

16 Section 18. Subsections (5), (8), (9), (12), (18),
17 (24), and (27) of section 403.503, Florida Statutes, are
18 amended, subsections (16) through (28) are renumbered as (17)
19 through (29), respectively, and new subsection (16) is added
20 to that section, to read:

21 403.503 Definitions relating to Florida Electrical
22 Power Plant Siting Act.--As used in this act:

23 (5) "Application" means the documents required by the
24 department to be filed to initiate a certification review and
25 evaluation, including the initial document filing, amendments,
26 and responses to requests from the department for additional
27 data and information ~~proceeding and shall include the~~
28 ~~documents necessary for the department to render a decision on~~
29 ~~any permit required pursuant to any federally delegated or~~
30 ~~approved permit program.~~

31

1 (8) "Completeness" means that the application has
2 addressed all applicable sections of the prescribed
3 application format, ~~and but does not mean~~ that those sections
4 are sufficient in comprehensiveness of data or in quality of
5 information provided to allow the department to determine
6 whether the application provides the reviewing agencies
7 adequate information to prepare the reports required by s.
8 403.507.

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

20 (12) "Electrical power plant" means, for the purpose
21 of certification, any steam or solar electrical generating
22 facility using any process or fuel, including nuclear
23 materials, except that this term does not include any steam or
24 solar electric generating facility of less than 75 megawatts
25 in capacity unless the applicant for such a facility elects to
26 apply for certification under this act. This term ~~and~~ includes
27 associated facilities, including offsite facilities, to be
28 owned or operated by the applicant which directly support the
29 construction and operation of the electrical power plant and
30 which are physically connected to the electrical power plant
31 site or which are directly connected to the electrical power

1 plant site by other proposed associated facilities to be owned
 2 by the applicant, such as fuel unloading facilities, pipelines
 3 necessary for transporting fuel for the operation of the
 4 facility or other fuel transportation facilities, water or
 5 wastewater transport pipelines, construction, maintenance and
 6 access roads, railway lines necessary for transport of
 7 construction equipment or fuel for the operation of the
 8 facility. The term also includes ~~and~~ those associated
 9 transmission lines owned or operated by the applicant which
 10 connect the electrical power plant to an existing transmission
 11 network or rights-of-way to which the applicant intends to
 12 connect, ~~except that this term does not include any steam or~~
 13 ~~solar electrical generating facility of less than 75 megawatts~~
 14 ~~in capacity unless the applicant for such a facility elects to~~
 15 ~~apply for certification under this act. Associated facilities~~
 16 ~~An associated transmission line~~ may include, at the
 17 applicant's option, offsite associated facilities that will
 18 not be owned by the applicant, offsite associated facilities
 19 which are owned by the applicant but which are not directly
 20 connected to the electrical power plant site, any proposed
 21 terminal or intermediate substations or substation expansions
 22 connected to the associated transmission line, or new
 23 transmission lines or upgrades or improvements of an existing
 24 transmission line on any portion of the applicant's electrical
 25 transmission system necessary to support the generation
 26 injected into the system from the proposed electrical power
 27 plant.

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

30 (19)(18) "Nonprocedural requirements of agencies"
 31 means any agency's regulatory requirements established by

1 statute, rule, ordinance, zoning ordinance, land development
 2 code, or comprehensive plan, excluding any provisions
 3 prescribing forms, fees, procedures, or time limits for the
 4 review or processing of information submitted to demonstrate
 5 compliance with such regulatory requirements.

6 ~~(25)(24)~~ "Right-of-way" means land necessary for the
 7 construction and maintenance of a connected associated linear
 8 facility, such as a railroad line, pipeline, or transmission
 9 line as owned by or proposed to be certified by the applicant.

10 The typical width of the right-of-way shall be identified in
 11 the application. The right-of-way shall be located within the
 12 certified corridor and shall be identified by the applicant
 13 subsequent to certification in documents filed with the
 14 department prior to construction.

15 ~~(28)(27)~~ "Ultimate site capacity" means the maximum
 16 generating capacity for a site as certified by the board.

17 ~~"Sufficiency" means that the application is not only complete~~
 18 ~~but that all sections are sufficient in the comprehensiveness~~
 19 ~~of data or in the quality of information provided to allow the~~
 20 ~~department to determine whether the application provides the~~
 21 ~~reviewing agencies adequate information to prepare the reports~~
 22 ~~required by s. 403.507.~~

23 Section 19. Subsections (1), (7), (9), and (10) of
 24 section 403.504, Florida Statutes, are amended, and new
 25 subsections (9), (10), (11), and (12) are added to that
 26 section, to read:

27 403.504 Department of Environmental Protection; powers
 28 and duties enumerated.--The department shall have the
 29 following powers and duties in relation to this act:

30 (1) To adopt rules pursuant to ss. 120.536(1) and
 31 120.54 to implement the provisions of this act, including

1 rules setting forth environmental precautions to be followed
2 in relation to the location, construction, and operation of
3 electrical power plants.

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

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

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

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

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

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

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

20 Section 20. Section 403.5055, Florida Statutes, is
21 amended to read:

22 403.5055 Application for permits pursuant to s.
23 403.0885.--In processing applications for permits pursuant to
24 s. 403.0885 that are associated with applications for
25 electrical power plant certification:

26 (1) The procedural requirements set forth in 40 C.F.R.
27 s. 123.25, including public notice, public comments, and
28 public hearings, shall be closely coordinated with the
29 certification process established under this part. In the
30 event of a conflict between the certification process and
31

1 federally required procedures for NPDES permit issuance, the
2 applicable federal requirements shall control.

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

10 (2)(3) If available at the time the department issues
11 its project analysis under s. 403.507(3), the department shall
12 include in its written project analysis ~~pursuant to s.~~
13 ~~403.507(3)~~ copies of the department's proposed action pursuant
14 to 40 C.F.R. s. 124.6 on any application for a NPDES permit;
15 any corresponding comments received from the United States
16 Environmental Protection Agency, the applicant, or the general
17 public; and the department's response to those comments.

18 (3)(4) The department shall not issue or deny the
19 permit pursuant to s. 403.0885 in advance of the issuance of
20 the electric power plant certification under this part unless
21 required to do so by the provisions of federal law. When
22 possible, any hearing on a permit issued pursuant to s.
23 403.0885, shall be conducted in conjunction with the
24 certification hearing held pursuant to this act. The
25 department's actions on an NPDES permit shall be based on the
26 record and recommended order of the certification hearing, if
27 the hearing on the NPDES was conducted in conjunction with the
28 certification hearing, and of any other proceeding held in
29 connection with the application for an NPDES permit, timely
30 public comments received with respect to the application, and
31 the provisions of federal law. The department's action on an

1 NPDES permit, if issued, shall differ from the actions taken
2 by the siting board regarding the certification order if
3 federal laws and regulations require different action to be
4 taken to ensure compliance with the Clean Water Act, as
5 amended, and implementing regulations. Nothing in this part
6 shall be construed to displace the department's authority as
7 the final permitting entity under the federally approved state
8 NPDES program. Nothing in this part shall be construed to
9 authorize the issuance of a state NPDES permit which does not
10 conform to the requirements of the federally approved state
11 NPDES program. ~~The permit, if issued, shall be valid for no
12 more than 5 years.~~

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

19 Section 21. Section 403.506, Florida Statutes, is
20 amended to read:

21 403.506 Applicability, thresholds, and
22 certification.--

23 (1) The provisions of this act shall apply to any
24 electrical power plant as defined herein, except that the
25 provisions of this act shall not apply to any electrical power
26 plant or steam generating plant of less than 75 megawatts in
27 capacity or to any substation to be constructed as part of an
28 associated transmission line unless the applicant has elected
29 to apply for certification of such plant or substation under
30 this act. The provisions of this act do not apply to any unit
31 capacity extension of 35 megawatts or less of an existing

1 exothermic reactor cogeneration unit that was exempt from this
2 act when the unit was originally built. However, this
3 exemption does not apply if the unit uses oil or natural gas
4 for purposes other than to start the unit. No construction of
5 any new electrical power plant or expansion in steam
6 generating capacity as measured by an increase in the maximum
7 electrical generator rating of any existing electrical power
8 plant may be undertaken after October 1, 1973, without first
9 obtaining certification in the manner as herein provided,
10 except that this act shall not apply to any such electrical
11 power plant which is presently operating or under construction
12 or which has, upon the effective date of chapter 73-33, Laws
13 of Florida, applied for a permit or certification under
14 requirements in force prior to the effective date of such act.

15 (2) Except as provided in the certification,
16 modification of nonnuclear fuels, internal related hardware,
17 including increases in steam turbine efficiency, or operating
18 conditions not in conflict with certification which increase
19 the electrical output of a unit to no greater capacity than
20 the maximum electrical generator rating ~~operating capacity~~ of
21 the existing generator shall not constitute an alteration or
22 addition to generating capacity which requires certification
23 pursuant to this act.

24 ~~(3) The application for any related department license~~
25 ~~which is required pursuant to any federally delegated or~~
26 ~~approved permit program shall be processed within the time~~
27 ~~periods allowed by this act, in lieu of those specified in s.~~
28 ~~120.60. However, permits issued pursuant to s. 403.0885 shall~~
29 ~~be processed in accordance with 40 C.F.R. part 123.~~

30 Section 22. Section 403.5064, Florida Statutes, is
31 amended to read:

1 403.5064 Application ~~Distribution of application;~~
2 schedules.--

3 (1) The formal date of certification application
4 filing and commencement of the certification review process
5 shall be when the applicant submits:

6 (a) Copies of the certification application in a
7 quantity and format as prescribed by rule to the department
8 and other agencies identified in s. 403.507(2)(a).

9 (b) The application fee specified under s. 403.518 to
10 the department.

11 (2)(1) Within 7 days after the filing of an
12 application, the department shall provide to the applicant and
13 the Division of Administrative Hearings the names and
14 addresses of any additional ~~those affected or other~~ agencies
15 or persons entitled to notice and copies of the application
16 and any amendments. Copies of the application shall be
17 distributed within 5 days by the applicant to those additional
18 agencies. This distribution may not be the basis for altering
19 the schedule of dates for the certification process.

20 (3) Any amendment to the application made prior to
21 certification shall be disposed of as part of the original
22 certification proceeding. Amendment of the application may be
23 considered good cause for alteration of time limits pursuant
24 to s. 403.5095.

25 (4)(2) Within 7 days after the application filing
26 ~~completeness has been determined~~, the department shall prepare
27 a proposed schedule of dates for determination of
28 completeness, submission of statements of issues,
29 ~~determination of sufficiency, and~~ submittal of final reports,
30 ~~from affected and other agencies~~ and other significant dates
31 to be followed during the certification process, including

1 dates for filing notices of appearance to be a party pursuant
2 to s. 403.508~~(3)(4)~~. This schedule shall be timely provided by
3 the department to the applicant, the administrative law judge,
4 all agencies identified pursuant to subsection~~(2)(1)~~, and
5 all parties. Within 7 days after the filing of this proposed
6 schedule, the administrative law judge shall issue an order
7 establishing a schedule for the matters addressed in the
8 department's proposed schedule and other appropriate matters,
9 if any.

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

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

19 Section 23. Section 403.5065, Florida Statutes, is
20 amended to read:

21 403.5065 Appointment of administrative law judge,
22 powers and duties.--

23 (1) Within 7 days after receipt of an application,
24 ~~whether complete or not,~~ the department shall request the
25 Division of Administrative Hearings to designate an
26 administrative law judge to conduct the hearings required by
27 this act. The division director shall designate an
28 administrative law judge within 7 days after receipt of the
29 request from the department. In designating an administrative
30 law judge for this purpose, the division director shall,
31 whenever practicable, assign an administrative law judge who

1 has had prior experience or training in electrical power plant
2 site certification proceedings. Upon being advised that an
3 administrative law judge has been appointed, the department
4 shall immediately file a copy of the application and all
5 supporting documents with the designated administrative law
6 judge, who shall docket the application.

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

10 Section 24. Section 403.5066, Florida Statutes, is
11 amended to read:

12 403.5066 Determination of completeness.--

13 (1)(a) Within 30 days after filing of an application,
14 the affected agencies shall file a statement with the
15 department containing each agency's recommendations on the
16 completeness of the application.

17 (b) Within 40 15 days after the filing receipt of an
18 application, the department shall file a statement with the
19 Division of Administrative Hearings, and with the applicant,
20 and with all parties declaring its position with regard to the
21 completeness, not the sufficiency, of the application. The
22 department's statement shall be based upon consultation with
23 the affected agencies.

24 (2)(1) If the department declares the application to
25 be incomplete, the applicant, within 15 days after the filing
26 of the statement by the department, shall file with the
27 Division of Administrative Hearings, and with the department,
28 and all parties a statement:

29 (a) A withdrawal of Agreeing with the statement of the
30 department and withdrawing the application;

31

1 (b) A statement agreeing to supply the additional
2 information necessary to make the application complete. Such
3 additional information shall be provided within 30 days after
4 issuance of the department's statement concerning the
5 completeness of the application. The time schedules under this
6 act may not be tolled if the applicant makes the application
7 complete within 30 days after issuance of the department's
8 statement concerning the completeness of the application. A
9 subsequent finding by the department that the application
10 remains incomplete based upon additional information submitted
11 by the applicant, or based on the failure of the applicant to
12 timely submit the additional information, tolls the time
13 schedules under this act until the application is determined
14 complete; ~~Agreeing with the statement of the department and~~
15 ~~agreeing to amend the application without withdrawing it. The~~
16 ~~time schedules referencing a complete application under this~~
17 ~~act shall not commence until the application is determined~~
18 ~~complete; or~~

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

22 (d) A statement agreeing with the department and
23 requesting additional time beyond 30 days to provide the
24 information necessary to make the application complete. If the
25 applicant exercises this option, the time schedules under this
26 act are tolled until the application is determined complete.

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

1 the filing of the statement by the department. The
2 administrative law judge shall render a decision within 7 ~~10~~
3 days after the hearing.

4 (b) Parties to a hearing on the issue of completeness
5 shall include the applicant, the department, and any agency
6 that has jurisdiction over the matter in dispute.

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

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

18 (4) If the applicant provides additional information
19 to address the issues identified in the determination of
20 incompleteness, each affected agency may submit to the
21 department, no later than 15 days after the applicant files
22 the additional information, a recommendation on whether the
23 agency believes the application is complete. Within 22 days
24 after receipt of the additional information from the applicant
25 submitted under paragraph (2)(b), paragraph (2)(d), or
26 paragraph (3)(c), the department shall determine whether the
27 additional information supplied by an applicant makes the
28 application complete. If the department finds that the
29 application is still incomplete, the applicant may exercise
30 any of the options specified in subsection (2) as often as is
31 necessary to resolve the dispute.

1 Section 25. Section 403.50663, Florida Statutes, is
2 created to read:

3 403.50663 Informational public meetings.--

4 (1) A local government within whose jurisdiction the
5 power plant is proposed to be sited, may hold one
6 informational public meeting in addition to the hearings
7 specifically authorized by this act on any matter associated
8 with the electric power plant proceeding. Such informational
9 public meetings shall be held by the local government, or the
10 regional planning council, if the local government does not
11 hold such a meeting within 70 days after the filing of the
12 application. The purpose of an informational public meeting is
13 for the local government or regional planning council to
14 further inform the public about the proposed electric power
15 plant or associated facilities, obtain comments from the
16 public, and formulate its recommendation with respect to the
17 proposed electric power plant.

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

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

31

1 (4) The failure to hold an informational public
2 meeting or the procedure used for the informational public
3 meeting are not grounds for the alteration of any time
4 limitation in this act under s. 403.5095 or grounds to deny or
5 condition certification.

6 Section 26. Section 403.50665, Florida Statutes, is
7 created to read:

8 403.50665 Land use consistency.--

9 (1) The applicant shall include with the application a
10 statement concerning the consistency of the site or any
11 directly associated facilities with existing land use plans
12 and zoning ordinances that were in effect on the date the
13 application was filed, and a full description of such
14 consistency.

15 (2) Within 80 days after the application is filed,
16 each local government shall file a determination with the
17 department, the applicant, the administrative law judge, and
18 all parties on the consistency of the site or any directly
19 associated facilities with existing land use plans and zoning
20 ordinances that were in effect on the date the application was
21 filed based on the information in the application. The
22 applicant shall publish notice of the determination in
23 accordance with the requirements of s. 403.5115.

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

1 (4) The time periods in this section may be altered
 2 upon an agreement between the applicant, the local government,
 3 and the department under s. 403.5095.

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

13 Section 27. Section 403.5067, Florida Statutes, is
 14 repealed.

15 Section 28. Section 403.507, Florida Statutes, is
 16 amended to read:

17 403.507 Preliminary statements of issues, reports,
 18 project analyses, and studies.--

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

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

31

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

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

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

24 ~~3.4.~~ Each local government in whose jurisdiction the
25 proposed electrical power plant is to be located shall prepare
26 a report as to the consistency of the proposed electrical
27 power plant with all applicable local ordinances, regulations,
28 standards, or criteria that apply to the proposed electrical
29 power plant, including ~~adopted local comprehensive plans, land~~
30 ~~development regulations, and~~ any applicable local
31

1 environmental regulations adopted pursuant to s. 403.182 or by
2 other means.

3 ~~4.5.~~ The Fish and Wildlife Conservation Commission
4 shall prepare a report as to matters within its jurisdiction.

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

12 6. The Department of Transportation shall address the
13 impact of the proposed power plant on matters within its
14 jurisdiction.

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

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

- 27 ~~1. Cooling system requirements.~~
- 28 ~~2. Construction and operational safeguards.~~
- 29 ~~3. Proximity to transportation systems.~~
- 30 ~~4. Soil and foundation conditions.~~

31

1 ~~5. Impact on suitable present and projected water~~
2 ~~supplies for this and other competing uses.~~

3 ~~6. Impact on surrounding land uses.~~

4 ~~7. Accessibility to transmission corridors.~~

5 ~~8. Environmental impacts.~~

6 ~~9. Requirements applicable under any federally~~
7 ~~delegated or approved permit program.~~

8 ~~(3)(c)~~ Each report described in subsection (2)
9 ~~paragraphs (a) and (b)~~ shall contain:

10 (a) A notice of any nonprocedural requirements not
11 specifically listed in the application from which a variance,
12 exemption, exception, all information on variances,
13 exemptions, exceptions, or other relief is necessary in order
14 for the proposed electric power plant to be certified. Failure
15 of such notification by an agency shall be treated as a waiver
16 from nonprocedural requirements of that agency. However, no
17 variance shall be granted from standards or regulations of the
18 department applicable under any federally delegated or
19 approved permit program, except as expressly allowed in such
20 program. which may be required by s. 403.511(2) and

21 (b) A recommendation for approval or denial of the
22 application.

23 (c) Any proposed conditions of certification on
24 matters within the jurisdiction of such agency. For each
25 condition proposed by an agency in its report, the agency
26 shall list the specific statute, rule, or ordinance which
27 authorizes the proposed condition.

28 (d) The agencies shall initiate the activities
29 required by this section no later than ~~15~~ 30 days after the
30 complete application is distributed. The agencies shall keep
31

1 the applicant and the department informed as to the progress
2 of the studies and any issues raised thereby.

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

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

28 (b) Receipt of an affirmative determination of need by
29 the submittal deadline under paragraph (a) and shall be a
30 condition precedent to the issuance of the department's
31 project analysis and its conduct of the certification hearing.

1 ~~(5)(4)~~ The department shall prepare a project written
2 analysis, which shall be filed with the designated
3 administrative law judge and served on all parties no later
4 than 130 ~~240~~ days after the ~~complete~~ application is determined
5 ~~complete~~ filed with the department, but no later than ~~60 days~~
6 ~~prior to the hearing~~, and which shall include:

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

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

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

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

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

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

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

10 Section 29. Section 403.508, Florida Statutes, is
11 amended to read:

12 403.508 Land use and certification hearings
13 ~~proceedings~~, parties, participants.--

14 (1)(a) If a petition for a hearing on land use has
15 been filed pursuant to s. 403.50665, the designated
16 administrative law judge shall conduct a land use hearing in
17 the county of the proposed site or directly associated
18 facility, as applicable, not later than 30 within 90 days
19 after the department's receipt of the petition a complete
20 application for electrical power plant site certification by
21 the department. The place of such hearing shall be as close as
22 possible to the proposed site or directly associated facility.
23 If a petition is filed, the hearing must be held regardless of
24 the status of the completeness of the application. However,
25 incompleteness of information necessary for a local government
26 to evaluate an application may be claimed by the local
27 government as cause for a statement of inconsistency with
28 existing land use plans and zoning ordinances under s.
29 403.50665.

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

1 ~~(c)(2)~~ The sole issue for determination at the land
2 use hearing shall be whether or not the proposed site is
3 consistent and in compliance with existing land use plans and
4 zoning ordinances. If the administrative law judge concludes
5 that the proposed site is not consistent or in compliance with
6 existing land use plans and zoning ordinances, the
7 administrative law judge shall receive evidence on, and
8 address in the recommended order, any changes to or approvals
9 or variances under the applicable land use plans or zoning
10 ordinances which will render the proposed site consistent and
11 in compliance with the local land use plans and zoning
12 ordinances.

13 (d) The designated administrative law judge's
14 recommended order shall be issued within 30 days after
15 completion of the hearing and shall be reviewed by the board
16 within ~~60~~ 45 days after receipt of the recommended order by
17 the board.

18 (e) If it is determined by the board that the proposed
19 site does conform with existing land use plans and zoning
20 ordinances in effect as of the date of the application, or as
21 otherwise provided by this act, the responsible zoning or
22 planning authority shall not thereafter change such land use
23 plans or zoning ordinances so as to foreclose construction and
24 operation of ~~affect~~ the proposed power plant on the proposed
25 site or directly associated facilities unless certification is
26 subsequently denied or withdrawn.

27 (f) If it is determined by the board that the proposed
28 site does not conform, ~~it shall be the responsibility of the~~
29 ~~applicant to make the necessary application for rezoning.~~
30 ~~Should the application for rezoning be denied, the applicant~~
31 ~~may appeal this decision to the board, which may, if it~~

1 determines after notice and hearing and upon consideration of
2 the recommended order on land use and zoning issues that it is
3 in the public interest to authorize the use of the land as a
4 site for an electrical power plant, authorize an amendment to
5 rezoning, a variance, or other approval to the adopted land
6 use plan and zoning ordinances required to render the proposed
7 site consistent with local land use plans and zoning
8 ordinances. The board's actions may not be controlled by any
9 other procedural requirements of law. In the event a variance
10 or other approval by the board is denied, it shall be the
11 responsibility of the applicant to make the necessary
12 application to the applicable local government for any
13 approvals determined by the board as required to make the
14 proposed site consistent and in compliance with local land use
15 plans and zoning ordinances. No further action may be taken on
16 the complete application ~~by the department~~ until the proposed
17 site conforms to the adopted land use plan or zoning
18 ordinances or the board grants relief as provided under this
19 act.

20 ~~(2)(a)(3)~~ A certification hearing shall be held by the
21 designated administrative law judge no later than 265 ~~300~~ days
22 after the complete application is filed with the department;
23 ~~however, an affirmative determination of need by the Public~~
24 ~~Service Commission pursuant to s. 403.519 shall be a condition~~
25 ~~precedent to the conduct of the certification hearing.~~ The
26 certification hearing shall be held at a location in proximity
27 to the proposed site. ~~The certification hearing shall also~~
28 ~~constitute the sole hearing allowed by chapter 120 to~~
29 ~~determine the substantial interest of a party regarding any~~
30 ~~required agency license or any related permit required~~
31 ~~pursuant to any federally delegated or approved permit~~

1 ~~program.~~ At the conclusion of the certification hearing, the
2 designated administrative law judge shall, after consideration
3 of all evidence of record, submit to the board a recommended
4 order no later than ~~45~~ 60 days after the filing of the hearing
5 transcript. ~~In the event the administrative law judge fails to~~
6 ~~issue a recommended order within 60 days after the filing of~~
7 ~~the hearing transcript, the administrative law judge shall~~
8 ~~submit a report to the board with a copy to all parties within~~
9 ~~60 days after the filing of the hearing transcript to advise~~
10 ~~the board of the reason for the delay in the issuance of the~~
11 ~~recommended order and of the date by which the recommended~~
12 ~~order will be issued.~~

13 (b) Notice of the certification hearing and notice of
14 the deadline for filing the notice of intent to be a party
15 shall be made in accordance with the requirements of s.
16 403.5115.

17 ~~(3)(4)~~(a) Parties to the proceeding shall include:

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

27 (b) Any party listed in paragraph (a) other than the
28 department or the applicant may waive its right to participate
29 in these proceedings. If such listed party fails to file a
30 notice of its intent to be a party on or before the 90th day
31

1 prior to the certification hearing, such party shall be deemed
2 to have waived its right to be a party.

3 (c) Notwithstanding the provisions of chapter 120 to
4 the contrary, upon the filing with the administrative law
5 judge of a notice of intent to be a party no later than 75 at
6 least 15 days after the application is filed prior to the date
7 of the land use hearing, the following shall also be parties
8 to the proceeding:

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

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

19 (d) Notwithstanding paragraph (e), failure of an
20 agency described in subparagraph (c)1. to file a notice of
21 intent to be a party within the time provided herein shall
22 constitute a waiver of the right of that agency to participate
23 as a party in the proceeding.

24 (e) Other parties may include any person, including
25 those persons enumerated in paragraph (c) who have failed to
26 timely file a notice of intent to be a party, whose
27 substantial interests are affected and being determined by the
28 proceeding and who timely file a motion to intervene pursuant
29 to chapter 120 and applicable rules. Intervention pursuant to
30 this paragraph may be granted at the discretion of the
31 designated administrative law judge and upon such conditions

1 as he or she may prescribe any time prior to 30 days before
2 the commencement of the certification hearing.

3 (f) Any agency, including those whose properties or
4 works are being affected pursuant to s. 403.509(4), shall be
5 made a party upon the request of the department or the
6 applicant.

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

11 1. The applicant.

12 2. The department.

13 3. State agencies.

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

16 5. Local governments.

17 6. Other parties.

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

24 (5) At the conclusion of the certification hearing,
25 the designated administrative law judge shall, after
26 consideration of all evidence of record, submit to the board a
27 recommended order no later than 45 days after the filing of
28 the hearing transcript.

29 (6)(a) No sooner than 29 days before the certification
30 hearing, the department or the applicant may request that the
31 administrative law judge cancel the certification hearing and

1 relinquish jurisdiction to the department if all parties to
2 the proceeding stipulate that there are no disputed issues of
3 fact to be raised at the certification hearing and if
4 sufficient time remains for the applicant and the department
5 to publish public notices of the cancellation of the hearing
6 at least 3 days before the scheduled date of the hearing.

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

9 (c) If the administrative law judge grants the
10 request, the department and the applicant shall publish
11 notices of the cancellation of the certification hearing, in
12 accordance with s. 403.5115.

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

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

19 ~~(7)(6) The applicant shall pay those expenses and~~
20 ~~costs associated with the conduct of the hearings and the~~
21 ~~recording and transcription of the proceedings. The designated~~
22 ~~administrative law judge shall have all powers and duties~~
23 ~~granted to administrative law judges by chapter 120 and this~~
24 ~~chapter and by the rules of the department and the~~
25 ~~Administration Commission, including the authority to resolve~~
26 ~~disputes over the completeness and sufficiency of an~~
27 ~~application for certification.~~

28 ~~(7) The order of presentation at the certification~~
29 ~~hearing, unless otherwise changed by the administrative law~~
30 ~~judge to ensure the orderly presentation of witnesses and~~
31 ~~evidence, shall be:~~

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

1 ~~permit. If requested following notice of the department's~~
2 ~~preliminary determination, the public meeting to receive~~
3 ~~public comment shall be held prior to the scheduled~~
4 ~~certification hearing. The department shall also solicit~~
5 ~~comments from the United States Environmental Protection~~
6 ~~Agency and other affected federal agencies regarding the~~
7 ~~department's preliminary determination for any federally~~
8 ~~required new source review or prevention of significant~~
9 ~~deterioration permit. It is the intent of the Legislature that~~
10 the review, processing, and issuance of such federally
11 delegated or approved permits be closely coordinated with the
12 certification process established under this part. In the
13 event of a conflict between the certification process and
14 federally required procedures contained in the state
15 implementation plan, the applicable federal requirements of
16 the implementation plan shall control.

17 Section 30. Section 403.509, Florida Statutes, is
18 amended to read:

19 403.509 Final disposition of application.--

20 (1)(a) If the administrative law judge has granted a
21 request to cancel the certification hearing and has
22 relinquished jurisdiction to the department under the
23 provisions of s. 403.508(6), within 40 days thereafter, the
24 secretary of the department shall act upon the application by
25 written order in accordance with the terms of this act, and
26 the stipulation of the parties in requesting the cancellation
27 of the certification hearing.

28 (b) If the administrative law judge has not granted a
29 request to cancel the certification hearing under the
30 provisions of s. 403.508(6), within 60 days after receipt of
31 the designated administrative law judge's recommended order,

1 the board shall act upon the application by written order,
2 approving ~~certification~~ or denying certification ~~the issuance~~
3 ~~of a certificate~~, in accordance with the terms of this act,
4 and stating the reasons for issuance or denial. If
5 certification ~~the certificate~~ is denied, the board shall set
6 forth in writing the action the applicant would have to take
7 to secure the board's approval of the application.

8 (2) The issues that may be raised in any hearing
9 before the board shall be limited to those matters raised in
10 the certification proceeding before the administrative law
11 judge or raised in the recommended order. All parties, or
12 their representatives, or persons who appear before the board
13 shall be subject to the provisions of s. 120.66.

14 (3) In determining whether an application should be
15 approved in whole, approved with modifications or conditions,
16 or denied, the board, or secretary when applicable, shall
17 consider whether, and the extent to which, the location of
18 electric power plant and directly associated facilities and
19 their construction and operation will:

20 (a) Provide reasonable assurance that operational
21 safeguards are technically sufficient for the public welfare
22 and protection.

23 (b) Comply with applicable nonprocedural requirements
24 of agencies.

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

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

29 (e) Provide a reasonable balance between the need for
30 the facility as established pursuant to s. 403.519, and the
31 impacts upon air and water quality, fish and wildlife, water

1 resources, and other natural resources as a result of the
2 construction and operation of the facility.

3 (f) Minimize, through the use of reasonable and
4 available methods, the adverse effects on human health, the
5 environment, and the ecology of the land and its wildlife and
6 the ecology of state waters and their aquatic life.

7 ~~(4)(3) Within 30 days after issuance of the~~
8 ~~certification, the department shall issue and forward to the~~
9 ~~United States Environmental Protection Agency a proposed~~
10 ~~operation permit for a major source of air pollution and must~~
11 ~~issue or deny any other license required pursuant to any~~
12 ~~federally delegated or approved permit program. The~~
13 ~~department's action on the license and its action on the~~
14 ~~proposed operation permit for a major source of air pollution~~
15 ~~shall be based upon the record and recommended order of the~~
16 ~~certification hearing. The department's actions on a federally~~
17 ~~required new source review or prevention of significant~~
18 ~~deterioration permit shall be based on the record and~~
19 ~~recommended order of the certification hearing and of any~~
20 ~~other proceeding held in connection with the application for a~~
21 ~~new source review or prevention of significant deterioration~~
22 ~~permit, on timely public comments received with respect to the~~
23 ~~application or preliminary determination for such permit, and~~
24 ~~on the provisions of the state implementation plan. The~~
25 ~~department's action on a federally required new source review~~
26 ~~or prevention of significant deterioration permit shall differ~~
27 ~~from the actions taken by the siting board regarding the~~
28 ~~certification if the federally approved state implementation~~
29 ~~plan requires such a different action to be taken by the~~
30 ~~department. Nothing in this part shall be construed to~~
31 ~~displace the department's authority as the final permitting~~

1 entity under the federally approved permit program. Nothing in
2 this part shall be construed to authorize the issuance of a
3 new source review or prevention of significant deterioration
4 permit which does not conform to the requirements of the
5 federally approved state implementation plan. ~~Any final~~
6 ~~operation permit for a major source of air pollution must be~~
7 ~~issued in accordance with the provisions of s. 403.0872.~~
8 ~~Unless the federally delegated or approved permit program~~
9 ~~provides otherwise, licenses issued by the department under~~
10 ~~this subsection shall be effective for the term of the~~
11 ~~certification issued by the board. If renewal of any license~~
12 ~~issued by the department pursuant to a federally delegated or~~
13 ~~approved permit program is required, such renewal shall not~~
14 ~~affect the certification issued by the board, except as~~
15 ~~necessary to resolve inconsistencies pursuant to s.~~
16 ~~403.516(1)(a).~~

17 ~~(5)(4)~~ In regard to the properties and works of any
18 agency which is a party to the certification hearing, the
19 board may ~~shall have the authority to~~ decide issues relating
20 to the use, the connection thereto, or the crossing thereof,
21 for the electrical power plant and its directly associated
22 facilities site and to direct any such agency to execute,
23 within 30 days after the entry of certification, the necessary
24 license or easement for such use, connection, or crossing,
25 subject only to the conditions set forth in such
26 certification. However, the applicant shall seek any necessary
27 interest in state lands the title to which is vested in the
28 Board of Trustees of the Internal Improvement Trust Fund from
29 the board of trustees or from the governing board of the water
30 management district before, during, or after the certification
31 proceeding. Certification may be made contingent upon issuance

1 of the appropriate interest. The applicant or any party to the
2 certification proceeding may not directly or indirectly raise
3 or relitigate any matter that was or could have been an issue
4 in the certification proceeding in any proceeding before the
5 Board of Trustees of the Internal Improvement Trust Fund in
6 which the applicant is seeking a necessary interest in state
7 land, but the information presented in the certification
8 proceeding shall be available for review by the board of
9 trustees and its staff.

10 ~~(6)(5)~~ Except as specified in subsection (4), for the
11 ~~issuance of any operation permit for a major source of air~~
12 ~~pollution pursuant to s. 403.0872, the issuance or denial of~~
13 ~~the certification by the board or the Secretary of the~~
14 ~~department and the issuance or denial of any related~~
15 ~~department license required pursuant to any federally~~
16 ~~delegated or approved permit program shall be the final~~
17 ~~administrative action required as to that application.~~

18 ~~(6)~~ All certified electrical power plants must apply
19 ~~for and obtain a major source air operation permit pursuant to~~
20 ~~s. 403.0872. Major source air operation permit applications~~
21 ~~for certified electrical power plants must be submitted~~
22 ~~pursuant to a schedule developed by the department. To the~~
23 ~~extent that any conflicting provision, limitation, or~~
24 ~~restriction under any rule, regulation, or ordinance imposed~~
25 ~~by any political subdivision of the state, or by any local~~
26 ~~pollution control program, was superseded during the~~
27 ~~certification process pursuant to s. 403.510(1), such rule,~~
28 ~~regulation, or ordinance shall continue to be superseded for~~
29 ~~purposes of the major source air operation permit program~~
30 ~~under s. 403.0872.~~

31

1 Section 31. Section 403.511, Florida Statutes, is
2 amended to read:

3 403.511 Effect of certification.--

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

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

18 (b)1. Except as provided in subsection (4), the
19 certification may include conditions which constitute
20 variances, exemptions, or exceptions from nonprocedural
21 requirements of the department or any agency which were
22 expressly considered during the proceeding, including, but not
23 limited to, any site-specific criteria, standards, or
24 limitations under local land use or zoning approvals which
25 affect the proposed power plant or its site, unless waived by
26 the agency as provided below and which otherwise would be
27 applicable to the construction and operation of the proposed
28 electrical power plant.

29 2. No variance, exemption, exception, or other relief
30 shall be granted from a state statute or rule for the
31 protection of endangered or threatened species, aquatic

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

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

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

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

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

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

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

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

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

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

12 Section 32. Section 403.5112, Florida Statutes, is
13 created to read:

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

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

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

1 Section 33. Section 403.5113, Florida Statutes, is
2 created to read:

3 403.5113 Postcertification amendments.--

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

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

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

23 Section 34. Section 403.5115, Florida Statutes, is
24 amended to read:

25 403.5115 Public notice; costs of proceeding.--

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

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

1 newspaper notice shall be one-fourth page in size in a
2 standard size newspaper or one-half page in size in a tabloid
3 size newspaper.

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

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

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

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

24 (f) Notice of the cancellation of the certification
25 hearing, if applicable, no later than 3 days before the date
26 of the originally scheduled certification hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (c) Notice of the land use determination made pursuant
18 to s. 403.50665(1), within 15 days after the determination is
19 filed.

20 (d) Notice of the land use hearing before the
21 administrative law judge, if applicable, no later than 15 days
22 before the hearing.†

23 (e) Notice of the land use hearing before the board,
24 if applicable.

25 (f) Notice of the certification hearing at least 65
26 days before the date set for the certification hearing.†

27 (g) Notice of cancellation of the certification
28 hearing, if applicable, no later than 3 days before the date
29 of the originally scheduled certification hearing.

30 (h) Notice of the hearing before the board, if
31 applicable.†

1 (i) Notice and of stipulations, proposed agency
2 action, or petitions for modification. ~~;~~ ~~and~~

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

6 ~~(5) The applicant shall pay those expenses and costs~~
7 ~~associated with the conduct of the hearings and the recording~~
8 ~~and transcription of the proceedings.~~

9 Section 35. Section 403.513, Florida Statutes, is
10 amended to read:

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

17 Section 36. Section 403.516, Florida Statutes, is
18 amended to read:

19 403.516 Modification of certification.--

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

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

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

30 2. Such modification may be made without further
31 notice if the matter has been previously noticed under the

1 requirements for any federally delegated or approved permit
 2 program.

3 (c) The licensee may file a petition for modification
 4 with the department or the department may initiate the
 5 modification upon its own initiative.

6 1. A petition for modification must set forth:

7 a. The proposed modification.

8 b. The factual reasons asserted for the modification.

9 c. The anticipated environmental effects of the
 10 proposed modification.

11 2.(b) The department may modify the terms and
 12 conditions of the certification if no party to the
 13 certification hearing objects in writing to such modification
 14 within 45 days after notice by mail to such party's last
 15 address of record, and if no other person whose substantial
 16 interests will be affected by the modification objects in
 17 writing within 30 days after issuance of public notice.

18 3. If objections are raised or the department denies
 19 the request, the applicant or department may file a request
 20 petition for a hearing on the modification with the
 21 department. Such request shall be handled pursuant to chapter
 22 120 paragraph (c).

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

25 ~~1. The proposed modification,~~

26 ~~2. The factual reasons asserted for the modification,~~

27 ~~and~~

28 ~~3. The anticipated effects of the proposed~~
 29 ~~modification on the applicant, the public, and the~~
 30 ~~environment.~~

31

1 ~~The petition for modification shall be filed with the~~
2 ~~department and the Division of Administrative Hearings.~~

3 4. Requests referred to the Division of Administrative
4 Hearings shall be disposed of in the same manner as an
5 application, but with time periods established by the
6 administrative law judge commensurate with the significance of
7 the modification requested.

8 (d) As required by s. 403.511(5).

9 ~~(2) Petitions filed pursuant to paragraph (1)(c) shall~~
10 ~~be disposed of in the same manner as an application, but with~~
11 ~~time periods established by the administrative law judge~~
12 ~~commensurate with the significance of the modification~~
13 ~~requested.~~

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

21 Section 37. Section 403.517, Florida Statutes, is
22 amended to read:

23 403.517 Supplemental applications for sites certified
24 for ultimate site capacity.--

25 (1)(a) Supplemental ~~The department shall adopt rules~~
26 ~~governing the processing of supplemental applications may be~~
27 submitted for certification of the construction and operation
28 of electrical power plants to be located at sites which have
29 been previously certified for an ultimate site capacity
30 pursuant to this act. Supplemental applications shall be
31 limited to electrical power plants using the fuel type

1 previously certified for that site. Such applications shall
2 include all new directly associated facilities that support
3 the construction and operation of the electric power plant.

4 ~~The rules adopted pursuant to this section shall include~~
5 ~~provisions for:~~

6 1. ~~Prompt appointment of a designated administrative~~
7 ~~law judge.~~

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

9 3. ~~Resolution of disputes as to the completeness and~~
10 ~~sufficiency of supplemental applications by the designated~~
11 ~~administrative law judge.~~

12 4. ~~Public notice of the filing of the supplemental~~
13 ~~applications.~~

14 5. ~~Time limits for prompt processing of supplemental~~
15 ~~applications.~~

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

18 (b) The review shall use the same procedures and
19 notices as for an initial application.

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

30 (d)(e) Any time limitation in this section or in rules
31 adopted pursuant to this section may be altered pursuant to s.

1 ~~403.5095 by the designated administrative law judge upon~~
 2 ~~stipulation between the department and the applicant, unless~~
 3 ~~objected to by any party within 5 days after notice, or for~~
 4 ~~good cause shown by any party. The parties to the proceeding~~
 5 ~~shall adhere to the provisions of chapter 120 and this act in~~
 6 ~~considering and processing such supplemental applications.~~

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

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

15 (a) The previously certified ultimate site capacity is
 16 not exceeded; and

17 (b) The lands required for the construction or
 18 operation of the electrical power plant which is the subject
 19 of the supplemental application are within the boundaries of
 20 the previously certified site.

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

24 Section 38. Section 403.5175, Florida Statutes, is
 25 amended to read:

26 403.5175 Existing electrical power plant site
 27 certification.--

28 (1) An electric utility that owns or operates an
 29 existing electrical power plant as defined in s. 403.503(12)
 30 may apply for certification of an existing power plant and its
 31 site in order to obtain all agency licenses necessary to

1 assure compliance with federal or state environmental laws and
2 regulation using the centrally coordinated, one-stop licensing
3 process established by this part. An application for site
4 certification under this section must be in the form
5 prescribed by department rule. Applications must be reviewed
6 and processed using the same procedural steps and notices as
7 for an application for a new facility in accordance with ss.
8 ~~403.5064-403.5115~~, except that a determination of need by the
9 Public Service Commission is not required.

10 (2) An application for certification under this
11 section must include:

12 (a) A description of the site and existing power plant
13 installations;

14 (b) A description of all proposed changes or
15 alterations to the site or electrical power plant, including
16 all new associated facilities that are the subject of the
17 application;

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

27 (d) The justification for the proposed changes or
28 alterations;

29 (e) Copies of all existing permits, licenses, and
30 compliance plans authorizing utilization of the site and
31

1 directly associated facilities or operation of the electrical
2 power plant that is the subject of the application.

3 (3) The land use and zoning determination hearing
4 requirements of s. 403.50665 ~~s. 403.508(1) and (2)~~ do not
5 apply to an application under this section if the applicant
6 does not propose to expand the boundaries of the existing
7 site. If the applicant proposes to expand the boundaries of
8 the existing site to accommodate portions of the plant or
9 associated facilities, a land use and zoning determination
10 shall be made hearing must be held as specified in s.
11 403.50665 ~~s. 403.508(1) and (2)~~; provided, however, that the
12 sole issue for determination ~~through the land use hearing~~ is
13 whether the proposed site expansion is consistent and in
14 compliance with the existing land use plans and zoning
15 ordinances.

16 (4) In considering whether an application submitted
17 under this section should be approved in whole, approved with
18 appropriate conditions, or denied, the board shall consider
19 whether, and to the extent to which the proposed changes to
20 the electrical power plant and its continued operation under
21 certification will:

22 (a) Comply with the provisions of s. 403.509(3).
23 ~~applicable nonprocedural requirements of agencies;~~

24 (b) Result in environmental or other benefits compared
25 to current utilization of the site and operations of the
26 electrical power plant if the proposed changes or alterations
27 are undertaken.;

28 ~~(c) Minimize, through the use of reasonable and~~
29 ~~available methods, the adverse effects on human health, the~~
30 ~~environment, and the ecology of the land and its wildlife and~~
31 ~~the ecology of state waters and their aquatic life; and~~

1 ~~(d) Serve and protect the broad interests of the~~
2 ~~public.~~

3 (5) An applicant's failure to receive approval for
4 certification of an existing site or an electrical power plant
5 under this section is without prejudice to continued operation
6 of the electrical power plant or site under existing agency
7 licenses.

8 Section 39. Section 403.518, Florida Statutes, is
9 amended to read:

10 403.518 Fees; disposition.--

11 (1) The department shall charge the applicant the
12 following fees, as appropriate, which, unless otherwise
13 specified, shall be paid into the Florida Permit Fee Trust
14 Fund:

15 (a) A fee for a notice of intent pursuant to s.
16 403.5063, in the amount of \$2,500, to be submitted to the
17 department at the time of filing of a notice of intent. The
18 notice-of-intent fee shall be used and disbursed in the same
19 manner as the application fee.

20 (b) An application fee, which shall not exceed
21 \$200,000. The fee shall be fixed by rule on a sliding scale
22 related to the size, type, ultimate site capacity, or increase
23 in electric generating capacity proposed by the application,
24 ~~or the number and size of local governments in whose~~
25 ~~jurisdiction the electrical power plant is located.~~

26 1. Sixty percent of the fee shall go to the department
27 to cover any costs associated with coordinating the review
28 ~~reviewing~~ and acting upon the application, to cover any field
29 services associated with monitoring construction and operation
30 of the facility, and to cover the costs of the public notices
31 published by the department.

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

5 a. Five percent to compensate expenses from the
6 initial exercise of duties associated with the filing of an
7 application.

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

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

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

1 of public meetings or meetings required as a result of the
2 application for certification ~~governments to participate in~~
3 ~~the proceedings.~~ The department shall review the request and
4 verify that the expenses are valid. Valid expenses shall be
5 reimbursed; however, in the event the amount of funds
6 available for reimbursement allocation is insufficient to
7 provide for full compensation ~~complete reimbursement~~ to the
8 agencies requesting reimbursement, reimbursement shall be on a
9 prorated basis.

10 b. If the application review is held in abeyance for
11 more than 1 year, the agencies may submit a request for
12 reimbursement.

13 4. If any sums are remaining, the department shall
14 retain them for its use in the same manner as is otherwise
15 authorized by this act; provided, however, that if the
16 certification application is withdrawn, the remaining sums
17 shall be refunded to the applicant within 90 days after
18 withdrawal.

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

24 2. The fee shall be submitted to the department with a
25 ~~formal~~ petition for modification ~~to the department~~ pursuant to
26 s. 403.516. This fee shall be established, disbursed, and
27 processed in the same manner as the application fee in
28 paragraph (b), except that the Division of Administrative
29 Hearings shall not receive a portion of the fee unless the
30 petition for certification modification is referred to the
31 Division of Administrative Hearings for hearing. If the

1 petition is so referred, only \$10,000 of the fee shall be
2 transferred to the Administrative Trust Fund of the Division
3 of Administrative Hearings of the Department of Management
4 Services. ~~The fee for a modification by agreement filed~~
5 ~~pursuant to s. 403.516(1)(b) shall be \$10,000 to be paid upon~~
6 ~~the filing of the request for modification. Any sums remaining~~
7 ~~after payment of authorized costs shall be refunded to the~~
8 ~~applicant within 90 days of issuance or denial of the~~
9 ~~modification or withdrawal of the request for modification.~~

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

19 (e) An existing site certification application fee,
20 not to exceed \$200,000, to cover all reasonable costs and
21 expenses of the review processing and proceedings for
22 certification of an existing power plant site under s.
23 403.5175. This fee must be established, disbursed, and
24 processed in the same manner as the certification application
25 fee in paragraph (b).

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

31

1 Section 40. Any application for power plant
2 certification filed pursuant to ss. 403.501-403.518 shall be
3 processed under the provisions of law applicable at the time
4 the application is filed, except that the provisions relating
5 to cancellation of the certification hearing under s.
6 403.508(6), the provisions relating to the final disposition
7 of the application and issuance of the written order by the
8 secretary under s. 403.509(1)(a), and notice of the
9 cancellation of the certification hearing under s. 403.5115
10 may apply to any application for power plant certification.

11 Section 41. Section 403.519, Florida Statutes, is
12 amended to read:

13 403.519 Exclusive forum for determination of need.--

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

18 (2) The applicant ~~commission~~ shall publish a notice of
19 the proceeding in a newspaper of general circulation in each
20 county in which the proposed electrical power plant will be
21 located. The notice shall be at least one-quarter of a page
22 and published at least 21 ~~45~~ days prior to the scheduled date
23 for the proceeding. The commission shall publish notice of the
24 proceeding in the manner specified by chapter 120 at least 21
25 days prior to the scheduled date for the proceeding.

26 (3) The commission shall be the sole forum for the
27 determination of this matter, which accordingly shall not be
28 raised in any other forum or in the review of proceedings in
29 such other forum. In making its determination, the commission
30 shall take into account the need for electric system
31 reliability and integrity, the need for adequate electricity

1 at a reasonable cost, the need for fuel diversity and supply
2 reliability, and whether the proposed plant is the most
3 cost-effective alternative available. The commission shall
4 also expressly consider the conservation measures taken by or
5 reasonably available to the applicant or its members which
6 might mitigate the need for the proposed plant and other
7 matters within its jurisdiction which it deems relevant. The
8 commission's determination of need for an electrical power
9 plant shall create a presumption of public need and necessity
10 and shall serve as the commission's report required by s.
11 ~~403.407(2)(b)~~ ~~403.507(2)(a)2~~. An order entered pursuant to
12 this section constitutes final agency action.

13 (4) In making its determination on a proposed
14 electrical power plant using nuclear materials as fuel, the
15 commission shall hold a hearing within 90 days after the
16 filing of the petition to determine need and shall issue an
17 order granting or denying the petition within 135 days after
18 the date of the filing of the petition. The commission shall
19 be the sole forum for the determination of this matter and the
20 issues addressed in the petition, which accordingly shall not
21 be reviewed in any other forum or in the review of proceedings
22 in such other forum. In making its determination to grant or
23 deny the petition, the commission shall consider the need for
24 electric system reliability and integrity, including fuel
25 diversity, the need for base-load generating capacity, and the
26 need for adequate electricity at a reasonable cost.

27 (a) The applicant's petition shall include:

28 1. A description of the need for the generation
29 capacity.

30 2. A description of how the proposed nuclear power
31 plant will enhance the reliability of electric power

1 production within the state by improving the balance of power
2 plant fuel diversity and reducing Florida's dependence on fuel
3 oil and natural gas.

4 3. A description of and a nonbinding estimate of the
5 cost of the nuclear power plant.

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

8 5. Information on whether there were any discussions
9 with any electric utilities regarding ownership of a portion
10 of the plant by such electric utilities.

11 (b) In making its determination, the commission shall
12 take into account matters within its jurisdiction, which it
13 deems relevant, including whether the nuclear power plant
14 will:

15 1. Provide needed base-load capacity.

16 2. Enhance the reliability of electric power
17 production within the state by improving the balance of power
18 plant fuel diversity and reducing Florida's dependence on fuel
19 oil and natural gas.

20 3. Provide the most cost-effective source of power,
21 taking into account the need to improve the balance of fuel
22 diversity, reduce Florida's dependence on fuel oil and natural
23 gas, reduce air emission compliance costs, and contribute to
24 the long-term stability and reliability of the electric grid.

25 (c) No provision of rule 25-22.082, Florida
26 Administrative Code, shall be applicable to a nuclear power
27 plant sited under this act, including provisions for cost
28 recovery, and an applicant shall not otherwise be required to
29 secure competitive proposals for power supply prior to making
30 application under this act or receiving a determination of
31 need from the commission.

1 (d) The commission's determination of need for a
2 nuclear power plant shall create a presumption of public need
3 and necessity and shall serve as the commission's report
4 required by s. 403.507(4)(a). An order entered pursuant to
5 this section constitutes final agency action. Any petition for
6 reconsideration of a final order on a petition for need
7 determination shall be filed within 5 days after the date of
8 such order. The commission's final order, including any order
9 on reconsideration, shall be reviewable on appeal in the
10 Florida Supreme Court. Inasmuch as delay in the determination
11 of need will delay siting of a nuclear power plant or diminish
12 the opportunity for savings to customers under the federal
13 Energy Policy Act of 2005, the Supreme Court shall proceed to
14 hear and determine the action as expeditiously as practicable
15 and give the action precedence over matters not accorded
16 similar precedence by law.

17 (e) After a petition for determination of need for a
18 nuclear power plant has been granted, the right of a utility
19 to recover any costs incurred prior to commercial operation,
20 including, but not limited to, costs associated with the
21 siting, design, licensing, or construction of the plant, shall
22 not be subject to challenge unless and only to the extent the
23 commission finds, based on a preponderance of the evidence
24 adduced at a hearing before the commission under s. 120.57
25 that certain costs were imprudently incurred. Proceeding with
26 the construction of the nuclear power plant following an order
27 by the commission approving the need for the nuclear power
28 plant under this act shall not constitute or be evidence of
29 imprudence. Imprudence also shall not include any cost
30 increases due to events beyond the utility's control. Further,
31 a utility's right to recover costs associated with a nuclear

1 power plant may not be raised in any other forum or in the
2 review of proceedings in such other forum. Costs incurred
3 prior to commercial operation shall be recovered pursuant to
4 chapter 366.

5 Section 42. Section 366.93, Florida Statutes, is
6 created to read:

7 366.93 Cost recovery for the siting, design,
8 licensing, and construction of nuclear power plants.--

9 (1) As used in this section, the term:

10 (a) "Cost" includes, but is not limited to, all
11 capital investments, including rate of return, any applicable
12 taxes, and all expenses, including operation and maintenance
13 expenses, related to or resulting from the siting, licensing,
14 design, construction, or operation of the nuclear power plant.

15 (b) "Electric utility" or "utility" has the same
16 meaning as that provided in s. 366.8255(1)(a).

17 (c) "Nuclear power plant" or "plant" is an electrical
18 power plant as defined in s. 403.503(12) which uses nuclear
19 materials for fuel.

20 (d) "Preconstruction" is that period of time after a
21 site has been selected, through and including the date the
22 utility completes site clearing work. Preconstruction costs
23 shall be afforded deferred accounting treatment and shall
24 accrue a carrying charge equal to the utility's AFUDC rate
25 until recovered in rates.

26 (2) Within 6 months after the enactment of this act,
27 the commission shall establish, by rule, alternative
28 cost-recovery mechanisms for the recovery of costs incurred in
29 the siting, design, licensing and construction of a nuclear
30 power plant. Such mechanisms shall be designed to promote
31 utility investment in nuclear power plants and allow for the

1 recovery in rates all prudently incurred costs, and shall
2 include, but are not limited to:

3 (a) Recovery through the capacity cost recovery clause
4 of any preconstruction costs.

5 (b) Recovery through an incremental increase in the
6 utility's capacity cost-recovery clause rates of the carrying
7 costs on the utility's projected construction cost balance
8 associated with the nuclear power plant. To encourage
9 investment and provide certainty, for nuclear power plant need
10 petitions submitted on or before December 31, 2010, associated
11 carrying costs shall be equal to the pretax AFUDC in effect
12 upon this act becoming law. For nuclear power plants for which
13 need petitions are submitted after December 31, 2010, the
14 utility's existing pretax AFUDC rate is presumed to be
15 appropriate unless determined otherwise by the commission in
16 the determination of need for the nuclear power plant.

17 (3) After a petition for determination of need is
18 granted, a utility may petition the commission for cost
19 recovery as permitted by this section and commission rules.

20 (4) When the nuclear power plant is placed in
21 commercial service, the utility shall be allowed to increase
22 its base rate charges by the projected annual revenue
23 requirements of the nuclear power plant based on the
24 jurisdictional annual revenue requirements of the plant for
25 the first 12 months of operation. The rate of return on
26 capital investments shall be calculated using the utility's
27 rate of return last approved by the commission prior to the
28 commercial in-service date of the nuclear power plant. If any
29 existing generating plant is retired as a result of operation
30 of the nuclear power plant, the commission shall allow for the
31 recovery, through an increase in base rate charges, of the net

1 book value of the retired plant over a period not to exceed 5
2 years.

3 (5) The utility shall report to the commission
4 annually the budgeted and actual costs as compared to the
5 estimated in-service cost of the nuclear power plant provided
6 by the utility pursuant to s. 403.519(4) until the commercial
7 operation of the nuclear power plant. The utility shall
8 provide such information on an annual basis following the
9 final order by the commission approving the determination of
10 need for the nuclear power plant, with the understanding that
11 some costs may be higher than estimated and other costs may be
12 lower.

13 (6) If the utility elects not to complete or is
14 precluded from completing construction of the nuclear power
15 plant, the utility shall be allowed to recover all prudent
16 preconstruction and construction costs incurred following the
17 commission's issuance of a final order granting a
18 determination of need for the nuclear power plant. The utility
19 shall recover such costs through the capacity cost-recovery
20 clause over a period equal to the period during which the
21 costs were incurred or 5 years, whichever is greater. The
22 unrecovered balance during the recovery period shall accrue
23 interest at the utility's weighted average cost of capital as
24 reported in the commission's earnings surveillance reporting
25 requirement for the prior year.

26 Section 43. Section 403.52, Florida Statutes, is
27 amended to read:

28 403.52 Short title.--Sections 403.52-403.5365 may be
29 cited as the "Florida Electric Transmission Line Siting Act."

30 Section 44. Section 403.521, Florida Statutes, is
31 amended to read:

1 403.521 Legislative intent.--The legislative intent of
2 this act is to establish a centralized and coordinated
3 licensing ~~permitting~~ process for the location of electric
4 transmission line corridors and the construction, operation,
5 and maintenance of electric transmission lines, which are
6 critical infrastructure facilities. This necessarily involves
7 several broad interests of the public addressed through the
8 subject matter jurisdiction of several agencies. The
9 Legislature recognizes that electric transmission lines will
10 have an effect upon the reliability of the electric power
11 system, the environment, land use, and the welfare of the
12 population. Recognizing the need to ensure electric power
13 system reliability and integrity, and in order to meet
14 electric ~~electrical~~ energy needs in an orderly and timely
15 fashion, the centralized and coordinated licensing ~~permitting~~
16 process established by this act is intended to further the
17 legislative goal of ensuring through available and reasonable
18 methods that the location of transmission line corridors and
19 the construction, operation, and maintenance of electric
20 transmission lines produce minimal adverse effects on the
21 environment and public health, safety, and welfare ~~while not~~
22 ~~unduly conflicting with the goals established by the~~
23 ~~applicable local comprehensive plan.~~ It is the intent of this
24 act to fully balance the need for transmission lines with the
25 broad interests of the public in order to effect a reasonable
26 balance between the need for the facility as a means of
27 providing reliable, economical, and efficient electric
28 ~~abundant low cost electrical~~ energy and the impact on the
29 public and the environment resulting from the location of the
30 transmission line corridor and the construction, operation,
31 and maintenance of the transmission lines. The Legislature

1 intends that the provisions of chapter 120 apply to this act
2 and to proceedings under ~~pursuant to~~ it except as otherwise
3 expressly exempted by other provisions of this act.

4 Section 45. Section 403.522, Florida Statutes, is
5 amended to read:

6 403.522 Definitions relating to the Florida Electric
7 Transmission Line Siting Act.--As used in this act:

8 (1) "Act" means the Florida Electric Transmission Line
9 Siting Act.

10 (2) "Agency," as the context requires, means an
11 official, officer, commission, authority, council, committee,
12 department, division, bureau, board, section, or other unit or
13 entity of government, including a county, municipality, or
14 other regional or local governmental entity.

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

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

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

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

30 (7) "Certification" means the approval by the board of
31 the license for a corridor proper for certification pursuant

1 to subsection (10) and the construction, operation, and
2 maintenance of transmission lines within the ~~such~~ corridor
3 with the ~~such~~ changes or conditions as the siting board deems
4 appropriate. Certification shall be evidenced by a written
5 order of the board.

6 (8) "Commission" means the Florida Public Service
7 Commission.

8 (9) "Completeness" means that the application has
9 addressed all applicable sections of the prescribed
10 application format and, ~~but does not mean~~ that those sections
11 are sufficient in comprehensiveness of data or in quality of
12 information provided to allow the department to determine
13 whether the application provides the reviewing agencies
14 adequate information to prepare the reports required by s.
15 403.526.

16 (10) "Corridor" means the proposed area within which a
17 transmission line right-of-way, including maintenance and
18 access roads, is to be located. The width of the corridor
19 proposed for certification by an applicant or other party, at
20 the option of the applicant, may be the width of the
21 transmission line right-of-way, or a wider boundary, not to
22 exceed a width of 1 mile. The area within the corridor in
23 which a right-of-way may be located may be further restricted
24 by a condition of certification. After all property interests
25 required for the transmission line right-of-way and
26 maintenance and access roads have been acquired by the
27 applicant, the boundaries of the area certified shall narrow
28 to only that land within the boundaries of the transmission
29 line right-of-way. The corridors proper for certification
30 shall be those addressed in the application, in amendments to
31 the application filed under ~~pursuant to~~ s. 403.5275, and in

1 notices of acceptance of proposed alternate corridors filed by
2 an applicant and the department pursuant to s. 403.5271 for
3 which the required ~~sufficient~~ information for the preparation
4 of agency supplemental reports was filed.

5 (11) "Department" means the Department of
6 Environmental Protection.

7 (12) "Electric utility" means cities and towns,
8 counties, public utility districts, regulated electric
9 companies, electric cooperatives, regional transmission
10 organizations, operators of independent transmission systems,
11 or other transmission organizations approved by the Federal
12 Energy Regulatory Commission or the commission for the
13 operation of transmission facilities, and joint operating
14 agencies, or combinations thereof, engaged in, or authorized
15 to engage in, the business of generating, transmitting, or
16 distributing electric energy.

17 (13) "License" means a franchise, permit,
18 certification, registration, charter, comprehensive plan
19 amendment, development order, or permit as defined in chapters
20 163 and 380, or similar form of authorization required by law,
21 but it does not include a license required primarily for
22 revenue purposes when issuance of the license is merely a
23 ministerial act.

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

26 (15)~~(14)~~ "Local government" means a municipality or
27 county in the jurisdiction of which the project is proposed to
28 be located.

29 (16) "Maintenance and access roads" mean roads
30 constructed within the transmission line right-of-way. Nothing
31 in this act prohibits an applicant from constructing a road to

1 support construction, operation, or maintenance of the
2 transmission line that lies outside the transmission line
3 right-of-way.

4 ~~(17)~~~~(15)~~ "Modification" means any change in the
5 certification order after issuance, including a change in the
6 conditions of certification.

7 ~~(18)~~~~(16)~~ "Nonprocedural requirements of agencies"
8 means any agency's regulatory requirements established by
9 statute, rule, ordinance, or comprehensive plan, excluding any
10 provisions prescribing forms, fees, procedures, or time limits
11 for the review or processing of information submitted to
12 demonstrate compliance with such regulatory requirements.

13 ~~(19)~~~~(17)~~ "Person" means an individual, partnership,
14 joint venture, private or public corporation, association,
15 firm, public service company, political subdivision, municipal
16 corporation, government agency, public utility district, or
17 any other entity, public or private, however organized.

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

23 ~~(21)~~~~(19)~~ "Regional planning council" means a regional
24 planning council as defined in s. 186.503(4) in the
25 jurisdiction of which the project is proposed to be located.

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

1 ~~(22)~~(21) "Transmission line" or "electric transmission
2 line" means structures, maintenance and access roads, and all
3 other facilities that need to be constructed, operated, or
4 maintained for the purpose of conveying electric power ~~any~~
5 ~~electrical transmission line~~ extending from, but not
6 including, an existing or proposed substation or power plant
7 to, but not including, an existing or proposed transmission
8 network or rights-of-way or substation to which the applicant
9 intends to connect which defines the end of the proposed
10 project and which is designed to operate at 230 kilovolts or
11 more. ~~The starting point and ending point of a transmission~~
12 ~~line must be specifically defined by the applicant and must be~~
13 ~~verified by the commission in its determination of need. A~~
14 ~~transmission line includes structures and maintenance and~~
15 ~~access roads that need to be constructed for the project to~~
16 ~~become operational.~~ The transmission line may include, at the
17 applicant's option, any proposed terminal or intermediate
18 substations or substation expansions necessary to serve the
19 transmission line.

20 ~~(23)~~(22) "Transmission line right-of-way" means land
21 necessary for the construction, operation, and maintenance of
22 a transmission line. The typical width of the right-of-way
23 shall be identified in the application. The right-of-way shall
24 be located within the certified corridor and shall be
25 identified by the applicant ~~subsequent to certification~~ in
26 documents filed with the department before ~~prior to~~
27 construction.

28 ~~(24)~~(23) "Water management district" means a water
29 management district created pursuant to chapter 373 in the
30 jurisdiction of which the project is proposed to be located.
31

1 Section 46. Section 403.523, Florida Statutes, is
2 amended to read:

3 403.523 Department of Environmental Protection; powers
4 and duties.--The department has ~~shall have~~ the following
5 powers and duties:

6 (1) To adopt procedural rules pursuant to ss.
7 120.536(1) and 120.54 to administer ~~implement the provisions~~
8 ~~of~~ this act and to adopt or amend rules to implement the
9 provisions of subsection (10).

10 (2) To prescribe the form and content of the public
11 notices and the form, content, and necessary supporting
12 documentation, and any required studies, for certification
13 applications. All ~~such~~ data and studies shall be related to
14 the jurisdiction of the agencies relevant to the application.

15 (3) To receive applications for transmission line and
16 corridor certifications and initially determine the
17 completeness ~~and sufficiency~~ thereof.

18 (4) To make or contract for studies of certification
19 applications. All ~~such~~ studies shall be related to the
20 jurisdiction of the agencies relevant to the application. For
21 studies in areas outside the jurisdiction of the department
22 and in the jurisdiction of another agency, the department may
23 initiate such studies, but only with the consent of the ~~such~~
24 agency.

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

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

31

- 1 (7) To prepare a report and project ~~written~~ analysis
2 as required by s. 403.526.
- 3 (8) To prescribe the means for monitoring the effects
4 arising from the location of the transmission line corridor
5 and the construction, operation, and maintenance of the
6 transmission lines to assure continued compliance with the
7 terms of the certification.
- 8 (9) To make a determination of acceptability of any
9 alternate corridor proposed for consideration under ~~pursuant~~
10 ~~to~~ s. 403.5271.
- 11 (10) To set requirements that reasonably protect the
12 public health and welfare from the electric and magnetic
13 fields of transmission lines for which an application is filed
14 under ~~after the effective date of this act~~.
- 15 (11) To present rebuttal evidence on any issue
16 properly raised at the certification hearing.
- 17 (12) To issue final orders after receipt of the
18 administrative law judge's order relinquishing jurisdiction
19 pursuant to s. 403.527(6).
- 20 (13) To act as clerk for the siting board.
- 21 (14) To administer and manage the terms and conditions
22 of the certification order and supporting documents and
23 records for the life of the facility.
- 24 (15) To issue emergency orders on behalf of the board
25 for facilities licensed under this act.

26 Section 47. Section 403.524, Florida Statutes, is
27 amended to read:

28 403.524 Applicability; ~~and~~ certification;
29 exemptions.--
30
31

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

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

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

10 (b) Transmission lines that which have been exempted
11 by a binding letter of interpretation issued under s.
12 380.06(4), or in which the Department of Community Affairs or
13 its predecessor agency has determined the utility to have
14 vested development rights within the meaning of s. 380.05(18)
15 or s. 380.06(20).

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

1 ~~or after October 1, 1983. For transmission line rights of way,~~
2 ~~established rights of way include rights of way created before~~
3 ~~October 1, 1983.~~

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

9 (3) The exemption of a transmission line under this
10 act does not constitute an exemption for the transmission line
11 from other applicable permitting processes under other
12 provisions of law or local government ordinances.

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

23 Section 48. Section 403.525, Florida Statutes, is
24 amended to read:

25 403.525 ~~Appointment of~~ Administrative law judge;
26 appointment; powers and duties.--

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

1 **(b)** The division director shall designate an
2 administrative law judge to conduct the hearings required by
3 this act within 7 days after receipt of the request from the
4 department. Whenever practicable, the division director shall
5 assign an administrative law judge who has had prior
6 experience or training in this type of certification
7 proceeding.

8 **(c)** Upon being advised that an administrative law
9 judge has been designated, the department shall immediately
10 file a copy of the application and all supporting documents
11 with the administrative law judge, who shall docket the
12 application.

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

16 Section 49. Section 403.5251, Florida Statutes, is
17 amended to read:

18 403.5251 ~~Distribution of Application; schedules.--~~

19 **(1)(a)** The formal date of the filing of the
20 application for certification and commencement of the review
21 process for certification is the date on which the applicant
22 submits:

23 **1.** Copies of the application for certification in a
24 quantity and format, electronic or otherwise as prescribed by
25 rule, to the department and other agencies identified in s.
26 403.526(2); and

27 **2.** The application fee as specified under s. 403.5365
28 to the department.

29
30 The department shall provide to the applicant and the Division
31 of Administrative Hearings the names and addresses of any

1 additional agencies or persons entitled to notice and copies
2 of the application and amendments, if any, within 7 days after
3 receiving the application for certification and the
4 application fees.

5 (b) In the application, the starting point and ending
6 point of a transmission line must be specifically defined by
7 the applicant. Within 7 days after the filing of an
8 application, the department shall provide the applicant and
9 the Division of Administrative Hearings the names and
10 addresses of those affected or other agencies entitled to
11 notice and copies of the application and any amendments.

12 (2) Within 15 7 days after the formal date of the
13 application filing completeness has been determined, the
14 department shall prepare a proposed schedule of dates for
15 determination of completeness, submission of statements of
16 issues, determination of sufficiency, and submittal of final
17 reports, from affected and other agencies and other
18 significant dates to be followed during the certification
19 process, including dates for filing notices of appearances to
20 be a party under s. 403.527(2) pursuant to s. 403.527(4). This
21 schedule shall be provided by the department to the applicant,
22 the administrative law judge, and the agencies identified
23 under pursuant to subsection (1). Within 7 days after the
24 filing of this proposed schedule, the administrative law judge
25 shall issue an order establishing a schedule for the matters
26 addressed in the department's proposed schedule and other
27 appropriate matters, if any.

28 (3) Within 7 days after completeness has been
29 determined, the applicant shall distribute copies of the
30 application to all agencies identified by the department
31 pursuant to subsection (1). Copies of changes and amendments

1 to the application shall be timely distributed by the
2 applicant to all agencies and parties who have received a copy
3 of the application.

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

6 Section 50. Section 403.5252, Florida Statutes, is
7 amended to read:

8 403.5252 Determination of completeness.--

9 (1)(a) Within 30 days after distribution of an
10 application, the affected agencies shall file a statement with
11 the department containing the recommendations of each agency
12 concerning the completeness of the application for
13 certification.

14 (b) Within 7 ~~15~~ days after receipt of the completeness
15 statements of each agency ~~an application~~, the department shall
16 file a statement with the Division of Administrative Hearings,
17 ~~and~~ with the applicant, ~~and with all parties~~ declaring its
18 position with regard to the completeness, ~~not the sufficiency,~~
19 of the application. ~~The statement of the department shall be~~
20 based upon its consultation with the affected agencies.

21 (2)(~~1~~) If the department declares the application to
22 be incomplete, the applicant, within ~~14~~ 15 days after the
23 filing of the statement by the department, shall file with the
24 Division of Administrative Hearings, ~~with all parties~~, and
25 with the department ~~a statement~~:

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

28 (b) Additional information necessary to make the
29 application complete. After the department first determines
30 the application to be incomplete, the time schedules under
31 this act are not tolled if the applicant makes the application

1 complete within the 14-day period. A subsequent finding by the
2 department that the application remains incomplete tolls the
3 time schedules under this act until the application is
4 determined complete; ~~Agreeing with the statement of the~~
5 department and agreeing to amend the application without
6 withdrawing it. The time schedules referencing a complete
7 application under this act shall not commence until the
8 application is determined complete; or

9 (c) A statement contesting the department's
10 determination of incompleteness; or ~~statement of the~~
11 department.

12 (d) A statement agreeing with the department and
13 requesting additional time to provide the information
14 necessary to make the application complete. If the applicant
15 exercises this option, the time schedules under this act are
16 tolled until the application is determined complete.

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

25 (b) Parties to a hearing on the issue of completeness
26 shall include the applicant, the department, and any agency
27 that has jurisdiction over the matter in dispute. Any
28 substantially affected person who wishes to become a party to
29 the hearing on the issue of completeness must file a motion no
30 later than 10 days before the date of the hearing.

31

1 ~~(c)(a)~~ If the administrative law judge determines that
2 the application was not complete ~~as filed~~, the applicant shall
3 withdraw the application or make such additional submittals as
4 necessary to complete it. The time schedules referencing a
5 complete application under this act ~~do shall~~ not commence
6 until the application is determined complete.

7 ~~(d)(b)~~ If the administrative law judge determines that
8 the application was complete at the time it was declared
9 incomplete filed, the time schedules referencing a complete
10 application under this act shall commence upon such
11 determination.

12 (4) If the applicant provides additional information
13 to address the issues identified in the determination of
14 incompleteness, each affected agency may submit to the
15 department, no later than 14 days after the applicant files
16 the additional information, a recommendation on whether the
17 agency believes the application is complete. Within 21 days
18 after receipt of the additional information from the applicant
19 submitted under paragraphs (2)(b), (2)(d), or (3)(c) and
20 considering the recommendations of the affected agencies, the
21 department shall determine whether the additional information
22 supplied by an applicant makes the application complete. If
23 the department finds that the application is still incomplete,
24 the applicant may exercise any of the options specified in
25 subsection (2) as often as is necessary to resolve the
26 dispute.

27 Section 51. Section 403.526, Florida Statutes, is
28 amended to read:

29 403.526 Preliminary statements of issues, reports, and
30 project analyses; and studies.--

31

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

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

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

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

23 3. The Department of Community Affairs shall prepare a
24 report containing recommendations which address the impact
25 upon the public of the proposed transmission line or corridor,
26 based on the degree to which the proposed transmission line or
27 corridor is consistent with the applicable portions of the
28 state comprehensive plan, emergency management, and other
29 matters within its jurisdiction. The Department of Community
30 Affairs may also comment on the consistency of the proposed
31 transmission line or corridor with applicable strategic

1 regional policy plans or local comprehensive plans and land
2 development regulations.

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

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

23 6. Each regional planning council shall present a
24 report containing recommendations that address the impact upon
25 the public of the proposed transmission line or corridor based
26 on the degree to which the transmission line or corridor is
27 consistent with the applicable provisions of the strategic
28 regional policy plan adopted under ~~pursuant to~~ chapter 186 and
29 other impacts of each proposed transmission line or corridor
30 on matters within its jurisdiction.

31

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

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

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

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

14 1. A notice of any nonprocedural requirements not
15 specifically listed in the application from which a variance,
16 exemption, exception, or other relief is necessary in order
17 for the proposed corridor to be certified. Failure to include
18 the notice shall be treated as a waiver from the nonprocedural
19 requirements of that agency.

20 2. A recommendation for approval or denial of the
21 application.

22 3. The information on variances required by s.
23 403.531(2) and proposed conditions of certification on matters
24 within the jurisdiction of each agency. For each condition
25 proposed by an agency, the agency shall list the specific
26 statute, rule, or ordinance, as applicable, which authorizes
27 the proposed condition.

28 (c) Each reviewing agency shall initiate the
29 activities required by this section no later than 15 days
30 after the ~~complete~~ application is filed distributed. Each
31

1 agency shall keep the applicant and the department informed as
2 to the progress of its studies and any issues raised thereby.

3 (d) Receipt of an affirmative determination of need
4 from the commission by the submittal deadline for agency
5 reports under paragraph (a) is a condition precedent to
6 further processing of the application.

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

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

17 ~~(b)(a)~~ The studies and reports required by this
18 section and s. 403.537.

19 ~~(c)(b)~~ Comments received from any other agency or
20 person.

21 ~~(d)(c)~~ The recommendation of the department as to the
22 disposition of the application, of variances, exemptions,
23 exceptions, or other relief identified by any party, and of
24 any proposed conditions of certification which the department
25 believes should be imposed.

26 (4) The failure of any agency to submit a preliminary
27 statement of issues or a report, or to submit its preliminary
28 statement of issues or report within the allowed time, is
29 ~~shall not be~~ grounds for the alteration of any time limitation
30 in this act under ~~pursuant to~~ s. 403.528. ~~Neither~~ The failure
31 to submit a preliminary statement of issues or a report, or

1 ~~nor~~ the inadequacy of the preliminary statement of issues or
2 report, ~~are not shall be~~ grounds to deny or condition
3 certification.

4 Section 52. Section 403.527, Florida Statutes, is
5 amended to read:

6 (Substantial rewording of section. See
7 s. 403.527, F.S., for present text.)
8 403.527 Certification hearing, parties,
9 participants.--

10 (1)(a) No later than 145 days after the application is
11 filed, the administrative law judge shall conduct a
12 certification hearing pursuant to ss. 120.569 and 120.57 at a
13 central location in proximity to the proposed transmission
14 line or corridor.

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

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

20 1. The applicant.

21 2. The department.

22 3. The commission.

23 4. The Department of Community Affairs.

24 5. The Fish and Wildlife Conservation Commission.

25 6. The Department of Transportation.

26 7. Each water management district in the jurisdiction
27 of which the proposed transmission line or corridor is to be
28 located.

29 8. The local government.

30 9. The regional planning council.

31

1 (b) Any party listed in paragraph (a), other than the
2 department or the applicant, may waive its right to
3 participate in these proceedings. If any listed party fails to
4 file a notice of its intent to be a party on or before the
5 30th day before the certification hearing, the party is deemed
6 to have waived its right to be a party unless its
7 participation would not prejudice the rights of any party to
8 the proceeding.

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

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

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

27 3. Any person whose substantial interests are affected
28 and being determined by the proceeding.

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

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

5 1. The applicant.

6 2. The department.

7 3. State agencies.

8 4. Regional agencies, including regional planning
9 councils and water management districts.

10 5. Local governments.

11 6. Other parties.

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

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

22 (a) A local government shall notify the administrative
23 law judge and all parties not later than 21 days after the
24 application has been determined complete as to whether the
25 local government wishes to have a public hearing. If a filing
26 for an alternate corridor is accepted for consideration under
27 s. 403.5271(1) by the department and the applicant, any newly
28 affected local government must notify the administrative law
29 judge and all parties not later than 10 days after the data
30 concerning the alternate corridor has been determined complete
31 as to whether the local government wishes to have such a

1 public hearing. The local government is responsible for
2 providing the location of the public hearing if held
3 separately from the certification hearing.

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

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

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

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

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

31

1 (c) If the administrative law judge grants the
2 request, the department and the applicant shall publish
3 notices of the cancellation of the certification hearing in
4 accordance with s. 403.5363.

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

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

11 (7) The applicant shall pay those expenses and costs
12 associated with the conduct of the hearing and the recording
13 and transcription of the proceedings.

14 Section 53. Section 403.5271, Florida Statutes, is
15 amended to read:

16 403.5271 Alternate corridors.--

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

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

30 (b)1. Within 7 days after receipt of the ~~such~~ notice,
31 the applicant and the department shall file with the

1 administrative law judge and all parties a notice of
2 acceptance or rejection of a proposed alternate corridor for
3 consideration. If the alternate corridor is rejected ~~either~~ by
4 the applicant or the department, the certification hearing and
5 the public hearings shall be held as scheduled. If both the
6 applicant and the department accept a proposed alternate
7 corridor for consideration, the certification hearing and the
8 public hearings shall be rescheduled, if necessary.

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

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

27 (d) Within 21 ~~25~~ days after acceptance of an alternate
28 corridor by the department and the applicant, the party
29 proposing an alternate corridor shall have the burden of
30 providing all ~~additional~~ data to the agencies listed in s.
31 403.526(2) and newly affected agencies ~~s. 403.526~~ necessary

1 for the preparation of a supplementary report on the proposed
2 alternate corridor.

3 (e)1. Reviewing agencies shall advise the department
4 of any issues concerning completeness no later than 15 days
5 after the submittal of the data required by paragraph (d).
6 Within 22 days after receipt of the data, the department shall
7 issue a determination of completeness.

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

13 3. If the department, within 14 days after receiving
14 the additional data, determines that the data remains
15 incomplete, the incompleteness of the data is deemed a
16 withdrawal of the proposed alternate corridor. The department
17 may make its determination based on recommendations made by
18 other affected agencies. If the department determines within
19 15 days that this additional data is insufficient, the party
20 proposing the alternate corridor shall file such additional
21 data that corrects the insufficiency within 15 days after the
22 filing of the department's determination. If such additional
23 data is determined insufficient, such insufficiency of data
24 shall be deemed a withdrawal of the proposed alternate
25 corridor. The party proposing an alternate corridor shall have
26 the burden of proof on the certifiability of the alternate
27 corridor at the certification hearing pursuant to s.
28 403.529(4). Nothing in this act shall be construed as
29 requiring the applicant or agencies not proposing the
30 alternate corridor to submit data in support of such alternate
31 corridor.

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

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

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

17 (2) If the original certification hearing date is
18 rescheduled, the rescheduling shall not provide the
19 opportunity for parties to file additional alternate corridors
20 to the applicant's proposed corridor or any accepted alternate
21 corridor. However, an amendment to the application which
22 changes the alignment of the applicant's proposed corridor
23 shall require rescheduling of the certification hearing, if
24 necessary, so as to allow time for a party to file alternate
25 corridors to the realigned proposed corridor for which the
26 application has been amended. Any ~~such~~ alternate corridor
27 proposal shall have the same starting and ending points as the
28 realigned portion of the corridor proposed by the applicant's
29 amendment, provided that the administrative law judge for good
30 cause shown may authorize another starting or ending point in
31 the area of the applicant's amended corridor.

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

14 (b) The party proposing an alternate corridor has the
 15 burden to prove that the alternate corridor can be certified
 16 at the certification hearing. This act does not require an
 17 applicant or agency that is not proposing the alternate
 18 corridor to submit data in support of the alternate corridor.

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

25 Section 54. Section 403.5272, Florida Statutes, is
 26 amended to read:

27 403.5272 ~~Local governments;~~ Informational public
 28 meetings.--

29 (1) A local government whose jurisdiction is to be
 30 crossed by a proposed corridor ~~governments~~ may hold one
 31 informational public meeting ~~meetings~~ in addition to the

1 | hearings specifically authorized by this act on any matter
 2 | associated with the transmission line proceeding. ~~The Such~~
 3 | informational public meeting may be conducted by the local
 4 | government or the regional planning council and shall meetings
 5 | ~~should~~ be held no later than ~~55 80~~ days after the application
 6 | is filed. The purpose of an informational public meeting is
 7 | for the local government or regional planning council to
 8 | further inform the ~~general~~ public about the transmission line
 9 | proposed, obtain comments from the public, and formulate its
 10 | recommendation with respect to the proposed transmission line.

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

19 | (3) A local government or regional planning council
 20 | that intends to conduct an informational public meeting must
 21 | provide notice of the meeting, with notice sent to all parties
 22 | listed in s. 403.527(2)(a), not less than 5 days before the
 23 | meeting.

24 | ~~(4)(3)~~ The failure to hold an informational public
 25 | meeting or the procedure used for the informational public
 26 | meeting are shall not be grounds for the alteration of any
 27 | time limitation in this act under pursuant to s. 403.528 or
 28 | grounds to deny or condition certification.

29 | Section 55. Section 403.5275, Florida Statutes, is
 30 | amended to read:

31 | 403.5275 Amendment to the application.--

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

4 (2) Any amendment to the application made before ~~prior~~
5 ~~to~~ certification shall be disposed of as part of the original
6 certification proceeding. Amendment of the application may be
7 considered "good cause" for alteration of time limits pursuant
8 to s. 403.528.

9 Section 56. Section 403.528, Florida Statutes, is
10 amended to read:

11 403.528 Alteration of time limits.--

12 (1) Any time limitation in this act may be altered by
13 the administrative law judge upon stipulation between the
14 department and the applicant unless objected to by any party
15 within 5 days after notice or for good cause shown by any
16 party.

17 (2) A comprehensive application encompassing more than
18 one proposed transmission line may be good cause for
19 alternation of time limits.

20 Section 57. Section 403.529, Florida Statutes, is
21 amended to read:

22 403.529 Final disposition of application.--

23 (1)(a) If the administrative law judge has granted a
24 request to cancel the certification hearing and has
25 relinquished jurisdiction to the department under s.
26 403.527(6), within 40 days thereafter, the secretary of the
27 department shall act upon the application by written order in
28 accordance with the terms of this act and state the reasons
29 for issuance or denial.

30 (b) If the administrative law judge does not grant a
31 request to cancel the certification hearing under the

1 provisions of s. 403.527(6) within 60 ~~30~~ days after receipt of
2 the administrative law judge's recommended order, the board
3 shall act upon the application by written order, approving in
4 whole, approving with such conditions as the board deems
5 appropriate, or denying the certification and stating the
6 reasons for issuance or denial.

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

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

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

24 (a) Ensure electric power system reliability and
25 integrity;

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

28 (c) Comply with applicable nonprocedural requirements
29 of agencies;

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

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

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

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

25 (c) If the board, or secretary if applicable, finds
26 that two or more of the corridors that comply with ~~the~~
27 ~~provisions of~~ subsection (4) have the least adverse impacts
28 regarding the criteria in subsection (4), including costs, and
29 that the ~~such~~ corridors are substantially equal in adverse
30 impacts regarding the criteria in subsection (4), including
31 costs, ~~then~~ the board, or secretary if applicable, shall

1 certify the corridor preferred by the applicant if the
2 corridor is one proper for certification under ~~pursuant to~~ s.
3 403.522(10).

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

7 Section 58. Section 403.531, Florida Statutes, is
8 amended to read:

9 403.531 Effect of certification.--

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

20 (2)(a) The certification authorizes ~~shall authorize~~
21 the licensee applicant to locate the transmission line
22 corridor and to construct and maintain the transmission lines
23 subject only to the conditions of certification set forth in
24 the such certification.

25 (b) The certification may include conditions that
26 ~~which~~ constitute variances and exemptions from nonprocedural
27 standards or rules regulations of the department or any other
28 agency, which were expressly considered during the
29 certification review proceeding unless waived by the agency as
30 provided in s. 403.526 below and which otherwise would be
31 applicable to the location of the proposed transmission line

1 corridor or the construction, operation, and maintenance of
2 the transmission lines. ~~Each party shall notify the applicant~~
3 ~~and other parties at the time scheduled for the filing of the~~
4 ~~agency reports of any nonprocedural requirements not~~
5 ~~specifically listed in the application from which a variance,~~
6 ~~exemption, exception, or other relief is necessary in order~~
7 ~~for the board to certify any corridor proposed for~~
8 ~~certification. Failure of such notification shall be treated~~
9 ~~as a waiver from the nonprocedural requirements of that~~
10 ~~agency.~~

11 (3)(a) The certification shall be in lieu of any
12 license, permit, certificate, or similar document required by
13 any state, regional, or local agency under ~~pursuant to~~, but
14 not limited to, chapter 125, chapter 161, chapter 163, chapter
15 166, chapter 186, chapter 253, chapter 258, chapter 298,
16 chapter 370, chapter 372, chapter 373, chapter 376, chapter
17 380, chapter 381, ~~chapter 387~~, chapter 403, chapter 404, the
18 Florida Transportation Code, or 33 U.S.C. s. 1341.

19 (b) On certification, any license, easement, or other
20 interest in state lands, except those the title of which is
21 vested in the Board of Trustees of the Internal Improvement
22 Trust Fund, shall be issued by the appropriate agency as a
23 ministerial act. The applicant shall ~~be required to~~ seek any
24 necessary interest in state lands the title to which is vested
25 in the Board of Trustees of the Internal Improvement Trust
26 Fund from the board of trustees before, during, or after the
27 certification proceeding, and certification may be made
28 contingent upon issuance of the appropriate interest in
29 realty. However, ~~neither~~ the applicant and ~~nor~~ any party to
30 the certification proceeding may not directly or indirectly
31 raise or relitigate any matter that ~~which~~ was or could have

1 | been an issue in the certification proceeding in any
 2 | proceeding before the Board of Trustees of the Internal
 3 | Improvement Trust Fund wherein the applicant is seeking a
 4 | necessary interest in state lands, but the information
 5 | presented in the certification proceeding shall be available
 6 | for review by the board of trustees and its staff.

7 | (4) This act does ~~shall~~ not in any way affect the
 8 | ratemaking powers of the commission under chapter 366. This
 9 | act does ~~shall also~~ not in any way affect the right of any
 10 | local government to charge appropriate fees or require that
 11 | construction be in compliance with the National Electrical
 12 | Safety Code, as prescribed by the commission.

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

18 | Section 59. Section 403.5312, Florida Statutes, is
 19 | amended to read:

20 | 403.5312 Filing Recording of notice of certified
 21 | corridor route.--

22 | (1) Within 60 days after certification of a directly
 23 | associated transmission line under ~~pursuant to~~ ss.
 24 | 403.501-403.518 or a transmission line corridor under ~~pursuant~~
 25 | ~~to~~ ss. 403.52-403.5365, the applicant shall file with the
 26 | department and, in accordance with s. 28.222, with the clerk
 27 | of the circuit court for each county through which the
 28 | corridor will pass, a notice of the certified route.

29 | (2) The notice must ~~shall~~ consist of maps or aerial
 30 | photographs in the scale of 1:24,000 which clearly show the
 31 | location of the certified route and must ~~shall~~ state that the

1 certification of the corridor will result in the acquisition
2 of rights-of-way within the corridor. Each clerk shall record
3 the filing in the official record of the county for the
4 duration of the certification or until such time as the
5 applicant certifies to the department and the clerk that all
6 lands required for the transmission line rights-of-way within
7 the corridor have been acquired within the ~~such~~ county,
8 whichever is sooner.

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

11 Section 60. Section 403.5315, Florida Statutes, is
12 amended to read:

13 403.5315 Modification of certification.--A
14 certification may be modified after issuance in any one of the
15 following ways:

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

18 (2) The licensee may file a petition for modification
19 with the department or the department may initiate the
20 modification upon its own initiative.

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

22 1. The proposed modification;

23 2. The factual reasons asserted for the modification;

24 and

25 3. The anticipated additional environmental effects of
26 the proposed modification.

27 (b)(2) The department may modify the terms and
28 conditions of the certification if no party objects in writing
29 to the ~~such~~ modification within 45 days after notice by mail
30 to the last address of record in the certification proceeding,
31 and if no other person whose substantial interests will be

1 affected by the modification objects in writing within 30 days
2 after issuance of public notice.

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

7 (d) A request for hearing referred to the Division of
8 Administrative Hearings shall be disposed of in the same
9 manner as an application but with time periods established by
10 the administrative law judge commensurate with the
11 significance of the modification requested. ~~If objections are~~
12 ~~raised, the applicant may file a petition for modification~~
13 ~~pursuant to subsection (3).~~

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

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

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

19 ~~and~~

20 ~~(c) The anticipated additional environmental effects~~
21 ~~of the proposed modification.~~

22 ~~(4) Petitions filed pursuant to subsection (3) shall~~
23 ~~be disposed of in the same manner as an application but with~~
24 ~~time periods established by the administrative law judge~~
25 ~~commensurate with the significance of the modification~~
26 ~~requested.~~

27 Section 61. Section 403.5317, Florida Statutes, is
28 created to read:

29 403.5317 Postcertification activities.--

30 (1)(a) If, subsequent to certification, a licensee
31 proposes any material change to the application or prior

1 amendments, the licensee shall submit to the department a
2 written request for amendment and description of the proposed
3 change to the application. The department shall, within 30
4 days after the receipt of the request for the amendment,
5 determine whether the proposed change to the application
6 requires a modification of the conditions of certification.

7 (b) If the department concludes that the change would
8 not require a modification of the conditions of certification,
9 the department shall notify, in writing, the licensee, all
10 agencies, and all parties of the approval of the amendment.

11 (c) If the department concludes that the change would
12 require a modification of the conditions of certification, the
13 department shall notify the licensee that the proposed change
14 to the application requires a request for modification under
15 s. 403.5315.

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

25 Section 62. Section 403.5363, Florida Statutes, is
26 created to read:

27 403.5363 Public notices; requirements.--

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

30 1. The notices shall be published in newspapers of
31 general circulation within counties crossed by the

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

18 2. The department shall adopt rules specifying the
19 content of the newspaper notices.

20 3. All notices published by the applicant shall be
21 paid for by the applicant and shall be in addition to the
22 application fee.

23 (b) Public notices that must be published under this
24 section include:

25 1. The notice of the filing of an application, which
26 must include a description of the proceedings required by this
27 act. The notice must describe the provisions of s. 403.531(1)
28 and (2) and give the date by which notice of intent to be a
29 party or a petition to intervene in accordance with s.
30 403.527(2) must be filed. This notice must be published no
31 more than 21 days after the application is filed.

1 2. The notice of the certification hearing and any
2 other public hearing permitted under s. 403.527. The notice
3 must include the date by which a person wishing to appear as a
4 party must file the notice to do so. The notice of the
5 certification hearing must be published at least 65 days
6 before the date set for the certification hearing.

7 3. The notice of the cancellation of the certification
8 hearing, if applicable. The notice must be published at least
9 3 days before the date of the originally scheduled
10 certification hearing.

11 4. The notice of the filing of a proposal to modify
12 the certification submitted under s. 403.5315, if the
13 department determines that the modification would require
14 relocation or expansion of the transmission line right-of-way
15 or a certified substation.

16 (2) The proponent of an alternate corridor shall
17 arrange for the publication of the filing of the proposal for
18 an alternate corridor, the revised time schedules, the date by
19 which newly affected persons or agencies may file the notice
20 of intent to become a party, and the date of the rescheduled
21 hearing. A notice listed in this subsection must be published
22 in a newspaper of general circulation within the county or
23 counties crossed by the proposed alternate corridor and comply
24 with the content requirements set forth in paragraph (1)(a).
25 The notice must be published not less than 50 days before the
26 rescheduled certification hearing.

27 (3) The department shall arrange for the publication
28 of the following notices in the manner specified by chapter
29 120:

30 (a) The notice of the filing of an application and the
31 date by which a person intending to become a party must file

1 the notice of intent. The notice must be published no later
2 than 21 days after the application has been filed.

3 (b) The notice of any administrative hearing for
4 certification, if applicable. The notice must be published not
5 less than 65 days before the date set for a hearing, except
6 that notice for a rescheduled certification hearing after
7 acceptance of an alternative corridor must be published not
8 less than 50 days before the date set for the hearing.

9 (c) The notice of the cancellation of a certification
10 hearing, if applicable. The notice must be published not later
11 than 7 days before the date of the originally scheduled
12 certification hearing.

13 (d) The notice of the hearing before the siting board,
14 if applicable.

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

17 Section 63. Section 403.5365, Florida Statutes, is
18 amended to read:

19 403.5365 Fees; disposition.--The department shall
20 charge the applicant the following fees, as appropriate,
21 which, unless otherwise specified, shall be paid into the
22 Florida Permit Fee Trust Fund:

23 (1) An application fee.

24 (a) The application fee shall be of \$100,000, plus
25 \$750 per mile for each mile of corridor in which the
26 transmission line right-of-way is proposed to be located
27 within an existing ~~electrical~~ electric transmission line
28 right-of-way or within any existing right-of-way for any road,
29 highway, railroad, or other aboveground linear facility, or
30 \$1,000 per mile for each mile of electric transmission line
31

1 | corridor proposed to be located outside ~~the such~~ existing
2 | right-of-way.

3 | ~~(b)(a)~~ Sixty percent of the fee shall go to the
4 | department to cover any costs associated with coordinating the
5 | review of reviewing and acting upon the application and any
6 | costs for field services associated with monitoring
7 | construction and operation of the electric transmission line
8 | facility.

9 | ~~(c)(b)~~ The following percentage ~~Twenty percent of the~~
10 | ~~fees specified under this section, except postcertification~~
11 | ~~fees,~~ shall be transferred to the Administrative Trust Fund of
12 | the Division of Administrative Hearings of the Department of
13 | Management Services:-

14 | 1. Five percent to compensate for expenses from the
15 | initial exercise of duties associated with the filing of an
16 | application.

17 | 2. An additional 10 percent if an administrative
18 | hearing under s. 403.527 is held.

19 | ~~(d)1.(c)~~ Upon written request with proper itemized
20 | accounting within 90 days after final agency action by the
21 | siting board or the department or the withdrawal of the
22 | application, the agencies that prepared reports under s.
23 | 403.526 or s. 403.5271 or participated in a hearing under s.
24 | 403.527 or s. 403.5271 may submit a written request to the
25 | department for reimbursement of expenses incurred during the
26 | certification proceedings. The request must contain an
27 | accounting of expenses incurred, which may include time spent
28 | reviewing the application, department shall reimburse the
29 | ~~expenses and costs of the Department of Community Affairs, the~~
30 | ~~Fish and Wildlife Conservation Commission, the water~~
31 | ~~management district, regional planning council, and local~~

1 ~~government in the jurisdiction of which the transmission line~~
2 ~~is to be located. Such reimbursement shall be authorized for~~
3 ~~the preparation of any studies required of the agencies by~~
4 ~~this act, and for agency travel and per diem to attend any~~
5 ~~hearing held under ~~pursuant to~~ this act, and for the local~~
6 ~~government or regional planning council providing additional~~
7 ~~notice of the informational public meeting. The department~~
8 ~~shall review the request and verify whether a claimed expense~~
9 ~~is valid. Valid expenses shall be reimbursed; however, if to~~
10 ~~participate in the proceedings. In the event the amount of~~
11 ~~funds available for reimbursement allocation is insufficient~~
12 ~~to provide for full compensation ~~complete reimbursement~~ to the~~
13 agencies, reimbursement shall be on a prorated basis.

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

17 (e)(d) If any sums are remaining, the department shall
18 retain them for its use in the same manner as is otherwise
19 authorized by this section; ~~provided, however, that~~ if the
20 certification application is withdrawn, the remaining sums
21 shall be refunded to the applicant within 90 days after
22 withdrawal.

23 (2) An amendment fee.

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

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

30 (c) If an amendment is required to address issues,
31 including alternate corridors under ~~pursuant to~~ s. 403.5271,

1 raised by the department or other parties, no fee for ~~the such~~
2 amendment shall be charged.

3 (3) A certification modification fee.

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

6 (b) If a corridor alignment change is proposed by the
7 ~~licensee applicant~~, the fee shall be \$1,000 for each mile of
8 realignment plus an amount not to exceed \$10,000 to be fixed
9 by rule on a sliding scale based on the load-carrying
10 capability and configuration of the transmission line for use
11 in accordance with subsection ~~(1)(2)~~.

12 Section 64. Subsection (1) of section 403.537, Florida
13 Statutes, is amended to read:

14 403.537 Determination of need for transmission line;
15 powers and duties.--

16 (1)(a) Upon request by an applicant or upon its own
17 motion, the Florida Public Service Commission shall schedule a
18 public hearing, after notice, to determine the need for a
19 transmission line regulated by the Florida Electric
20 Transmission Line Siting Act, ss. 403.52-403.5365. ~~The Such~~
21 notice shall be published at least 21 ~~45~~ days before the date
22 set for the hearing and shall be published by the applicant in
23 at least one-quarter page size notice in newspapers of general
24 circulation, and by the commission in the manner specified in
25 chapter 120 in the Florida Administrative Weekly, by giving
26 notice to counties and regional planning councils in whose
27 jurisdiction the transmission line could be placed, and by
28 giving notice to any persons who have requested to be placed
29 on the mailing list of the commission for this purpose. Within
30 21 days after receipt of a request for determination by an
31 applicant, the commission shall set a date for the hearing.

1 The hearing shall be held pursuant to s. 350.01 within 45 days
2 after the filing of the request, and a decision shall be
3 rendered within 60 days after such filing.

4 (b) The commission shall be the sole forum in which to
5 determine the need for a transmission line. The need for a
6 transmission line may not be raised or be the subject of
7 review in another proceeding.

8 (c)(b) In the determination of need, the commission
9 shall take into account the need for electric system
10 reliability and integrity, the need for abundant, low-cost
11 electrical energy to assure the economic well-being of the
12 residents ~~citizens~~ of this state, the appropriate starting and
13 ending point of the line, and other matters within its
14 jurisdiction deemed relevant to the determination of need. The
15 appropriate starting and ending points of the electric
16 transmission line must be verified by the commission in its
17 determination of need.

18 (d)(c) The determination by the commission of the need
19 for the transmission line, as defined in s. 403.522(22) ~~s.~~
20 ~~403.522(21)~~, is binding on all parties to any certification
21 proceeding under ~~pursuant to~~ the Florida Electric Transmission
22 Line Siting Act and is a condition precedent to the conduct of
23 the certification hearing prescribed therein. An order entered
24 pursuant to this section constitutes final agency action.

25 Section 65. Subsection (3) of section 373.441, Florida
26 Statutes, is amended to read:

27 373.441 Role of counties, municipalities, and local
28 pollution control programs in permit processing.--

29 (3) The department shall review environmental resource
30 permit applications for electrical distribution and
31 transmission lines and other facilities related to the

1 production, transmission, and distribution of electricity
2 which are not certified under ss. 403.52-403.5365, the Florida
3 Electric Transmission Line Siting Act, regulated under this
4 part.

5 Section 66. Subsection (30) of section 403.061,
6 Florida Statutes, is amended to read:

7 403.061 Department; powers and duties.--The department
8 shall have the power and the duty to control and prohibit
9 pollution of air and water in accordance with the law and
10 rules adopted and promulgated by it and, for this purpose, to:

11 (30) Establish requirements by rule that reasonably
12 protect the public health and welfare from electric and
13 magnetic fields associated with existing 230 kV or greater
14 electrical transmission lines, new 230 kV and greater
15 electrical transmission lines for which an application for
16 certification under the Florida Electric Transmission Line
17 Siting Act, ss. 403.52-403.5365, is not filed, new or existing
18 electrical transmission or distribution lines with voltage
19 less than 230 kV, and substation facilities. Notwithstanding
20 any other provision in this chapter or any other law of this
21 state or political subdivision thereof, the department shall
22 have exclusive jurisdiction in the regulation of electric and
23 magnetic fields associated with all electrical transmission
24 and distribution lines and substation facilities. However,
25 nothing herein shall be construed as superseding or repealing
26 the provisions of s. 403.523(1) and (10).

27
28 The department shall implement such programs in conjunction
29 with its other powers and duties and shall place special
30 emphasis on reducing and eliminating contamination that
31

1 presents a threat to humans, animals or plants, or to the
2 environment.

3 Section 67. Paragraph (a) of subsection (3) of section
4 403.0876, Florida Statutes, is amended to read:

5 403.0876 Permits; processing.--

6 (3)(a) The department shall establish a special unit
7 for permit coordination and processing to provide expeditious
8 processing of department permits which the district offices
9 are unable to process expeditiously and to provide accelerated
10 processing of certain permits or renewals for economic and
11 operating stability. The ability of the department to process
12 applications under ~~pursuant to~~ this subsection in a more
13 timely manner than allowed by subsections (1) and (2) is
14 dependent upon the timely exchange of information between the
15 applicant and the department and the intervention of outside
16 parties as allowed by law. An applicant may request the
17 processing of its permit application by the special unit if
18 the application is from an area of high unemployment or low
19 per capita income, is from a business or industry that is the
20 primary employer within an area's labor market, or is in an
21 industry with respect to which the complexities involved in
22 the review of the application require special skills uniquely
23 available in the headquarters office. The department may
24 require the applicant to waive the 90-day time limitation for
25 department issuance or denial of the permit once for a period
26 not to exceed 90 days. The department may require a special
27 fee to cover the direct cost of processing special
28 applications in addition to normal permit fees and costs. The
29 special fee may not exceed \$10,000 per permit required.
30 Applications for renewal permits, but not applications for
31 initial permits, required for facilities pursuant to the

1 Electrical Power Plant Siting Act or the Florida Electric
2 Transmission Line Siting Act may be processed under this
3 subsection. Personnel staffing the special unit shall have
4 lengthy experience in permit processing.

5 Section 68. Paragraph (b) of subsection (3) of section
6 403.809, Florida Statutes, is amended to read:

7 403.809 Environmental districts; establishment;
8 managers; functions.--

9 (3)

10 (b) The processing of all applications for permits,
11 licenses, certificates, and exemptions shall be accomplished
12 at the district center or the branch office, except for those
13 applications specifically assigned elsewhere in the department
14 under s. 403.805 or to the water management districts under s.
15 403.812 and those applications assigned by interagency
16 agreement as provided in this act. However, the secretary, as
17 head of the department, may not delegate to district or
18 subdistrict managers, water management districts, or any unit
19 of local government the authority to act on the following
20 types of permit applications:

21 1. Permits issued under s. 403.0885, except such
22 permit issuance may be delegated to district managers.

23 2. Construction of major air pollution sources.

24 3. Certifications under the Florida Electrical Power
25 Plant Siting Act or the Florida Electric Transmission Line
26 Siting Act and the associated permit issued under s. 403.0885,
27 if applicable.

28 4. Permits issued under s. 403.0885 to steam electric
29 generating facilities regulated pursuant to 40 C.F.R. part
30 423.

31 5. Permits issued under s. 378.901.

1 Section 69. Sections 403.5253 and 403.5369, Florida
2 Statutes, are repealed.

3 Section 70. By November 1, 2006, the Department of
4 Environmental Protection shall provide to the Governor, the
5 President of the Senate, and the Speaker of the House of
6 Representatives a report detailing the state's leadership by
7 example in energy conservation and energy efficiency. The
8 report must include a description of state programs designed
9 to achieve energy conservation and energy efficiency at
10 state-owned facilities, such as the guaranteed energy
11 performance savings contracting pursuant to s. 489.145,
12 Florida Statutes, and the inclusion of alternative fuel
13 vehicles in state fleets. The report must describe the costs
14 of implementation, details of the programs, and current and
15 projected energy and cost savings.

16 Section 71. For the 2006-2007 fiscal year, the sum of
17 \$8,587,000 in nonrecurring funds is appropriated from the
18 General Revenue Fund and \$6,413,000 in nonrecurring funds is
19 appropriated from the Grants and Donations Trust Fund in the
20 Department of Environmental Protection for the purpose of
21 funding the Renewable Energy Technologies Grants program
22 authorized in s. 377.804, Florida Statutes. From the General
23 Revenue Funds, \$5,000,000 are contingent upon the coordination
24 between the Department of Environmental Protection and the
25 Department of Agriculture and Consumer Services pursuant to s.
26 377.804(6), Florida Statutes.

27 Section 72. For the 2006-2007 fiscal year, the sum of
28 \$2.5 million in nonrecurring funds is appropriated from the
29 General Revenue Fund to the Department of Environmental
30 Protection for the purpose of funding commercial and consumer
31 solar rebates authorized in section 377.806, Florida Statutes.

1 Section 73. The sum of \$61,379 in nonrecurring funds
2 is appropriated from the General Revenue Fund to the
3 Department of Revenue for the purpose of producing a taxpayer
4 information publication for a sales tax holiday for the
5 purchase of energy-efficient products as authorized by s.
6 377.8055, Florida Statutes, for the 2006-2007 fiscal year.
7 Section 74. This act shall take effect upon becoming a
8 law.
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