

By Senator Bennett

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1 A bill to be entitled

2 An act relating to electric utilities; amending s. 74.051,
3 F.S.; requiring a court to conduct a hearing and issue a
4 final judgment on a petition for a taking within specified
5 times after a utility's request for such hearing; amending
6 s. 186.801, F.S.; requiring a local government to advise
7 the Public Service Commission and utility of a need for
8 amendments to the local government's adopted comprehensive
9 plan or zoning ordinances for use of an electrical plant
10 site; amending s. 253.02, F.S.; authorizing the Secretary
11 of Environmental Protection or the board of a
12 jurisdictional water management district to grant
13 easements across lands owned by the Board of Trustees of
14 the Internal Improvement Trust Fund under certain
15 conditions; amending s. 253.034, F.S.; granting a utility
16 the use of nonsovereignty state-owned lands upon a showing
17 of competent substantial evidence that the use is
18 reasonable; establishing criteria relating to the title,
19 distribution, and cost of such lands; amending s. 337.401,
20 F.S.; requiring the Department of Environmental Protection
21 to adopt rules relating to the placement of and access to
22 aerial and underground electric transmission lines having
23 certain specifications; defining the term "base-load
24 generating facilities"; amending s. 366.93, F.S.; revising
25 the definitions of "cost" and "preconstruction"; requiring
26 the Public Service Commission to establish rules relating
27 to cost recovery for the construction of new, expanded, or
28 relocated electrical transmission lines and facilities for
29 a nuclear power plant; amending ss. 380.23 and 403.031,

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30 F.S.; conforming cross-references; amending s. 403.503,
31 F.S.; defining the term "alternate corridor" and
32 redefining the term "corridor" for purposes of the Florida
33 Electrical Power Plant Siting Act; amending s. 403.504,
34 F.S.; requiring the Department of Environmental Protection
35 to determine whether a proposed alternate corridor is
36 acceptable; amending s. 403.506, F.S.; exempting an
37 electric utility from obtaining certification under the
38 Florida Electrical Power Plant Siting Act before
39 constructing facilities for a power plant using nuclear
40 materials as fuel; providing that a utility may obtain
41 separate licenses, permits, and approvals for such
42 construction under certain circumstances; amending s.
43 403.50665, F.S.; requiring an application to include a
44 statement on the consistency of directly nonlinear
45 associated facilities constituting a "development";
46 requiring the Department of Environmental Protection to
47 address at the certification hearing the issue of
48 compliance with land use plans and zoning ordinances for a
49 proposed substation located in or along an alternate
50 corridor; exempting directly associated linear facilities
51 from local government land use determinations; creating s.
52 403.5081, F.S., relating to a proposal for an alternative
53 transmission line corridor; providing a schedule and
54 certification process; requiring a party to file such
55 proposal within a specified period after an application is
56 filed; requiring the party to file a notice of proposal
57 with the administrative law judge, all parties, newly
58 affected agencies, and local governments; requiring that

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59 | such notice include certain information relating to the
60 | alternate corridor; requiring the applicant and the
61 | Department of Environmental Protection to file a notice
62 | accepting or rejecting the proposal within 7 days after
63 | receiving the notice; requiring that a certification
64 | hearing and public hearing be held if the proposal is
65 | rejected; requiring that a certification hearing be
66 | rescheduled if the proposal is accepted; requiring that a
67 | rescheduled certification hearing be held if the
68 | Department of Environmental Protection determines that the
69 | data are incomplete; authorizing the administrative law
70 | judge to adjust the schedule if necessary; requiring that
71 | the publication of all notices be in compliance with the
72 | requirements for public notice; requiring an interested
73 | party to provide data to certain agencies; requiring the
74 | agencies to make recommendations to the Department of
75 | Environmental Protection within 15 days after receiving
76 | the data; requiring the Department of Environmental
77 | Protection to determine if the data are complete;
78 | requiring the party to submit additional data if the
79 | department determines such data are incomplete; providing
80 | that the proposal is considered withdrawn if the
81 | Department of Environmental Protection determines that the
82 | data remain incomplete within 14 days after receiving the
83 | additional data; requiring an affected agency to submit a
84 | supplementary report within a specified time after the
85 | department makes such determination; providing that an
86 | agency having a collegial body as agency head may submit a
87 | draft of the report to the Department of Environmental

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88 Protection by the specified deadline; requiring the
89 department to include an analysis of the agencies' reports
90 in its project analysis; prohibiting a party from filing
91 for an alternate corridor unless the application is
92 amended; authorizing the administrative law judge to
93 authorize a different starting or ending point based upon
94 a showing of good cause; prohibiting the presentation of
95 evidence at a certification hearing if the proposal was
96 improperly noticed; placing the burden of proof on the
97 party proposing the alternate corridor; requiring the
98 board, consisting of the Governor and Cabinet, to certify
99 an alternate corridor if it is accepted by the applicant
100 and the Department of Environmental Protection and if it
101 satisfies certain criteria; amending s. 403.509, F.S.;
102 requiring the board to certify the corridor having the
103 least adverse impact; authorizing the board to deny
104 certification or allow a party to amend its proposal;
105 amending s. 403.5115, F.S.; requiring the applicant
106 proposing the alternate corridor to publish all notices
107 relating to the application; requiring that such notices
108 comply with certain requirements; requiring that notices
109 be published at least 45 days before the rescheduled
110 certification hearing; amending s. 403.5175, F.S.;
111 conforming a cross-reference; amending s. 403.518, F.S.;
112 authorizing the Department of Environmental Protection to
113 charge an application fee for an alternate corridor;
114 authorizing the department to waive all or a portion of
115 such fee based on the applicant's economic circumstances;
116 amending ss. 403.519 and 403.814, F.S., relating to

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117 determinations of need and general permits; conforming
118 provisions to changes made by the act; providing an
119 effective date.

120
121 Be It Enacted by the Legislature of the State of Florida:
122

123 Section 1. Present subsection (3) of section 74.051,
124 Florida Statutes, is redesignated as subsection (4), and a new
125 subsection (3) is added to that section, to read:

126 74.051 Hearing on order of taking.--

127 (3) If a defendant requests a hearing and the petitioner is
128 an electric utility that is seeking to appropriate property
129 necessary for an electric generation plant, an associated
130 facility of such plant, an electric substation, or a power line,
131 the court shall conduct the hearing no more than 120 days after
132 the petition is filed. The court shall issue its final judgment
133 no more than 30 days after the hearing.

134 Section 2. Paragraph (e) of subsection (2) of section
135 186.801, Florida Statutes, is amended to read:

136 186.801 Ten-year site plans.--

137 (2) Within 9 months after the receipt of the proposed plan,
138 the commission shall make a preliminary study of such plan and
139 classify it as "suitable" or "unsuitable." The commission may
140 suggest alternatives to the plan. All findings of the commission
141 shall be made available to the Department of Environmental
142 Protection for its consideration at any subsequent electrical
143 power plant site certification proceedings. It is recognized that
144 10-year site plans submitted by an electric utility are tentative
145 information for planning purposes only and may be amended at any

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146 time at the discretion of the utility upon written notification
147 to the commission. A complete application for certification of an
148 electrical power plant site under chapter 403, when such site is
149 not designated in the current 10-year site plan of the applicant,
150 shall constitute an amendment to the 10-year site plan. In its
151 preliminary study of each 10-year site plan, the commission shall
152 consider such plan as a planning document and shall review:

153 (e) The views of appropriate local, state, and federal
154 agencies, including the views of the appropriate water management
155 district as to the availability of water and its recommendation
156 as to the use by the proposed plant of salt water or fresh water
157 for cooling purposes. The local government of the jurisdiction
158 where a specifically identified electrical power plant site is
159 located shall advise the commission and the utility if there is a
160 need to amend the local government's comprehensive plan adopted
161 pursuant to part II of chapter 163 or the zoning ordinances to
162 allow for use of the site. If a local government fails to
163 identify such a need, a site identified in a utility's plan
164 submitted in 2 or more consecutive years is presumed, for
165 purposes of s. 403.50665, to be consistent and in compliance with
166 the local government's land use plans and zoning ordinances.

167 Section 3. Subsection (2) of section 253.02, Florida
168 Statutes, is amended to read:

169 253.02 Board of trustees; powers and duties.--

170 (2) (a) The board of trustees shall not sell, transfer, or
171 otherwise dispose of any lands the title to which is vested in
172 the board of trustees except by vote of at least three of the
173 four trustees and as provided in this subsection.

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174 (b) In order to promote efficient, effective, and
175 economical management of state lands and utility services and if
176 the Public Service Commission has determined a need exists or the
177 Federal Energy Regulatory Commission has granted a Certificate of
178 Public Convenience and Necessity, the authority to grant
179 easements for rights-of-way over, across, and upon lands the
180 title to which is vested in the board of trustees for the
181 construction and operation of natural gas pipeline transmission
182 and linear facilities, including electric transmission and
183 distribution facilities, is delegated to:

184 1. The Secretary of Environmental Protection for facilities
185 subject to part II of chapter 403; or

186 2. The Secretary of Environmental Protection or the
187 governing board of a jurisdictional water management district,
188 whichever has the authority under part IV of chapter 373 to
189 regulate facilities that are not subject to part II of chapter
190 403.

191
192 The board of trustees may review and approve such uses of state
193 lands if delegation would be inappropriate in regard to the
194 amount or location of state lands involved.

195 Section 4. Subsection (14) is added to section 253.034,
196 Florida Statutes, to read:

197 253.034 State-owned lands; uses.--

198 (14) (a) If a public utility, regional transmission
199 organization, or natural gas company presents competent and
200 substantial evidence that its use of nonsovereignty state-owned
201 lands is reasonable based upon a consideration of economic and
202 environmental factors, including an assessment of practicable

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203 alternative alignments and assurance that the lands will remain
204 in their predominantly natural condition, the public utility,
205 regional transmission organization, or natural gas company may be
206 granted fee simple title, easements, or other interests in
207 nonsovereignty state-owned lands title to which is vested in the
208 board of trustees, a water management district, or any other
209 agency in the state for:

- 210 1. Electric transmission and distribution lines;
- 211 2. Natural gas pipelines; or
- 212 3. Other linear facilities for which the Public Service
213 Commission has determined a need exists or the Federal Energy
214 Regulatory Commission has issued a Certificate of Public
215 Convenience and Necessity.

216 (b) In exchange for less than a fee simple interest
217 acquired pursuant to this subsection, the grantee shall vest in
218 the grantor the same fee simple interest to other available land
219 that is at least 1.5 times the size of the land acquired by the
220 grantee. The grantor shall approve the property with a less than
221 fee simple interest on its behalf based on a determination that
222 the economic and ecological or recreational value is at least
223 equivalent to that of the property transferred to the public
224 utility, regional transmission organization, or natural gas
225 company.

226 (c) In exchange for a fee simple interest acquired pursuant
227 to this subsection, the grantee shall vest in the grantor a fee
228 simple title to other available land that is at least 2 times the
229 size of the land acquired by the grantee. The grantor shall
230 approve the land to be acquired on its behalf based on a
231 determination that the economic and ecological or recreational

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232 value is at least equivalent to that of the property transferred
233 to the public utility, regional transmission organization, or
234 natural gas company.

235 (d) The grantee may, subject to the grantor's approval, pay
236 the fair market value of the state-owned land plus one-half of
237 the cost differential between the cost of constructing the
238 facility and the cost of constructing the facility on state-owned
239 land, up to a maximum of twice the fair market value of the land
240 acquired by the grantee. The grantor must use these moneys to
241 acquire fee simple or less than fee simple interest in other
242 available land.

243 Section 5. Subsection (1) of section 337.401, Florida
244 Statutes, is amended to read:

245 337.401 Use of right-of-way for utilities subject to
246 regulation; permit; fees.--

247 (1) The department and local governmental entities,
248 referred to in ss. 337.401-337.404 as the "authority," that have
249 jurisdiction and control of public roads or publicly owned rail
250 corridors are authorized to prescribe and enforce reasonable
251 rules or regulations with reference to the placing and
252 maintaining along, across, or on any road or publicly owned rail
253 corridors under their respective jurisdictions any electric
254 transmission, telephone, telegraph, or other communications
255 services lines; pole lines; poles; railways; ditches; sewers;
256 water, heat, or gas mains; pipelines; fences; gasoline tanks and
257 pumps; or other structures ~~hereinafter~~ referred to in this
258 section as the "utility." The department shall adopt rules that
259 allow placement of and access to aerial and underground electric
260 utility transmission lines designed to operate at 69 kilovolts or

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261 more which are adjacent to and within the right-of-way of any
262 department-controlled public roads, including longitudinally
263 within limited access facilities, to the extent allowed by
264 federal law and if access and placement complies with the minimum
265 clear zone and other safety standards and are needed to
266 accommodate the additional electrical transfer capacity on the
267 transmission grid resulting from new base-load generating
268 facilities. As used in this subsection, the term "base-load
269 generating facilities" means electrical power plants that are
270 certified under part II of chapter 403. The department may enter
271 into a permit-delegation agreement with a governmental entity if
272 issuance of a permit is based on requirements that the department
273 finds will ensure the safety and integrity of facilities of the
274 Department of Transportation; however, the permit-delegation
275 agreement does not apply to facilities of electric utilities as
276 defined in s. 366.02(2).

277 Section 6. Section 366.93, Florida Statutes, is amended to
278 read:

279 366.93 Cost recovery for the siting, design, licensing, and
280 construction of nuclear and integrated gasification combined
281 cycle power plants.--

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

283 (a) "Cost" includes, but is not limited to, all capital
284 investments, including rate of return, any applicable taxes, and
285 all expenses, including operation and maintenance expenses,
286 related to or resulting from the siting, licensing, design,
287 construction, or operation of the nuclear power plant and any
288 new, enlarged, or relocated electrical transmission lines or

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289 facilities of any size that are necessary to serve the nuclear or
290 integrated gasification combined cycle power plant.

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

293 (c) "Integrated gasification combined cycle power plant" or
294 "plant" is an electrical power plant as defined in s. 403.503(14)
295 which s. 403.503(13) that uses synthesis gas produced by
296 integrated gasification technology.

297 (c)(d) "Nuclear power plant" or "plant" means is an
298 electrical power plant, as defined in s. 403.503(14), which s.
299 403.503(13) that uses nuclear materials for fuel.

300 (d)(e) "Power plant" or "plant" means a nuclear power plant
301 or an integrated gasification combined cycle power plant.

302 (e)(f) "Preconstruction" is that period of time after a
303 site, including any related electrical transmission lines or
304 facilities, has been selected through and including the date the
305 utility completes site-clearing ~~site-clearing~~ work.
306 Preconstruction costs shall be afforded deferred accounting
307 treatment and shall accrue a carrying charge equal to the
308 utility's allowance for funds during construction (AFUDC) rate
309 until recovered in rates.

310 (2) Within 6 months after the enactment of this act, the
311 commission shall establish, by rule, alternative cost recovery
312 mechanisms for the recovery of costs incurred in the siting,
313 design, licensing, and construction of a nuclear power plant,
314 including new, expanded, or relocated electrical transmission
315 lines and facilities that are necessary to serve the nuclear or
316 integrated gasification combined cycle power plant. Such
317 mechanisms shall be designed to promote utility investment in

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318 nuclear or integrated gasification combined cycle power plants
319 and allow for the recovery in rates of all prudently incurred
320 costs, and shall include, but need ~~are~~ not be limited to:

321 (a) Recovery through the capacity cost recovery clause of
322 any preconstruction costs.

323 (b) Recovery through an incremental increase in the
324 utility's capacity cost recovery clause rates of the carrying
325 costs on the utility's projected construction cost balance
326 associated with the nuclear or integrated gasification combined
327 cycle power plant. To encourage investment and provide certainty,
328 for nuclear or integrated gasification combined cycle power plant
329 need petitions submitted on or before December 31, 2010,
330 associated carrying costs shall be equal to the pretax AFUDC in
331 effect upon this act becoming law. For nuclear or integrated
332 gasification combined cycle power plants for which need petitions
333 are submitted after December 31, 2010, the utility's existing
334 pretax AFUDC rate is presumed to be appropriate unless determined
335 otherwise by the commission in the determination of need for the
336 nuclear or integrated gasification combined cycle power plant.

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

340 (4) When the nuclear or integrated gasification combined
341 cycle power plant is placed in commercial service, the utility
342 shall be allowed to increase its base rate charges by the
343 projected annual revenue requirements of the nuclear or
344 integrated gasification combined cycle power plant based on the
345 jurisdictional annual revenue requirements of the plant for the
346 first 12 months of operation. The rate of return on capital

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347 investments shall be calculated using the utility's rate of
348 return last approved by the commission prior to the commercial
349 inservice date of the nuclear or integrated gasification combined
350 cycle power plant. If any existing generating plant is retired as
351 a result of operation of the nuclear or integrated gasification
352 combined cycle power plant, the commission shall allow for the
353 recovery, through an increase in base rate charges, of the net
354 book value of the retired plant over a period not to exceed 5
355 years.

356 (5) The utility shall report to the commission annually the
357 budgeted and actual costs as compared to the estimated inservice
358 cost of the nuclear or integrated gasification combined cycle
359 power plant provided by the utility pursuant to s. 403.519(4),
360 until the commercial operation of the nuclear or integrated
361 gasification combined cycle power plant. The utility shall
362 provide such information on an annual basis following the final
363 order by the commission approving the determination of need for
364 the nuclear or integrated gasification combined cycle power
365 plant, with the understanding that some costs may be higher than
366 estimated and other costs may be lower.

367 (6) If ~~In the event~~ the utility elects not to complete or
368 is precluded from completing construction of the nuclear power
369 plant, including any new, expanded, or relocated electrical
370 transmission lines or facilities or integrated gasification
371 combined cycle power plant, the utility shall be allowed to
372 recover all prudent preconstruction and construction costs
373 incurred following the commission's issuance of a final order
374 granting a determination of need for the nuclear power plant and
375 electrical transmission lines and facilities or integrated

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376 gasification combined cycle power plant. The utility shall
377 recover such costs through the capacity cost recovery clause over
378 a period equal to the period during which the costs were incurred
379 or 5 years, whichever is greater. The unrecovered balance during
380 the recovery period will accrue interest at the utility's
381 weighted average cost of capital as reported in the commission's
382 earnings surveillance reporting requirement for the prior year.

383 Section 7. Paragraph (c) of subsection (3) of section
384 380.23, Florida Statutes, is amended to read:

385 380.23 Federal consistency.--

386 (3) Consistency review shall be limited to review of the
387 following activities, uses, and projects to ensure that such
388 activities, uses, and projects are conducted in accordance with
389 the state's coastal management program:

390 (c) Federally licensed or permitted activities affecting
391 land or water uses when such activities are in or seaward of the
392 jurisdiction of local governments required to develop a coastal
393 zone protection element as provided in s. 380.24 and when such
394 activities involve:

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

397 2. Permits and licenses required under the Marine
398 Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. ss.
399 1401-1445 and 16 U.S.C. ss. 1431-1445, as amended.

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

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404 4. Permits and licenses relating to the transportation of
405 hazardous substance materials or transportation and dumping which
406 are issued pursuant to the Hazardous Materials Transportation
407 Act, 49 U.S.C. ss. 1501 et seq., as amended, or 33 U.S.C. s.
408 1321, as amended.

409 5. Permits and licenses required under 15 U.S.C. ss. 717-
410 717w, 3301-3432, 42 U.S.C. ss. 7101-7352, and 43 U.S.C. ss. 1331-
411 1356 for construction and operation of interstate gas pipelines
412 and storage facilities.

413 6. Permits and licenses required for the siting and
414 construction of any new electrical power plants as defined in s.
415 403.503(14) ~~s. 403.503(13)~~, as amended, and the licensing and
416 relicensing of hydroelectric power plants under the Federal Power
417 Act, 16 U.S.C. ss. 791a et seq., as amended.

418 7. Permits and licenses required under the Mining Law of
419 1872, 30 U.S.C. ss. 21 et seq., as amended; the Mineral Lands
420 Leasing Act, 30 U.S.C. ss. 181 et seq., as amended; the Mineral
421 Leasing Act for Acquired Lands, 30 U.S.C. ss. 351 et seq., as
422 amended; the Federal Land Policy and Management Act, 43 U.S.C.
423 ss. 1701 et seq., as amended; the Mining in the Parks Act, 16
424 U.S.C. ss. 1901 et seq., as amended; and the OCS Lands Act, 43
425 U.S.C. ss. 1331 et seq., as amended, for drilling, mining,
426 pipelines, geological and geophysical activities, or rights-of-
427 way on public lands and permits and licenses required under the
428 Indian Mineral Development Act, 25 U.S.C. ss. 2101 et seq., as
429 amended.

430 8. Permits and licenses for areas leased under the OCS
431 Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, including

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432 leases and approvals of exploration, development, and production
433 plans.

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

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

439 Section 8. Subsection (20) of section 403.031, Florida
440 Statutes, is amended to read:

441 403.031 Definitions.--In construing this chapter, or rules
442 and regulations adopted pursuant hereto, the following words,
443 phrases, or terms, unless the context otherwise indicates, have
444 the following meanings:

445 (20) "Electrical power plant" means, for purposes of this
446 part of this chapter, any electrical generating facility that
447 uses any process or fuel and that is owned or operated by an
448 electric utility, as defined in s. 403.503(14) ~~s. 403.503(13)~~,
449 and includes any associated facility that directly supports the
450 operation of the electrical power plant.

451 Section 9. Present subsections (3) through (30) of section
452 403.503, Florida Statutes, are redesignated as subsections (4)
453 through (31), respectively, a new subsection (3) is added to that
454 section, and present subsection (10) of that section is amended,
455 to read:

456 403.503 Definitions relating to Florida Electrical Power
457 Plant Siting Act.--As used in this act:

458 (3) "Alternate corridor" means an area that is proposed by
459 the applicant or a third party within which all or part of an
460 associated electrical transmission line right-of-way is to be

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461 located and that is different from the preferred transmission
462 line corridor proposed by the applicant. The width of the
463 alternate corridor proposed for certification for an associated
464 electrical transmission line may be the width of the proposed
465 right-of-way or a wider boundary not to exceed a width of 1 mile.
466 The area within the alternate corridor may be further restricted
467 as a condition of certification. The alternate corridor may
468 include alternate electrical substation sites if the applicant
469 has proposed an electrical substation as part of the portion of
470 the proposed electrical transmission line.

471 (11)-(10) "Corridor" means the proposed area within which an
472 associated linear facility right-of-way is to be located. The
473 width of the corridor proposed by an applicant for certification
474 as an associated facility, ~~at the option of the applicant,~~ may be
475 the width of the right-of-way or a wider boundary, not to exceed
476 a width of 1 mile. The area within the corridor in which a right-
477 of-way may be located may be further restricted by a condition of
478 certification. After all property interests required for the
479 right-of-way have been acquired by the licensee, the boundaries
480 of the area certified shall narrow to only that land within the
481 boundaries of the right-of-way. A corridor proposed for
482 certification must be addressed in the application, in amendments
483 to the application filed under s. 403.5064(3), and in notices of
484 acceptance filed by an applicant and the department pursuant to
485 s. 403.5081.

486 Section 10. Present subsections (9) through (12) of section
487 403.504, Florida Statutes, are redesignated as subsections (10)
488 through (13), respectively, and a new subsection (9) is added to
489 that section, to read:

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490 403.504 Department of Environmental Protection; powers and
491 duties enumerated.--The department shall have the following
492 powers and duties in relation to this act:

493 (9) To determine whether an alternate corridor proposed for
494 consideration under s. 403.5081 is acceptable.

495 Section 11. Subsection (3) is added to section 403.506,
496 Florida Statutes, to read:

497 403.506 Applicability, thresholds, and certification.--

498 (3) An electric utility may obtain separate licenses,
499 permits, and approvals for the construction of facilities
500 necessary to construct an electrical power plant without first
501 obtaining certification under this act if the utility intends to
502 locate, license, and construct a proposed or expanded electrical
503 power plant that uses nuclear materials as fuel. Such facilities
504 may include, but are not limited to, access and onsite roads,
505 rail lines, electrical transmission facilities to support
506 construction, and facilities necessary for waterborne delivery of
507 construction materials and project components. This exemption
508 applies to such facilities regardless of whether the facilities
509 are used for operation of the power plant. The applicant shall
510 file with the department a statement that declares that the
511 construction of such facilities is necessary for the timely
512 construction of the proposed electrical power plant and
513 identifies those facilities that the applicant intends to seek
514 licenses for and construct prior to or separate from
515 certification of the project. The facilities may be located
516 within or off of the site for the proposed electrical power
517 plant. The filing of an application under this act does not
518 affect other applications for separate licenses which are pending

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519 at the time of filing the application. Furthermore, the filing of
520 an application does not prevent an electric utility from seeking
521 separate licenses for facilities that are necessary to construct
522 the electrical power plant. Licenses, permits, or approvals
523 issued by any state, regional, or local agency for such
524 facilities shall be incorporated by the department into a final
525 certification upon completion of construction. Any facilities
526 necessary for construction of the electrical power plant shall
527 become part of the certified electrical power plant upon
528 completion of the electrical power plant's construction. The
529 exemption in this subsection does not require or authorize agency
530 rulemaking, and any action taken under this subsection is not
531 subject to chapter 120.

532 Section 12. Subsections (1), (2), (3), and (6) of section
533 403.50665, Florida Statutes are amended, and subsections (7) and
534 (8) are added to that section, to read:

535 403.50665 Land use consistency.--

536 (1) The applicant shall include in the application a
537 statement on the consistency of the site, or any directly
538 associated nonlinear facilities that constitute a "development,"
539 as defined by s. 380.04, with existing land use plans and zoning
540 ordinances that were in effect on the date the application was
541 filed and a full description of such consistency. However, such
542 statement is not required for a specifically identified
543 electrical power plant site under s. 186.801(2)(e).

544 (2) Within 45 days after the filing of the application,
545 each local government shall file a determination with the
546 department, the applicant, the administrative law judge, and all
547 parties on the consistency of the site or any directly associated

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548 nonlinear facilities with existing land use plans and zoning
549 ordinances that were in effect on the date the application was
550 filed, based on the information provided in the application. The
551 local government may issue its determination up to 35 days later
552 if the local government has requested additional information on
553 land use and zoning consistency as part of the local government's
554 statement on completeness of the application submitted pursuant
555 to s. 403.5066(1)(a). Notice of the consistency determination
556 shall be published in accordance with the requirements of s.
557 403.5115.

558 (3) If the local government issues a determination that the
559 proposed electrical power plant and any directly associated
560 nonlinear facility is not consistent or in compliance with local
561 land use plans and zoning ordinances, the applicant may apply to
562 the local government for the necessary local approval to address
563 the inconsistencies in the local government's determination. If
564 the applicant makes such an application to the local government,
565 the time schedules under this act shall be tolled until the local
566 government issues its revised determination on land use and
567 zoning or the applicant otherwise withdraws its application to
568 the local government. If the applicant applies to the local
569 government for necessary local land use or zoning approval, the
570 local government shall issue a revised determination within 30
571 days following the conclusion of that local proceeding, and the
572 time schedules and notice requirements under this act shall apply
573 to such revised determination.

574 (6) If it is determined by the local government that the
575 proposed site or directly associated nonlinear facility does
576 conform with existing land use plans and zoning ordinances in

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577 effect as of the date of the application and no petition has been
578 filed, the responsible zoning or planning authority shall not
579 thereafter change such land use plans or zoning ordinances so as
580 to foreclose construction and operation of the proposed site or
581 directly associated nonlinear facilities unless certification is
582 subsequently denied or withdrawn.

583 (7) If the department determines that an application for an
584 alternate corridor, accepted pursuant to s. 403.5081, is
585 complete, and if a portion of the applicant's preferred corridor
586 contains a location for a proposed substation and the proposed
587 alternate corridor contains a different electrical substation
588 location than that proposed by the applicant, the issue of
589 compliance with existing land use plans and zoning ordinances for
590 the proposed substation location in or along the alternate
591 corridor must be addressed at the site-certification hearing.

592 (8) A directly associated linear facility, including an
593 electrical transmission line, pipeline, or railway line, is
594 exempt from local government land use plans and zoning ordinances
595 under part II of chapter 163, and is not subject to local
596 government land use determinations or hearings held under this
597 section.

598 Section 13. Section 403.5081, Florida Statutes, is created
599 to read:

600 403.5081 Alternate transmission line corridors.--

601 (1) A party may, within 112 days after an application is
602 filed, propose one or more alternate transmission line corridor
603 routes for consideration under this act. An application for an
604 alternate corridor may not be filed for any other linear
605 facilities. The alternate corridor route may be for all or a

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606 portion of the applicant's proposed corridor route, but must have
607 the same starting and ending points, and intermediate substation
608 or substation expansions, if any, as those proposed by the
609 applicant. If more than one alternate corridor is proposed by a
610 party, the party must designate which of the alternate corridors
611 is the primary alternate corridor and which is the secondary
612 alternate corridor.

613 (a) A notice proposing an alternate corridor must be filed
614 with the administrative law judge, all parties, any newly
615 affected agencies, and any local governments within which the
616 proposed alternate corridor is located. The notice must include
617 the most recent United States Geological Survey 1:24,000
618 quadrangle maps specifically delineating the corridor boundaries,
619 a description of the proposed alternate corridor, and a statement
620 of the reasons the proposed alternate corridor should be
621 certified.

622 (b)1. Within 7 days after the notice is received, the
623 applicant and the department shall file a notice accepting or
624 rejecting the proposal for an alternate corridor. The notice must
625 be filed with the administrative law judge and all parties. The
626 acceptance of a proposed alternate corridor by the applicant may
627 include the acceptance of a proposed alternate substation
628 location, at the applicant's option. If the alternate corridor is
629 rejected by the applicant or department, the certification
630 hearing and the public hearings must be held as scheduled. If
631 both the applicant and the department accept a proposed alternate
632 corridor for consideration, the certification hearing must be
633 rescheduled as provided in this paragraph, if necessary. The
634 alternate corridor must be accepted by both the applicant and the

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635 department to receive further consideration.

636 2. If the certification hearing is rescheduled, it must be
637 held no more than 90 days after the previously scheduled
638 certification hearing. If the data submitted under paragraph (d)
639 are determined to be incomplete, the rescheduled certification
640 hearing shall be held no more than 105 days after the previously
641 scheduled certification hearing. If the alternate corridor
642 crosses the jurisdiction of a local government that was not
643 previously affected and, as a result, additional time is needed,
644 the schedule provided in this subsection shall be adjusted
645 accordingly by the administrative law judge to allow the newly
646 affected local government time to prepare a report pursuant to s.
647 403.507.

648 (c) Notice for the filing of the proposed alternate
649 corridor, the revised time schedules, the deadline for newly
650 affected persons and agencies to file notice of intent to become
651 a party, the rescheduled hearing date, and the proceedings shall
652 be published in accordance with the requirements in s. 403.5115.

653 (d) Within 21 days after the department and the applicant
654 accept an alternate corridor, the party proposing an alternate
655 corridor shall provide all data required under the department's
656 rules and approved application forms to the agencies listed in s.
657 403.507(2) and newly affected agencies.

658 (e)1. An agency that is reviewing the data must advise the
659 department of any issues concerning the completeness of the data
660 relating to the alternate corridor within 15 days after the data
661 are submitted.

662 2. Within 22 days after the data are submitted, the
663 department shall determine whether the data are complete. If the

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664 department determines that the data are incomplete, the party
665 proposing the alternate corridor must submit additional data to
666 cure the incompleteness. This additional data must be submitted
667 within 14 days after the department determines the data to be
668 incomplete.

669 3. If the department, within 14 days after the additional
670 data are submitted, determines that the data remain incomplete,
671 the proposal for an alternate corridor is considered withdrawn.
672 The department may base its determination on recommendations
673 submitted by the affected agencies.

674 (f) An agency listed in s. 403.507(2) and any newly
675 affected agency shall file a supplementary report with the
676 applicant and the department no later than 24 days after the data
677 are determined to be complete.

678 (g) The agency report must include the information required
679 under s. 403.507(2) and (3).

680 (h) If an agency required to submit a report pursuant to
681 this section has a collegial body as its agency head and the
682 agency's internal procedures require such report to be reviewed
683 by its agency head prior to finalization, the agency may submit a
684 draft version of the report to the department by the deadline
685 provided in paragraph (f). However, the agency shall submit a
686 final version of the report to the department after review by the
687 agency head and no later than 7 days after the deadline provided
688 in paragraph (f).

689 (i) The department shall include analysis of the agencies'
690 supplemental reports in its project analysis that must be filed
691 pursuant to s. 403.507(5).

692 (2) If the original date for the certification hearing is

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693 rescheduled as a result of the acceptance of an alternate
694 corridor, a party may not file an additional proposal for an
695 alternate corridor. However, if an applicant submits an amendment
696 to its application which changes the alignment of the proposed
697 corridor, the certification hearing must be rescheduled to allow
698 a party time to propose an alternate corridor to the realigned
699 corridor. A proposal for an alternate corridor shall have the
700 same starting and ending points as the realigned portion of the
701 corridor unless the administrative law judge, based upon a
702 showing of good cause, authorizes otherwise.

703 (3) (a) Notwithstanding the rejection of a proposal for an
704 alternate corridor by the applicant or the department, any party
705 may present evidence at the certification hearing to show that a
706 corridor otherwise appropriate for certification does not satisfy
707 the criteria in s. 403.509(3) or that a rejected alternate
708 corridor satisfies the criteria in that section. Evidence may not
709 be admitted at the certification hearing unless the notice for
710 the alternate corridor was filed no later than 112 days after the
711 filing of the application or by the submission of an amendment to
712 the application. The board shall consider rejected alternate
713 corridors pursuant to s. 403.509(3).

714 (b) A party that proposes an alternate corridor has the
715 burden of proving that the alternate corridor satisfies the
716 certification criteria. Under this act, an applicant or agency
717 that is not proposing an alternate corridor is not required to
718 submit data in support of the alternate corridor.

719 (4) The board shall certify an alternate corridor if it is
720 accepted by the applicant and the department pursuant to a notice
721 of acceptance, and if the board determines that the alternate

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722 corridor satisfies the criteria in s. 403.509(3).

723 Section 14. Paragraph (d) of subsection (3) of section
724 403.509, Florida Statutes, is amended, present subsections (4)
725 through (6) of that section, are redesignated as subsections (5)
726 through (7), respectively, and a new subsection (4) is added to
727 that section, to read:

728 403.509 Final disposition of application.--

729 (3) In determining whether an application should be
730 approved in whole, approved with modifications or conditions, or
731 denied, the board, or secretary when applicable, shall consider
732 whether, and the extent to which, the location of the electrical
733 power plant and directly associated facilities and their
734 construction and operation will:

735 (d) Meet the electrical energy needs of the state in an
736 orderly, reliable, and timely fashion.

737 (4) (a) The board shall certify a transmission line corridor
738 that meets the criteria of this section. If more than one
739 transmission line corridor satisfies the criteria for
740 certification, the board shall certify the transmission line
741 corridor that has the least adverse impact, including costs, with
742 respect to the criteria provided in subsection (3).

743 (b) If the board finds that an alternate corridor, rejected
744 pursuant to s. 403.5081, satisfies the criteria of subsection (3)
745 and has the least adverse impact compared to other corridors that
746 satisfy the criteria, the board may deny certification or allow
747 the applicant to amend its application.

748 (c) If the board finds that two or more corridors
749 appropriate for certification have the least adverse impact,
750 including costs, and the corridors are substantially equal in

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751 impact, the board shall certify the corridor preferred by the
752 applicant.

753 Section 15. Subsection (5) is added to section 403.5115,
754 Florida Statutes, to read:

755 403.5115 Public notice.--

756 (5) An applicant shall publish public notices concerning
757 the filing of a proposal for an alternate corridor; the route of
758 the alternate corridor; the revised time schedules, if any; the
759 filing deadline for a petition to become a party; and the date of
760 the rescheduled certification hearing, if necessary. For purposes
761 of this subsection, all notices must be published in a newspaper
762 or newspapers of general circulation within the county or
763 counties affected by the proposed alternate corridor and must
764 comply with the requirements provided in subsection (2). The
765 notices must be published at least 45 days before the date of the
766 rescheduled certification hearing.

767 Section 16. Subsection (1) of section 403.5175, Florida
768 Statutes, is amended to read:

769 403.5175 Existing electrical power plant site
770 certification.--

771 (1) An electric utility that owns or operates an existing
772 electrical power plant as defined in s. 403.503(14) ~~s.~~
773 ~~403.503(13)~~ may apply for certification of an existing power
774 plant and its site in order to obtain all agency licenses
775 necessary to ensure compliance with federal or state
776 environmental laws and regulation using the centrally
777 coordinated, one-stop licensing process established by this part.
778 An application for site certification under this section must be
779 in the form prescribed by department rule. Applications must be

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780 reviewed and processed using the same procedural steps and
781 notices as for an application for a new facility, except that a
782 determination of need by the Public Service Commission is not
783 required.

784 Section 17. Subsection (6) is added to section 403.518,
785 Florida Statutes, to read:

786 403.518 Fees; disposition.--The department shall charge the
787 applicant the following fees, as appropriate, which, unless
788 otherwise specified, shall be paid into the Florida Permit Fee
789 Trust Fund:

790 (6) (a) An application fee for an alternate corridor filed
791 pursuant to s. 403.5081. The application fee shall be \$750 per
792 mile for each mile of the alternate corridor located within an
793 existing electric transmission line right-of-way or within an
794 existing right-of-way for a road, highway, railroad, or other
795 aboveground linear facility, or \$1,000 per mile for each mile of
796 an electric transmission line corridor proposed to be located
797 outside the existing right-of-way.

798 (b) The department may waive all or a portion of the
799 application fee based on the applicant's economic circumstances.

800 Section 18. Subsection (4) of section 403.519, Florida
801 Statutes, is amended to read:

802 403.519 Exclusive forum for determination of need.--

803 (4) In making its determination on a proposed electrical
804 power plant using nuclear materials or synthesis gas produced by
805 integrated gasification combined cycle power plant as fuel, the
806 commission shall hold a hearing within 90 days after the filing
807 of the petition to determine need and shall issue an order
808 granting or denying the petition within 135 days after the date

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809 of the filing of the petition. The commission shall be the sole
810 forum for the determination of this matter and the issues
811 addressed in the petition, which accordingly shall not be
812 reviewed in any other forum, or in the review of proceedings in
813 such other forum. In making its determination to either grant or
814 deny the petition, the commission shall consider the need for
815 electric system reliability and integrity, including fuel
816 diversity, the need for base-load generating capacity, the need
817 for adequate electricity at a reasonable cost, and whether
818 renewable energy sources and technologies, as well as
819 conservation measures, are utilized to the extent reasonably
820 available.

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

822 1. A description of the need for the generation capacity.

823 2. A description of how the proposed nuclear or integrated
824 gasification combined cycle power plant will enhance the
825 reliability of electric power production within the state by
826 improving the balance of power plant fuel diversity and reducing
827 Florida's dependence on fuel oil and natural gas.

828 3. A description of and a nonbinding estimate of the cost
829 of the nuclear or integrated gasification combined cycle power
830 plant, including any costs associated with new, enlarged, or
831 relocated electrical transmission lines or facilities of any size
832 that are necessary to serve the nuclear power plant.

833 4. The annualized base revenue requirement for the first 12
834 months of operation of the nuclear or integrated gasification
835 combined cycle power plant.

836 5. Information on whether there were any discussions with
837 any electric utilities regarding ownership of a portion of the

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838 nuclear or integrated gasification combined cycle power plant by
839 such electric utilities.

840 (b) In making its determination, the commission shall take
841 into account matters within its jurisdiction, which it deems
842 relevant, including whether the nuclear or integrated
843 gasification combined cycle power plant will:

844 1. Provide needed base-load capacity.

845 2. Enhance the reliability of electric power production
846 within the state by improving the balance of power plant fuel
847 diversity and reducing Florida's dependence on fuel oil and
848 natural gas.

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

854 (c) No provision of rule 25-22.082, Florida Administrative
855 Code, shall be applicable to a nuclear or integrated gasification
856 combined cycle power plant sited under this act, including
857 provisions for cost recovery, and an applicant shall not
858 otherwise be required to secure competitive proposals for power
859 supply prior to making application under this act or receiving a
860 determination of need from the commission.

861 (d) The commission's determination of need for a nuclear or
862 integrated gasification combined cycle power plant shall create a
863 presumption of public need and necessity and shall serve as the
864 commission's report required by s. 403.507(4)(a). An order
865 entered pursuant to this section constitutes final agency action.
866 Any petition for reconsideration of a final order on a petition

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867 for need determination shall be filed within 5 days after the
868 date of such order. The commission's final order, including any
869 order on reconsideration, shall be reviewable on appeal in the
870 Florida Supreme Court. Inasmuch as delay in the determination of
871 need will delay siting of a nuclear or integrated gasification
872 combined cycle power plant or diminish the opportunity for
873 savings to customers under the federal Energy Policy Act of 2005,
874 the Supreme Court shall proceed to hear and determine the action
875 as expeditiously as practicable and give the action precedence
876 over matters not accorded similar precedence by law.

877 (e) After a petition for determination of need for a
878 nuclear or integrated gasification combined cycle power plant has
879 been granted, the right of a utility to recover any costs
880 incurred prior to commercial operation, including, but not
881 limited to, costs associated with the siting, design, licensing,
882 or construction of the plant and new, expanded, or relocated
883 electrical transmission lines or facilities of any size that are
884 necessary to serve the nuclear power plant, shall not be subject
885 to challenge unless and only to the extent the commission finds,
886 based on a preponderance of the evidence adduced at a hearing
887 before the commission under s. 120.57, that certain costs were
888 imprudently incurred. Proceeding with the construction of the
889 nuclear or integrated gasification combined cycle power plant
890 following an order by the commission approving the need for the
891 nuclear or integrated gasification combined cycle power plant
892 under this act shall not constitute or be evidence of imprudence.
893 Imprudence shall not include any cost increases due to events
894 beyond the utility's control. Further, a utility's right to
895 recover costs associated with a nuclear or integrated

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896 gasification combined cycle power plant may not be raised in any
897 other forum or in the review of proceedings in such other forum.
898 Costs incurred prior to commercial operation shall be recovered
899 pursuant to chapter 366.

900 Section 19. Paragraph (i) of subsection (6) of section
901 403.814, Florida Statutes, is amended to read:

902 403.814 General permits; delegation.--

903 (6) Construction and maintenance of electric transmission
904 or distribution lines in wetlands by electric utilities, as
905 defined in s. 366.02, shall be authorized by general permit
906 provided the following provisions are implemented:

907 (i) This subsection applies to transmission lines and
908 appurtenances certified pursuant to part II of this chapter.
909 However, the criteria of the general permit shall not otherwise
910 affect the authority of the siting board to condition
911 certification of transmission lines as authorized under part II
912 of this chapter.

913
914 Maintenance of existing electric lines and clearing of vegetation
915 in wetlands conducted without the placement of structures in
916 wetlands or other dredge and fill activities does not require an
917 individual or general construction permit. For the purpose of
918 this subsection, wetlands shall mean the landward extent of
919 waters of the state regulated under ss. 403.91-403.929 and
920 isolated and nonisolated wetlands regulated under part IV of
921 chapter 373. The provisions provided in this subsection apply to
922 the permitting requirements of the department, any water
923 management district, and any local government implementing part
924 IV of chapter 373 or part VIII of this chapter.

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Section 20. This act shall take effect upon becoming a law.