

Bill No. CS for SB 2176

Barcode 422796

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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05/02/2007 05:09 PM

11 Senator Bennett moved the following amendment:

13 **Senate Amendment (with title amendment)**

14 On page 5, between lines 18 and 19,

16 insert:

17 Section 5. Section 366.93, Florida Statutes, is
18 amended to read:

19 366.93 Cost recovery for the siting, design,
20 licensing, and construction of nuclear and advanced technology
21 coal power plants.--

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

23 (a) "Advanced technology coal power plant" means an
24 electrical power plant as defined in s. 403.503 which uses
25 coal as a fuel and either is an integrated gasification
26 combined cycle power plant or includes a demonstration project
27 for carbon capture and sequestration.

28 ~~(b)(a)~~ "Cost" includes, but is not limited to, all
29 capital investments, including rate of return, any applicable
30 taxes, and all expenses, including operation and maintenance
31 expenses, related to or resulting from the siting, licensing,

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1 design, construction, or operation of the nuclear or advanced
2 technology coal power plant.

3 ~~(c)(b)~~ "Electric utility" or "utility" has the same
4 meaning as that provided in s. 366.8255(1)(a).

5 (d) "Integrated gasification combined cycle power
6 plant" or "plant" is an electrical power plant as defined in
7 s. 403.503(13) that uses synthesis gas produced by integrated
8 gasification technology.

9 ~~(e)(c)~~ "Nuclear power plant" ~~or "plant"~~ is an
10 electrical power plant as defined in s. 403.503(13) which ~~s.~~
11 ~~403.503(12) that~~ uses nuclear materials for fuel.

12 (f) "Power plant" or "plant" means a nuclear power
13 plant or an advanced technology coal power plant.

14 ~~(g)(d)~~ "Preconstruction" is that period of time after
15 a site has been selected through and including the date the
16 utility completes site clearing work. Preconstruction costs
17 shall be afforded deferred accounting treatment and shall
18 accrue a carrying charge equal to the utility's allowance for
19 funds during construction (AFUDC) rate until recovered in
20 rates.

21 (2) Within 6 months after the enactment of this act,
22 the commission shall establish, by rule, alternative cost
23 recovery mechanisms for the recovery of costs incurred in the
24 siting, design, licensing, and construction of a nuclear or
25 advanced technology coal power plant. Such mechanisms shall be
26 designed to promote utility investment in nuclear or advanced
27 technology coal power plants and allow for the recovery in
28 rates of all prudently incurred costs, and shall include, but
29 are not limited to:

30 (a) Recovery through the capacity cost recovery clause
31 of any preconstruction costs.

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

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

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

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1 plant over a period not to exceed 5 years.

2 (5) The utility shall report to the commission
3 annually the budgeted and actual costs as compared to the
4 estimated inservice cost of the nuclear or advanced technology
5 coal power plant provided by the utility pursuant to s.
6 403.519(4), until the commercial operation of the nuclear or
7 advanced technology coal 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 or advanced technology coal power plant,
11 with the understanding that some costs may be higher than
12 estimated and other costs may be lower.

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

27 Section 6. Subsection (4) of section 403.519, Florida
28 Statutes, is amended to read:

29 403.519 Exclusive forum for determination of need.--

30 (4) In making its determination on a proposed
31 electrical power plant using nuclear materials as fuel or an

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1 advanced technology coal power plant, the commission shall
 2 hold a hearing within 90 days after the filing of the petition
 3 to determine need and shall issue an order granting or denying
 4 the petition within 135 days after the date of the filing of
 5 the petition. The commission shall be the sole forum for the
 6 determination of this matter and the issues addressed in the
 7 petition, which accordingly shall not be reviewed in any other
 8 forum, or in the review of proceedings in such other forum. In
 9 making its determination to either grant or deny the petition,
 10 the commission shall consider the need for electric system
 11 reliability and integrity, including fuel diversity, the need
 12 for base-load generating capacity, and the need for adequate
 13 electricity at a reasonable cost.

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

15 1. A description of the need for the generation
 16 capacity.

17 2. A description of how the proposed nuclear or
 18 advanced technology coal power plant will enhance the
 19 reliability of electric power production within the state by
 20 improving the balance of power plant fuel diversity and
 21 reducing Florida's dependence on fuel oil and natural gas.

22 3. A description of and a nonbinding estimate of the
 23 cost of the nuclear or advanced technology coal power plant.

24 4. The annualized base revenue requirement for the
 25 first 12 months of operation of the nuclear or advanced
 26 technology coal power plant.

27 5. Information on whether there were any discussions
 28 with any electric utilities regarding ownership of a portion
 29 of the nuclear or advanced technology coal power plant by such
 30 electric utilities.

31 (b) In making its determination, the commission shall

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1 take into account matters within its jurisdiction, which it
2 deems relevant, including whether the nuclear or advanced
3 technology coal power plant will:

4 1. Provide needed base-load capacity.
5 2. Enhance the reliability of electric power
6 production within the state by improving the balance of power
7 plant fuel diversity and reducing Florida's dependence on fuel
8 oil and natural gas.

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

14 (c) No provision of rule 25-22.082, Florida
15 Administrative Code, shall be applicable to a nuclear or
16 advanced technology coal power plant sited under this act,
17 including provisions for cost recovery, and an applicant shall
18 not otherwise be required to secure competitive proposals for
19 power supply prior to making application under this act or
20 receiving a determination of need from the commission.

21 (d) The commission's determination of need for a
22 nuclear or advanced technology coal power plant shall create a
23 presumption of public need and necessity and shall serve as
24 the commission's report required by s. 403.507(4)(a). An order
25 entered pursuant to this section constitutes final agency
26 action. Any petition for reconsideration of a final order on a
27 petition for need determination shall be filed within 5 days
28 after the date of such order. The commission's final order,
29 including any order on reconsideration, shall be reviewable on
30 appeal in the Florida Supreme Court. Inasmuch as delay in the
31 determination of need will delay siting of a nuclear or

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1 advanced technology coal power plant or diminish the
2 opportunity for savings to customers under the federal Energy
3 Policy Act of 2005, the Supreme Court shall proceed to hear
4 and determine the action as expeditiously as practicable and
5 give the action precedence over matters not accorded similar
6 precedence by law.

7 (e) After a petition for determination of need for a
8 nuclear or advanced technology coal power plant has been
9 granted, the right of a utility to recover any costs incurred
10 prior to commercial operation, including, but not limited to,
11 costs associated with the siting, design, licensing, or
12 construction of the plant, shall not be subject to challenge
13 unless and only to the extent the commission finds, based on a
14 preponderance of the evidence adduced at a hearing before the
15 commission under s. 120.57, that certain costs were
16 imprudently incurred. Proceeding with the construction of the
17 nuclear or advanced technology coal power plant following an
18 order by the commission approving the need for the nuclear or
19 advanced technology coal power plant under this act shall not
20 constitute or be evidence of imprudence. Imprudence shall not
21 include any cost increases due to events beyond the utility's
22 control. Further, a utility's right to recover costs
23 associated with a nuclear or advanced technology coal power
24 plant may not be raised in any other forum or in the review of
25 proceedings in such other forum. Costs incurred prior to
26 commercial operation shall be recovered pursuant to chapter
27 366.

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29 (Redesignate subsequent sections.)
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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, lines 1-17

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5 insert:

6

A bill to be entitled

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An act relating to the environment; amending s.

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374.975, F.S.; providing that operation and

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maintenance by the inland navigation districts

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of the intracoastal waterway and certain other

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public navigation channels are in the public

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interest; amending s. 374.976, F.S.; adding

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nonmember counties that contain any part of the

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intracoastal waterway within their boundaries

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to the list of governmental entities with which

16

a district can aid and cooperate; authorizing

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the Department of Environmental Protection to

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develop and maintain a list of flocculants for

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certain uses; amending s. 403.813, F.S.;

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specifying a mixing zone for turbidity under

21

certain circumstances; amending s. 366.93,

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F.S., revising definitions relating to certain

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power plants; requiring the Florida Public

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Service Commission to implement rules relating

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to cost recovery; requiring a report; amending

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s. 403.519, F.S., providing requirements and

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procedures for determination of need for

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advanced technology coal power plants;

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providing an exemption from purchased power

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supply bid rules under certain circumstances;

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providing an effective date.