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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: FAV	.	
3/19/2008	.	
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1 The Committee on Environmental Preservation and Conservation  
 2 (Saunders) recommended the following **amendment to amendment**  
 3 **(223658)** :

**Senate Amendment (with title amendments)**

Between line(s) 2157-2158

insert:

8 Section 41. Present subsection (3) of section 74.051,  
 9 Florida Statutes, is redesignated as subsection (4), and a new  
 10 subsection (3) is added to that section, to read:

74.051 Hearing on order of taking.--

12 (3) If a defendant requests a hearing and the petitioner is  
 13 an electric utility that is seeking to appropriate property  
 14 necessary for an electric generation plant, an associated  
 15 facility of such plant, an electric substation, or a power line,  
 16 the court shall conduct the hearing no more than 120 days after

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17 the petition is filed. The court shall issue its final judgment  
18 no more than 30 days after the hearing.

19 Section 42. Subsection (2) of section 253.02, Florida  
20 Statutes, is amended to read:

21 253.02 Board of trustees; powers and duties.--

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

26 (b) In order to promote efficient, effective, and  
27 economical management of state lands and utility services and if  
28 the Public Service Commission has determined a need exists or the  
29 Federal Energy Regulatory Commission has granted a Certificate of  
30 Public Convenience and Necessity, the authority to grant  
31 easements for rights-of-way over, across, and upon lands the  
32 title to which is vested in the board of trustees for the  
33 construction and operation of natural gas pipeline transmission  
34 and linear facilities, including electric transmission and  
35 distribution facilities, may be delegated to  
36 the Secretary of Environmental Protection for facilities subject  
37 to part II of chapter 403 or part IV of chapter 373.

38 Section 43. Subsection (14) is added to section 253.034,  
39 Florida Statutes, to read:

40 253.034 State-owned lands; uses.--

41 (14) (a) If a public utility, regional transmission  
42 organization, or natural gas company presents competent and  
43 substantial evidence that its use of nonsovereignty state-owned  
44 lands is reasonable based upon a consideration of economic and  
45 environmental factors, including an assessment of practicable  
46 alternative alignments and assurance that the lands will remain



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47 in their predominantly natural condition, the public utility,  
48 regional transmission organization, or natural gas company may be  
49 granted fee simple title, easements, or other interests in  
50 nonsovereignty state-owned lands title to which is vested in the  
51 board of trustees, a water management district, or any other  
52 agency in the state for:

53 1. Electric transmission and distribution lines;

54 2. Natural gas pipelines; or

55 3. Other linear facilities for which the Public Service  
56 Commission has determined a need exists or the Federal Energy  
57 Regulatory Commission has issued a Certificate of Public  
58 Convenience and Necessity.

59 (b) In exchange for less than a fee simple interest  
60 acquired pursuant to this subsection, the grantee shall pay an  
61 amount equal to the fair market value of the interest acquired.  
62 In addition, for the initial grant of such interests only, the  
63 grantee shall also vest in the grantor a fee simple interest to  
64 other available land that is 1.5 times the size of the land  
65 acquired by the grantee. The grantor shall approve the property  
66 to be acquired on its behalf based on the geographic location in  
67 relation to the land relinquished by the grantor agency and a  
68 determination that the economic, ecological, and recreational  
69 value is at least equivalent to that of the property transferred  
70 to the public utility, regional transmission organization, or  
71 natural gas company.

72 (c) In exchange for a fee simple interest acquired pursuant  
73 to this subsection, the grantee shall pay an amount equal to the  
74 fair market value of the interest acquired. In addition, for the  
75 initial grant of such interests only, the grantee shall also vest  
76 in the grantor a fee simple title to other available land that is

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77 | 2 times the size of the land acquired by the grantee. The  
78 | grantor shall approve the land to be acquired on its behalf based  
79 | on a determination that the economic and ecological or  
80 | recreational value is at least equivalent to that of the property  
81 | transferred to the public utility, regional transmission  
82 | organization, or natural gas company.

83 | (d) As an alternative to the consideration provided for in  
84 | paragraphs (b) and (c) above, the grantee may, subject to the  
85 | grantor's approval, pay the fair market value of the state-owned  
86 | land plus one-half of the cost differential between the cost of  
87 | constructing the facility on state-owned land and the cost of  
88 | avoiding state-owned lands, up to a maximum of twice the fair  
89 | market value of the land acquired by the grantee. The grantor  
90 | may use these moneys to acquire fee simple or less than fee  
91 | simple interest in other available land.

92 | Section 44. Subsection (1) of section 337.401, Florida  
93 | Statutes, is amended to read:

94 | 337.401 Use of right-of-way for utilities subject to  
95 | regulation; permit; fees.--

96 | (1) The department and local governmental entities,  
97 | referred to in ss. 337.401-337.404 as the "authority," that have  
98 | jurisdiction and control of public roads or publicly owned rail  
99 | corridors are authorized to prescribe and enforce reasonable  
100 | rules or regulations with reference to the placing and  
101 | maintaining along, across, or on any road or publicly owned rail  
102 | corridors under their respective jurisdictions any electric  
103 | transmission, telephone, telegraph, or other communications  
104 | services lines; pole lines; poles; railways; ditches; sewers;  
105 | water, heat, or gas mains; pipelines; fences; gasoline tanks and  
106 | pumps; or other structures ~~hereinafter~~ referred to in this

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107 section as the "utility." For aerial and underground electric  
108 utility transmission lines designed to operate at 69 kV or more  
109 which are needed to accommodate the additional electrical  
110 transfer capacity on the transmission grid resulting from new  
111 base load generating facilities, where there is no other  
112 practicable alternative available for placement of the electric  
113 utility transmission lines on the department's rights-of-way, the  
114 department's rules shall provide for placement of and access to  
115 such transmission lines adjacent to and within the right-of-way  
116 of any department-controlled public roads, including  
117 longitudinally within limited access facilities to the greatest  
118 extent allowed by federal law if compliance with the standards  
119 established by such rules is achieved. Such rules may include,  
120 but need not be limited to, presentation of competent and  
121 substantial evidence that the use of the right-of-way is  
122 reasonable based upon a consideration of economic and  
123 environmental factors, including an assessment of practicable  
124 alternative alignments, including, without limitation, other  
125 utility corridors and easements and minimum clear zones and other  
126 safety standards if such improvements do not interfere with  
127 operational requirements of the transportation facility or  
128 planned or potential future expansion of such transportation  
129 facility. If the department approves longitudinal placement of  
130 electric utility transmission lines in limited access facilities,  
131 compensation for the use of the right-of-way is required. Such  
132 consideration or compensation paid by the electric utility in  
133 connection with the department's issuance of a permit does not  
134 create any property right in the department's property regardless  
135 of the amount of consideration paid or the improvements  
136 constructed on the property by the utility. For aerial and



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137 underground electric utility transmission lines designed to  
138 operate at 69 kV or more which are needed to accommodate the  
139 additional electrical transfer capacity on the transmission grid  
140 resulting from new base load generating facilities, where there  
141 is no other practicable alternative available for placement of  
142 the electric utility transmission lines on the department's  
143 rights-of-way, the department's rules shall provide for placement  
144 of and access to such transmission lines adjacent to and within  
145 the right-of-way of any department-controlled public roads,  
146 including longitudinally within limited access facilities to the  
147 greatest extent allowed by federal law if compliance with the  
148 standards established by such rules is achieved. Such rules may  
149 include, but need not be limited to, presentation of competent  
150 and substantial evidence that the use of the right-of-way is  
151 reasonable based upon a consideration of economic and  
152 environmental factors, including, without limitation, other  
153 utility corridors and easements and minimum clear zones and other  
154 safety standards if such improvements do not interfere with  
155 operational requirements of the transportation facility or  
156 planned or potential future expansion of such transportation  
157 facility. If the department approves longitudinal placement of  
158 electric utility transmission lines in limited access facilities,  
159 compensation for the use of the right-of-way is required. Such  
160 consideration or compensation paid by the electric utility in  
161 connection with the department's issuance of a permit does not  
162 create any property right in the department's property regardless  
163 of the amount of consideration paid or the improvements  
164 constructed on the property by the utility. Upon notice by the  
165 department that the property is needed for expansion or  
166 improvement of the transportation facility, the electric utility

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167 transmission line will relocate from the facility at the electric  
168 utility's sole expense. Such relocation shall occur under a  
169 schedule mutually agreed upon by the department and the electric  
170 utility, taking into consideration the maintenance of overall  
171 grid reliability and minimizing the relocation costs to the  
172 electric utility's customers. If the utility fails to meet the  
173 agreed upon schedule for relocation, the utility shall be  
174 responsible for reasonable direct delay damages due to the sole  
175 negligence of the electric utility as determined by a court of  
176 competent jurisdiction. As used in this subsection, the term  
177 "base load generating facilities" mean electrical power plants  
178 that are certified under part II of chapter 403. The department  
179 may enter into a permit-delegation agreement with a governmental  
180 entity if issuance of a permit is based on requirements that the  
181 department finds will ensure the safety and integrity of  
182 facilities of the Department of Transportation; however, the  
183 permit-delegation agreement does not apply to facilities of  
184 electric utilities as defined in s. 366.02(2).

185 Section 45. Section 366.93, Florida Statutes, is amended to  
186 read:

187 366.93 Cost recovery for the siting, design, licensing, and  
188 construction of nuclear and integrated gasification combined  
189 cycle power plants.--

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

191 (a) "Cost" includes, but is not limited to, all capital  
192 investments, including rate of return, any applicable taxes, and  
193 all expenses, including operation and maintenance expenses,  
194 related to or resulting from the siting, licensing, design,  
195 construction, or operation of the nuclear power plant and any  
196 new, enlarged, or relocated electrical transmission lines or

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197 facilities of any size which are necessary to serve the nuclear  
198 or integrated gasification combined cycle power plant.

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

201 (c) "Integrated gasification combined cycle power plant" or  
202 "plant" is an electrical power plant as defined in s. 403.503(14)  
203 which ~~s. 403.503(13) that~~ uses synthesis gas produced by  
204 integrated gasification technology.

205 ~~(c)(d)~~ "Nuclear power plant" or "plant" means ~~is~~ an  
206 electrical power plant, as defined in s. 403.503(14), which ~~s.~~  
207 ~~403.503(13) that~~ uses nuclear materials for fuel.

208 ~~(d)(e)~~ "Power plant" or "plant" means a nuclear power plant  
209 or an integrated gasification combined cycle power plant.

210 ~~(e)(f)~~ "Preconstruction" is that period of time after a  
211 site, including any related electrical transmission lines or  
212 facilities, has been selected through and including the date the  
213 utility completes site-clearing ~~site-clearing~~ work.

214 Preconstruction costs shall be afforded deferred accounting  
215 treatment and shall accrue a carrying charge equal to the  
216 utility's allowance for funds during construction (AFUDC) rate  
217 until recovered in rates.

218 (2) Within 6 months after the enactment of this act, the  
219 commission shall establish, by rule, alternative cost recovery  
220 mechanisms for the recovery of costs incurred in the siting,  
221 design, licensing, and construction of a nuclear power plant,  
222 including new, expanded, or relocated electrical transmission  
223 lines and facilities that are necessary to serve the nuclear or  
224 integrated gasification combined cycle power plant. Such  
225 mechanisms shall be designed to promote utility investment in  
226 nuclear or integrated gasification combined cycle power plants



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227 | and allow for the recovery in rates of all prudently incurred  
228 | costs, and shall include, but need ~~are~~ not be limited to:

229 |       (a) Recovery through the capacity cost recovery clause of  
230 | any preconstruction costs.

231 |       (b) Recovery through an incremental increase in the  
232 | utility's capacity cost recovery clause rates of the carrying  
233 | costs on the utility's projected construction cost balance  
234 | associated with the nuclear or integrated gasification combined  
235 | cycle power plant. To encourage investment and provide certainty,  
236 | for nuclear or integrated gasification combined cycle power plant  
237 | need petitions submitted on or before December 31, 2010,  
238 | associated carrying costs shall be equal to the pretax AFUDC in  
239 | effect upon this act becoming law. For nuclear or integrated  
240 | gasification combined cycle power plants for which need petitions  
241 | are submitted after December 31, 2010, the utility's existing  
242 | pretax AFUDC rate is presumed to be appropriate unless determined  
243 | otherwise by the commission in the determination of need for the  
244 | nuclear or integrated gasification combined cycle power plant.

245 |       (3) After a petition for determination of need is granted,  
246 | a utility may petition the commission for cost recovery as  
247 | permitted by this section and commission rules.

248 |       (4) When the nuclear or integrated gasification combined  
249 | cycle power plant is placed in commercial service, the utility  
250 | shall be allowed to increase its base rate charges by the  
251 | projected annual revenue requirements of the nuclear or  
252 | integrated gasification combined cycle power plant based on the  
253 | jurisdictional annual revenue requirements of the plant for the  
254 | first 12 months of operation. The rate of return on capital  
255 | investments shall be calculated using the utility's rate of  
256 | return last approved by the commission prior to the commercial



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257 inservice date of the nuclear or integrated gasification combined  
258 cycle power plant. If any existing generating plant is retired as  
259 a result of operation of the nuclear or integrated gasification  
260 combined cycle power plant, the commission shall allow for the  
261 recovery, through an increase in base rate charges, of the net  
262 book value of the retired plant over a period not to exceed 5  
263 years.

264 (5) The utility shall report to the commission annually the  
265 budgeted and actual costs as compared to the estimated inservice  
266 cost of the nuclear or integrated gasification combined cycle  
267 power plant provided by the utility pursuant to s. 403.519(4),  
268 until the commercial operation of the nuclear or integrated  
269 gasification combined cycle power plant. The utility shall  
270 provide such information on an annual basis following the final  
271 order by the commission approving the determination of need for  
272 the nuclear or integrated gasification combined cycle power  
273 plant, with the understanding that some costs may be higher than  
274 estimated and other costs may be lower.

275 (6) If In the event the utility elects not to complete or  
276 is precluded from completing construction of the nuclear power  
277 plant, including any new, expanded, or relocated electrical  
278 transmission lines or facilities or integrated gasification  
279 combined cycle power plant, the utility shall be allowed to  
280 recover all prudent preconstruction and construction costs  
281 incurred following the commission's issuance of a final order  
282 granting a determination of need for the nuclear power plant and  
283 electrical transmission lines and facilities or integrated  
284 gasification combined cycle power plant. The utility shall  
285 recover such costs through the capacity cost recovery clause over  
286 a period equal to the period during which the costs were incurred

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287 | or 5 years, whichever is greater. The unrecovered balance during  
288 | the recovery period will accrue interest at the utility's  
289 | weighted average cost of capital as reported in the commission's  
290 | earnings surveillance reporting requirement for the prior year.

291 | Section 46. Paragraph (c) of subsection (3) of section  
292 | 380.23, Florida Statutes, is amended to read:

293 | 380.23 Federal consistency.--

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

298 | (c) Federally licensed or permitted activities affecting  
299 | land or water uses when such activities are in or seaward of the  
300 | jurisdiction of local governments required to develop a coastal  
301 | zone protection element as provided in s. 380.24 and when such  
302 | activities involve:

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

305 | 2. Permits and licenses required under the Marine  
306 | Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. ss.  
307 | 1401-1445 and 16 U.S.C. ss. 1431-1445, as amended.

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

312 | 4. Permits and licenses relating to the transportation of  
313 | hazardous substance materials or transportation and dumping which  
314 | are issued pursuant to the Hazardous Materials Transportation  
315 | Act, 49 U.S.C. ss. 1501 et seq., as amended, or 33 U.S.C. s.  
316 | 1321, as amended.

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317 5. Permits and licenses required under 15 U.S.C. ss. 717-  
318 717w, 3301-3432, 42 U.S.C. ss. 7101-7352, and 43 U.S.C. ss. 1331-  
319 1356 for construction and operation of interstate gas pipelines  
320 and storage facilities.

321 6. Permits and licenses required for the siting and  
322 construction of any new electrical power plants as defined in s.  
323 403.503(14) ~~s. 403.503(13)~~, as amended, and the licensing and  
324 relicensing of hydroelectric power plants under the Federal Power  
325 Act, 16 U.S.C. ss. 791a et seq., as amended.

326 7. Permits and licenses required under the Mining Law of  
327 1872, 30 U.S.C. ss. 21 et seq., as amended; the Mineral Lands  
328 Leasing Act, 30 U.S.C. ss. 181 et seq., as amended; the Mineral  
329 Leasing Act for Acquired Lands, 30 U.S.C. ss. 351 et seq., as  
330 amended; the Federal Land Policy and Management Act, 43 U.S.C.  
331 ss. 1701 et seq., as amended; the Mining in the Parks Act, 16  
332 U.S.C. ss. 1901 et seq., as amended; and the OCS Lands Act, 43  
333 U.S.C. ss. 1331 et seq., as amended, for drilling, mining,  
334 pipelines, geological and geophysical activities, or rights-of-  
335 way on public lands and permits and licenses required under the  
336 Indian Mineral Development Act, 25 U.S.C. ss. 2101 et seq., as  
337 amended.

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

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

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

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347 Section 47. Subsection (20) of section 403.031, Florida  
348 Statutes, is amended to read:

349 403.031 Definitions.--In construing this chapter, or rules  
350 and regulations adopted pursuant hereto, the following words,  
351 phrases, or terms, unless the context otherwise indicates, have  
352 the following meanings:

353 (20) "Electrical power plant" means, for purposes of this  
354 part of this chapter, any electrical generating facility that  
355 uses any process or fuel and that is owned or operated by an  
356 electric utility, as defined in s. 403.503(14) ~~s. 403.503(13)~~,  
357 and includes any associated facility that directly supports the  
358 operation of the electrical power plant.

359 Section 48. Present subsections (3) through (30) of section  
360 403.503, Florida Statutes, are redesignated as subsections (4)  
361 through (31), respectively, a new subsection (3) is added to that  
362 section, and present subsection (10) of that section is amended,  
363 to read:

364 403.503 Definitions relating to Florida Electrical Power  
365 Plant Siting Act.--As used in this act:

366 (3) "Alternate corridor" means an area that is proposed by  
367 the applicant or a third party within which all or part of an  
368 associated electrical transmission line right-of-way is to be  
369 located and that is different from the preferred transmission  
370 line corridor proposed by the applicant. The width of the  
371 alternate corridor proposed for certification for an associated  
372 electrical transmission line may be the width of the proposed  
373 right-of-way or a wider boundary not to exceed a width of 1 mile.  
374 The area within the alternate corridor may be further restricted  
375 as a condition of certification. The alternate corridor may  
376 include alternate electrical substation sites if the applicant



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377 has proposed an electrical substation as part of the portion of  
378 the proposed electrical transmission line.

379 (11)-(10) "Corridor" means the proposed area within which an  
380 associated linear facility right-of-way is to be located. The  
381 width of the corridor proposed for certification as an associated  
382 facility, at the option of the applicant, may be the width of the  
383 right-of-way or a wider boundary, not to exceed a width of 1  
384 mile. The area within the corridor in which a right-of-way may be  
385 located may be further restricted by a condition of  
386 certification. After all property interests required for the  
387 right-of-way have been acquired by the licensee, the boundaries  
388 of the area certified shall narrow to only that land within the  
389 boundaries of the right-of-way. The corridors proposed for  
390 certification shall be those addressed in the application, in  
391 amendments to the application filed under s. 403.5064, and in  
392 notices of acceptance of proposed alternate corridors filed by an  
393 applicant and the department pursuant to s. 403.5271, as  
394 incorporated by reference in s. 403.5064(1)(b), for which the  
395 required information for the preparation of agency supplemental  
396 reports was filed.

397 Section 49. Present subsections (9) through (12) of section  
398 403.504, Florida Statutes, are redesignated as subsections (10)  
399 through (13), respectively, and a new subsection (9) is added to  
400 that section, to read:

401 403.504 Department of Environmental Protection; powers and  
402 duties enumerated.--The department shall have the following  
403 powers and duties in relation to this act:

404 (9) To determine whether an alternate corridor proposed for  
405 consideration under s. 403.5064(4) is acceptable.

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406 Section 50. Subsection (3) is added to section 403.506,  
407 Florida Statutes, to read:

408 403.506 Applicability, thresholds, and certification.--

409 (3) An electric utility may obtain separate licenses,  
410 permits, and approvals for the construction of facilities  
411 necessary to construct an electrical power plant without first  
412 obtaining certification under this act if the utility intends to  
413 locate, license, and construct a proposed or expanded electrical  
414 power plant that uses nuclear materials as fuel. Such facilities  
415 may include, but are not limited to, access and onsite roads,  
416 rail lines, electrical transmission facilities to support  
417 construction, and facilities necessary for waterborne delivery of  
418 construction materials and project components. This exemption  
419 applies to such facilities regardless of whether the facilities  
420 are used for operation of the power plant. The applicant shall  
421 file with the department a statement that declares that the  
422 construction of such facilities is necessary for the timely  
423 construction of the proposed electrical power plant and  
424 identifies those facilities that the applicant intends to seek  
425 licenses for and construct prior to or separate from  
426 certification of the project. The facilities may be located  
427 within or off of the site for the proposed electrical power  
428 plant. The filing of an application under this act does not  
429 affect other applications for separate licenses which are pending  
430 at the time of filing the application. Furthermore, the filing of  
431 an application does not prevent an electric utility from seeking  
432 separate licenses for facilities that are necessary to construct  
433 the electrical power plant. Licenses, permits, or approvals  
434 issued by any state, regional, or local agency for such  
435 facilities shall be incorporated by the department into a final

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436 certification upon completion of construction. Any facilities  
437 necessary for construction of the electrical power plant shall  
438 become part of the certified electrical power plant upon  
439 completion of the electrical power plant's construction. The  
440 exemption in this subsection does not require or authorize agency  
441 rulemaking, and any action taken under this subsection is not  
442 subject to chapter 120. This subsection shall be given  
443 retroactive effect and applies to applications filed after May 1,  
444 2008.

445  
446 Section 51. Subsections (1) and (4) of section 403.5064,  
447 Florida Statutes, are amended to read:

448 (1) The formal date of filing of a certification  
449 application and commencement of the certification review process  
450 shall be when the applicant submits:

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

454 (b) A statement affirming that the applicant is opting to  
455 allow consideration of alternate corridors for an associated  
456 transmission line corridor. If alternate corridors are allowed,  
457 at the applicant's option, the portion of the application  
458 addressing associated transmission line corridors shall be  
459 processed pursuant to the schedule set forth in ss. 403.521-  
460 403.526 and 403.5271, including the opportunity for the filing  
461 and review of alternate corridors, if a party proposes alternate  
462 transmission line corridor routes for consideration no later than  
463 115 days before the certification hearing that is scheduled for  
464 the power plant, including any associated transmission line  
465 corridors, in accordance with s. 403.508(2).





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466        (c) ~~(b)~~ The application fee specified under s. 403.518 to  
467 the department.

468        (4) Within 7 days after the filing of an application, the  
469 department shall prepare a proposed schedule of dates for  
470 determination of completeness, submission of statements of  
471 issues, submittal of final reports, and other significant dates  
472 to be followed during the certification process, including dates  
473 for filing notices of appearance to be a party pursuant to s.  
474 403.508(3). If the application includes one or more associated  
475 transmission line corridors, at the request of the applicant  
476 filed concurrently with the application, the department shall use  
477 the application processing schedule set forth in ss. 403.521-  
478 403.526 and 403.5271 for the associated transmission line  
479 corridors, including the opportunity for the filing and review of  
480 alternate corridors, if a party proposes alternate transmission  
481 line corridor routes for consideration no later than 115 days  
482 before the scheduled certification hearing. Notwithstanding an  
483 applicant's option for the transmission line corridor portion of  
484 its application to be processed under the proposed schedule, only  
485 one certification hearing shall be held for the entire power  
486 plant in accordance with s. 403.508(2). The proposed ~~This~~  
487 schedule shall be timely provided by the department to the  
488 applicant, the administrative law judge, all agencies identified  
489 pursuant to subsection (2), and all parties. Within 7 days after  
490 the filing of the proposed schedule, the administrative law judge  
491 shall issue an order establishing a schedule for the matters  
492 addressed in the department's proposed schedule and other  
493 appropriate matters, if any.

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494 Section 52. Subsections (1) and (3) of section 403.50665,  
495 Florida Statutes, are amended, and subsection (7) is added to  
496 that section, to read:

497 403.50665 Land use consistency.--

498 (1) The applicant shall include in the application a  
499 statement on the consistency of the site, or any directly  
500 associated facilities that constitute a "development," as defined  
501 by s. 380.04, with existing land use plans and zoning ordinances  
502 that were in effect on the date the application was filed and a  
503 full description of such consistency.

504 (3) If the local government issues a determination that the  
505 proposed electrical power plant and any directly associated  
506 facility is not consistent or in compliance with local land use  
507 plans and zoning ordinances, the applicant may apply to the local  
508 government for the necessary local approval to address the  
509 inconsistencies in the local government's determination. If the  
510 applicant makes such an application to the local government, the  
511 time schedules under this act shall be tolled until the local  
512 government issues its revised determination on land use and  
513 zoning or the applicant otherwise withdraws its application to  
514 the local government. If the applicant applies to the local  
515 government for necessary local land use or zoning approval, the  
516 local government shall issue a revised determination within 30  
517 days following the conclusion of that local proceeding, and the  
518 time schedules and notice requirements under this act shall apply  
519 to such revised determination.

520 (7) The issue of land use and zoning consistency for any  
521 alternate intermediate electrical substation that is proposed as  
522 part of an alternate electrical transmission line corridor and  
523 that is accepted by the applicant and the department under s.



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524 403.5271(1)(b) shall be addressed in the supplementary report  
525 prepared by the local government on the proposed alternate  
526 corridor and shall be considered as an issue at any final  
527 certification hearing. If such a proposed intermediate electrical  
528 substation is determined to not be consistent with local land use  
529 plans and zoning ordinances, the alternate electrical substation  
530 shall not be certified.

531 Section 53. Paragraph (d) of subsection (3) of section  
532 403.509, Florida Statutes, is amended, present subsections (4)  
533 through (6) of that section, are redesignated as subsections (5)  
534 through (7), respectively, and a new subsection (4) is added to  
535 that section, to read:

536 403.509 Final disposition of application.--

537 (3) In determining whether an application should be  
538 approved in whole, approved with modifications or conditions, or  
539 denied, the board, or secretary when applicable, shall consider  
540 whether, and the extent to which, the location of the electrical  
541 power plant and directly associated facilities and their  
542 construction and operation will:

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

545 (4)(a) Any transmission line corridor certified by the  
546 board, or secretary if applicable, shall meet the criteria of  
547 this section. When more than one transmission line corridor is  
548 proposed for certification under s. 403.503(10) and meets the  
549 criteria of this section, the board, or secretary if applicable,  
550 shall certify the transmission line corridor that has the least  
551 adverse impact regarding the criteria in subsection (3),  
552 including costs.

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553       (b) If the board, or secretary if applicable, finds that an  
554 alternate corridor rejected pursuant to s. 403.5271 as  
555 incorporated by reference in s. 403.5064(1)(b) meets the criteria  
556 of subsection (3) and has the least adverse impact regarding the  
557 criteria in subsection (3), the board, or secretary if  
558 applicable, shall deny certification or shall allow the applicant  
559 to submit an amended application to include the corridor.

560       (c) If the board, or secretary if applicable, finds that  
561 two or more of the corridors that comply with subsection (3) have  
562 the least adverse impacts regarding the criteria in subsection  
563 (3), including costs, and that the corridors are substantially  
564 equal in adverse impacts regarding the criteria in subsection  
565 (3), including costs, the board, or secretary if applicable,  
566 shall certify the corridor preferred by the applicant if the  
567 corridor is one proper for certification under s. 403.503(10).

568       Section 54. Subsection (5) is added to section 403.5115,  
569 Florida Statutes, to read:

570       403.5115 Public notice.--

571       (5) A proponent of an alternate corridor shall publish  
572 public notices concerning the filing of a proposal for an  
573 alternate corridor; the route of the alternate corridor; the  
574 revised time schedules, if any; the filing deadline for a  
575 petition to become a party; and the date of the rescheduled  
576 certification hearing, if necessary. For purposes of this  
577 subsection, all notices must be published in a newspaper or  
578 newspapers of general circulation within the county or counties  
579 affected by the proposed alternate corridor and must comply with  
580 the requirements provided in subsection (2). The notices must be  
581 published at least 45 days before the date of the rescheduled  
582 certification hearing.

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583 Section 55. Subsection (1) of section 403.5175, Florida  
584 Statutes, is amended to read:

585 403.5175 Existing electrical power plant site  
586 certification.--

587 (1) An electric utility that owns or operates an existing  
588 electrical power plant as defined in s. 403.503(14) ~~s.~~  
589 ~~403.503(13)~~ may apply for certification of an existing power  
590 plant and its site in order to obtain all agency licenses  
591 necessary to ensure compliance with federal or state  
592 environmental laws and regulation using the centrally  
593 coordinated, one-stop licensing process established by this part.  
594 An application for site certification under this section must be  
595 in the form prescribed by department rule. Applications must be  
596 reviewed and processed using the same procedural steps and  
597 notices as for an application for a new facility, except that a  
598 determination of need by the Public Service Commission is not  
599 required.

600 Section 56. Subsection (6) is added to section 403.518,  
601 Florida Statutes, to read:

602 403.518 Fees; disposition.--The department shall charge the  
603 applicant the following fees, as appropriate, which, unless  
604 otherwise specified, shall be paid into the Florida Permit Fee  
605 Trust Fund:

606 (6) An application fee for an alternate corridor filed  
607 pursuant to s. 403.5064(4). The application fee shall be \$750 per  
608 mile for each mile of the alternate corridor located within an  
609 existing electric transmission line right-of-way or within an  
610 existing right-of-way for a road, highway, railroad, or other  
611 aboveground linear facility, or \$1,000 per mile for each mile of



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612 an electric transmission line corridor proposed to be located  
613 outside the existing right-of-way.

614 Section 57. Subsection (4) of section 403.519, Florida  
615 Statutes, is amended to read:

616 403.519 Exclusive forum for determination of need.--

617 (4) In making its determination on a proposed electrical  
618 power plant using nuclear materials or synthesis gas produced by  
619 integrated gasification combined cycle power plant as fuel, the  
620 commission shall hold a hearing within 90 days after the filing  
621 of the petition to determine need and shall issue an order  
622 granting or denying the petition within 135 days after the date  
623 of the filing of the petition. The commission shall be the sole  
624 forum for the determination of this matter and the issues  
625 addressed in the petition, which accordingly shall not be  
626 reviewed in any other forum, or in the review of proceedings in  
627 such other forum. In making its determination to either grant or  
628 deny the petition, the commission shall consider the need for  
629 electric system reliability and integrity, including fuel  
630 diversity, the need for base-load generating capacity, the need  
631 for adequate electricity at a reasonable cost, and whether  
632 renewable energy sources and technologies, as well as  
633 conservation measures, are utilized to the extent reasonably  
634 available.

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

- 636 1. A description of the need for the generation capacity.  
637 2. A description of how the proposed nuclear or integrated  
638 gasification combined cycle power plant will enhance the  
639 reliability of electric power production within the state by  
640 improving the balance of power plant fuel diversity and reducing  
641 Florida's dependence on fuel oil and natural gas.



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642           3. A description of and a nonbinding estimate of the cost  
643 of the nuclear or integrated gasification combined cycle power  
644 plant, including any costs associated with new, enlarged, or  
645 relocated electrical transmission lines or facilities of any size  
646 that are necessary to serve the nuclear power plant.

647           4. The annualized base revenue requirement for the first 12  
648 months of operation of the nuclear or integrated gasification  
649 combined cycle power plant.

650           5. Information on whether there were any discussions with  
651 any electric utilities regarding ownership of a portion of the  
652 nuclear or integrated gasification combined cycle power plant by  
653 such electric utilities.

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

658           1. Provide needed base-load capacity.

659           2. Enhance the reliability of electric power production  
660 within the state by improving the balance of power plant fuel  
661 diversity and reducing Florida's dependence on fuel oil and  
662 natural gas.

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

668           (c) No provision of rule 25-22.082, Florida Administrative  
669 Code, shall be applicable to a nuclear or integrated gasification  
670 combined cycle power plant sited under this act, including  
671 provisions for cost recovery, and an applicant shall not



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672 otherwise be required to secure competitive proposals for power  
673 supply prior to making application under this act or receiving a  
674 determination of need from the commission.

675 (d) The commission's determination of need for a nuclear or  
676 integrated gasification combined cycle power plant shall create a  
677 presumption of public need and necessity and shall serve as the  
678 commission's report required by s. 403.507(4)(a). An order  
679 entered pursuant to this section constitutes final agency action.  
680 Any petition for reconsideration of a final order on a petition  
681 for need determination shall be filed within 5 days after the  
682 date of such order. The commission's final order, including any  
683 order on reconsideration, shall be reviewable on appeal in the  
684 Florida Supreme Court. Inasmuch as delay in the determination of  
685 need will delay siting of a nuclear or integrated gasification  
686 combined cycle power plant or diminish the opportunity for  
687 savings to customers under the federal Energy Policy Act of 2005,  
688 the Supreme Court shall proceed to hear and determine the action  
689 as expeditiously as practicable and give the action precedence  
690 over matters not accorded similar precedence by law.

691 (e) After a petition for determination of need for a  
692 nuclear or integrated gasification combined cycle power plant has  
693 been granted, the right of a utility to recover any costs  
694 incurred prior to commercial operation, including, but not  
695 limited to, costs associated with the siting, design, licensing,  
696 or construction of the plant and new, expanded, or relocated  
697 electrical transmission lines or facilities of any size that are  
698 necessary to serve the nuclear power plant, shall not be subject  
699 to challenge unless and only to the extent the commission finds,  
700 based on a preponderance of the evidence adduced at a hearing  
701 before the commission under s. 120.57, that certain costs were



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702 | imprudently incurred. Proceeding with the construction of the  
703 | nuclear or integrated gasification combined cycle power plant  
704 | following an order by the commission approving the need for the  
705 | nuclear or integrated gasification combined cycle power plant  
706 | under this act shall not constitute or be evidence of imprudence.  
707 | Imprudence shall not include any cost increases due to events  
708 | beyond the utility's control. Further, a utility's right to  
709 | recover costs associated with a nuclear or integrated  
710 | gasification combined cycle power plant may not be raised in any  
711 | other forum or in the review of proceedings in such other forum.  
712 | Costs incurred prior to commercial operation shall be recovered  
713 | pursuant to chapter 366.

714 |       Section 58. Paragraph (i) of subsection (6) of section  
715 | 403.814, Florida Statutes, is amended to read:

716 |       403.814 General permits; delegation.--

717 |       (6) Construction and maintenance of electric transmission  
718 | or distribution lines in wetlands by electric utilities, as  
719 | defined in s. 366.02, shall be authorized by general permit  
720 | provided the following provisions are implemented:

721 |       (i) This subsection also applies to transmission lines and  
722 | appurtenances certified pursuant to part II of this chapter.  
723 | However, the criteria of the general permit shall not otherwise  
724 | affect the authority of the siting board to condition  
725 | certification of transmission lines as authorized under part II  
726 | of this chapter.

727 |  
728 | Maintenance of existing electric lines and clearing of vegetation  
729 | in wetlands conducted without the placement of structures in  
730 | wetlands or other dredge and fill activities does not require an  
731 | individual or general construction permit. For the purpose of



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732 | this subsection, wetlands shall mean the landward extent of  
 733 | waters of the state regulated under ss. 403.91-403.929 and  
 734 | isolated and nonisolated wetlands regulated under part IV of  
 735 | chapter 373. The provisions provided in this subsection apply to  
 736 | the permitting requirements of the department, any water  
 737 | management district, and any local government implementing part  
 738 | IV of chapter 373 or part VIII of this chapter.

739 | Section 59. This act shall take effect upon becoming a law,  
 740 | except as expressly provided otherwise.

741 |  
 742 | ===== T I T L E A M E N D M E N T =====

743 | And the title is amended as follows:

744 | Delete line(s) 2396

745 | and insert:

746 | a specified date; amending s. 74.051, F.S.; requiring a  
 747 | court to conduct a hearing and issue a final judgment on a  
 748 | petition for a taking within specified times after a  
 749 | utility's request for such hearing; amending s. 253.02,  
 750 | F.S.; authorizing the Secretary of Environmental  
 751 | Protection to grant easements across lands owned by the  
 752 | Board of Trustees of the Internal Improvement Trust Fund  
 753 | under certain conditions; amending s. 253.034, F.S.;  
 754 | granting a utility the use of nonsovereignty state-owned  
 755 | lands upon a showing of competent substantial evidence  
 756 | that the use is reasonable; establishing criteria relating  
 757 | to the title, distribution, and cost of such lands;  
 758 | amending s. 337.401, F.S.; requiring the Department of  
 759 | Environmental Protection to adopt rules relating to the  
 760 | placement of and access to aerial and underground electric  
 761 | transmission lines having certain specifications; defining



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762 the term "base-load generating facilities"; amending s.  
763 366.93, F.S.; revising the definitions of "cost" and  
764 "preconstruction"; requiring the Public Service Commission  
765 to establish rules relating to cost recovery for the  
766 construction of new, expanded, or relocated electrical  
767 transmission lines and facilities for a nuclear power  
768 plant; amending ss. 380.23 and 403.031, F.S.; conforming  
769 cross-references; amending s. 403.503, F.S.; defining the  
770 term "alternate corridor" and redefining the term  
771 "corridor" for purposes of the Florida Electrical Power  
772 Plant Siting Act; amending s. 403.504, F.S.; requiring the  
773 Department of Environmental Protection to determine  
774 whether a proposed alternate corridor is acceptable;  
775 amending s. 403.506, F.S.; exempting an electric utility  
776 from obtaining certification under the Florida Electrical  
777 Power Plant Siting Act before constructing facilities for  
778 a power plant using nuclear materials as fuel; providing  
779 that a utility may obtain separate licenses, permits, and  
780 approvals for such construction under certain  
781 circumstances; exempting such provisions from review under  
782 ch. 120, F.S.; amending s. 403.5064, F.S.; requiring an  
783 applicant to submit a statement to the department if such  
784 applicant opts for consideration of alternate corridors;  
785 amending s. 403.50665, F.S.; requiring an application to  
786 include a statement on the consistency of directly  
787 associated facilities constituting a "development";  
788 requiring the Department of Environmental Protection to  
789 address at the certification hearing the issue of  
790 compliance with land use plans and zoning ordinances for a  
791 proposed substation located in or along an alternate

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792 | corridor; amending s. 403.509, F.S.; requiring the  
793 | Governor and Cabinet sitting as the siting board to  
794 | certify the corridor having the least adverse impact;  
795 | authorizing the board to deny certification or allow a  
796 | party to amend its proposal; amending s. 403.5115, F.S.;  
797 | requiring the applicant proposing the alternate corridor  
798 | to publish all notices relating to the application;  
799 | requiring that such notices comply with certain  
800 | requirements; requiring that notices be published at least  
801 | 45 days before the rescheduled certification hearing;  
802 | amending s. 403.5175, F.S.; conforming a cross-reference;  
803 | amending s. 403.518, F.S.; authorizing the Department of  
804 | Environmental Protection to charge an application fee for  
805 | an alternate corridor; amending ss. 403.519 and 403.814,  
806 | F.S., relating to determinations of need and general  
807 | permits; conforming provisions to changes made by the act;  
808 | providing effective dates.