CHAPTER 2006-230

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 888

An act relating to energy; providing legislative findings and intent; creating s. 377.801, F.S.; creating the "Florida Renewable Energy Technologies and Energy Efficiency Act"; creating s. 377.802, F.S.; stating the purpose of the act; creating s. 377.803, F.S.; providing definitions; creating s. 377.804, F.S.; creating the Renewable Energy Technologies Grants Program; providing program requirements and procedures, including matching funds; requiring the Department of Environmental Protection to adopt rules and coordinate with the Department of Agriculture and Consumer Services; requiring joint departmental approval for the funding of any project; specifying a period during which the sale of energy-efficient products is exempt from certain tax; providing a limitation; providing a definition; prohibiting purchase of products by certain payment methods; providing that certain purchases or attempts to purchase are unfair methods of competition and punishable as such; authorizing the Department of Revenue to adopt rules; creating s. 377.806, F.S.; creating the Solar Energy System Incentives Program; providing program requirements, procedures, and limitations; requiring the Department of Environmental Protection to adopt rules; creating the Florida Energy Commission within the Office of Legislative Services; providing for appointment, qualifications, and terms of members; authorizing certain persons to attend meetings of and advise the commission; providing for reimbursement for travel expenses and per diem; providing for meetings; providing purposes and guiding principles of the commission; requiring recommendations and reports; providing legislative intent; providing rulemaking authority; amending s. 212.08, F.S.; providing definitions for the terms "biodiesel," "ethanol," and "hydrogen fuel cells"; providing tax exemptions in the form of a rebate for the sale or use of certain equipment, machinery, and other materials for renewable energy technologies; providing eligibility requirements and tax credit limits; authorizing the Department of Revenue to adopt rules; directing the Department of Environmental Protection to determine and publish certain information relating to such exemptions; providing for expiration of the exemption; amending s. 213.053, F.S.; authorizing the Department of Revenue to share certain information with the Department of Environmental Protection for specified purposes; amending s. 220.02, F.S.; providing the order of application of the renewable energy technologies investment tax credit; creating s. 220.192, F.S.; providing definitions; establishing a corporate tax credit for certain costs related to renewable energy technologies; providing eligibility requirements and credit limits; providing certain authority to the Department of Environmental Protection and the Department of Revenue; directing the Department of Environmental Protection to determine and publish certain information; providing for expiration of the tax credit; creating s. 220.193, F.S.; creating the Florida renewable energy production credit; providing definitions; providing

a tax credit for the production and sale of renewable Florida energy; providing for the use and transfer of the tax credit; authorizing the Department of Revenue to adopt rules concerning the tax credit; amending s. 220.13, F.S.; providing additions to the definition of "adjusted federal income"; amending s. 186.801, F.S.; revising the provisions of electric utility 10-year site plans to include the effect on fuel diversity; amending s. 366.04, F.S.; revising the safety standards for public utilities; amending s. 366.05, F.S.; authorizing the Public Service Commission to adopt certain construction standards and make certain determinations; directing the commission to conduct a study and provide a report by a certain date; creating s. 366.92, F.S.; relating to the Florida renewable energy policy; providing intent; providing definitions; authorizing the Florida Public Service Commission to adopt goals for increasing the use of Florida renewable energy resources; authorizing the commission to adopt rules; requiring the commission to conduct a study and review; providing criteria for such study and a review; requiring the commission to provide a review and recommendations to the Governor and Legislature by a certain date; amending s. 403.503, F.S.; revising and providing definitions applicable to the Florida Electrical Power Plant Siting Act; amending s. 403.504, F.S.; providing the Department of Environmental Protection with additional powers and duties relating to the Florida Electrical Power Plant Siting Act; amending s. 403.5055, F.S.; revising provisions for certain permits associated with applications for electrical power plant certification; amending s. 403.506, F.S.; revising provisions relating to applicability and certification of certain power plants; amending s. 403.5064, F.S.; revising provisions for distribution of applications and schedules relating to certification; amending s. 403.5065, F.S.; revising provisions relating to the appointment of administrative law judges and specifying their powers and duties; amending s. 403.5066, F.S.; revising provisions relating to the determination of completeness for certain applications; creating s. 403.50663, F.S.; authorizing certain local governments and regional planning councils to hold an informational public meeting about a proposed electrical power plant or associated facilities; providing requirements and procedures therefor; creating s. 403.50665, F.S.; requiring local governments to file certain land use determinations; providing requirements and procedures therefor; repealing s. 403.5067, F.S., relating to the determination of sufficiency for certain applications; amending s. 403.507, F.S.; revising required preliminary statement provisions for affected agencies; requiring a report as a condition precedent to the project analysis and certification hearing; amending s. 403.508, F.S.; revising provisions relating to land use and certification hearings, including cancellation and responsibility for payment of expenses and costs; requiring certain notice; amending s. 403.509, F.S.; revising provisions relating to the final disposition of certain applications; providing requirements and provisions with respect thereto; amending s. 403.511, F.S.; revising provisions relating to the effect of certification for the construction and operation of proposed electrical power plants; providing that issuance of certification meets certain

coastal zone consistency requirements; creating s. 403.5112, F.S.; requiring filing of notice for certified corridor routes; providing requirements and procedures with respect thereto; creating s. 403.5113, F.S.; authorizing postcertification amendments for power plant site certification applications; providing requirements and procedures with respect thereto; amending s. 403.5115, F.S.; requiring certain public notice for activities relating to electrical power plant site application, certification, and land use determination; providing requirements and procedures with respect thereto; directing the Department of Environmental Protection to maintain certain lists and provide copies of certain publications; amending s. 403.513, F.S.; revising provisions for judicial review of appeals relating to electrical power plant site certification; amending s. 403.516, F.S.; revising provisions relating to modification of certification for electrical power plant sites; amending s. 403.517, F.S.; revising provisions relating to supplemental applications for sites certified for ultimate site capacity; amending s. 403.5175, F.S.; revising provisions relating to existing electrical power plant site certification; revising the procedure for reviewing and processing applications; requiring additional information to be included in certain applications; amending s. 403.518, F.S.; revising the allocation of proceeds from certain fees collected; providing for reimbursement of certain expenses; directing the Department of Environmental Protection to establish rules for determination of certain fees; eliminating certain operational license fees; providing for the application, processing, approval, and cancellation of electrical power plant certification; amending s. 403.519, F.S.; directing the Public Service Commission to consider fuel diversity and reliability in certain determinations; providing requirements and procedures for determination of need for certain power plants; providing an exemption from purchased power supply bid rules under certain circumstances; creating s. 366.93, F.S.; providing definitions; requiring the Public Service Commission to implement rules related to nuclear power plant cost recovery; requiring a report; amending s. 403.52, F.S.; changing the short title to the "Florida Electric Transmission Line Siting Act"; amending s. 403.521, F.S.; revising legislative intent; amending s. 403.522, F.S.; revising definitions; defining the terms "licensee" and "maintenance and access roads"; amending s. 403.523, F.S.; revising powers and duties of the Department of Environmental Protection; requiring the department to collect and process fees, to prepare a project analysis, to act as clerk for the siting board, and to administer and manage the terms and conditions of the certification order and supporting documents and records; amending s. 403.524, F.S.; revising provisions for applicability, certification, and exemptions under the act; revising provisions for notice by an electric utility of its intent to construct an exempt transmission line; amending s. 403.525, F.S.; providing for powers and duties of the administrative law judge designated by the Division of Administrative Hearings to conduct the required hearings; amending s. 403.5251, F.S.; revising application procedures and schedules; providing for the formal date of filing an application for certification and commencement of the

certification review process; requiring the department to prepare a proposed schedule of dates for determination of completeness and other significant dates to be followed during the certification process; providing for the formal date of application distribution; requiring the applicant to provide notice of filing the application; amending s. 403.5252, F.S.; revising timeframes and procedures for determination of completeness of the application; requiring the department to consult with affected agencies; revising requirements for the department to file a statement of its determination of completeness with the Division of Administrative Hearings, the applicant, and all parties within a certain time after distribution of the application; revising requirements for the applicant to file a statement with the department, the division, and all parties, if the department determines the application is not complete; providing for the statement to notify the department whether the information will be provided; revising timeframes and procedures for contests of the determination by the department; providing for parties to a hearing on the issue of completeness; amending s. 403.526, F.S.; revising criteria and procedures for preliminary statements of issues, reports, and studies; revising timeframes; requiring that the preliminary statement of issues from each affected agency be submitted to the department and the applicant; revising criteria for the Department of Community Affairs' report; requiring the Department of Transportation, the Public Service Commission, and any other affected agency to prepare a project report; revising required content of the report; providing for notice of any nonprocedural requirements not listed in the application; providing for failure to provide such notification; providing for a recommendation for approval or denial of the application; providing that receipt of an affirmative determination of need is a condition precedent to further processing of the application; requiring that the department prepare a project analysis to be filed with the administrative law judge and served on all parties within a certain time; amending s. 403.527, F.S.; revising procedures and timeframes for the certification hearing conducted by the administrative law judge; revising provisions for notices and publication of notices, public hearings held by local governments, testimony at the public-hearing portion of the certification hearing, the order of presentations at the hearing, and consideration of certain communications by the administrative law judge; requiring the applicant to pay certain expenses and costs; requiring the administrative law judge to issue a recommended order disposing of the application; requiring that certain notices be made in accordance with specified requirements and within a certain time; requiring the Department of Transportation to be a party to the proceedings; providing for the administrative law judge to cancel the certification hearing and relinquish jurisdiction to the Department of Environmental Protection upon request by the applicant or the department; requiring the department and the applicant to publish notice of such cancellation; providing for parties to submit proposed recommended orders to the department when the certification hearing has been canceled; providing that the department prepare a recommended order for final

action by the siting board when the hearing has been canceled; amending s. 403.5271, F.S.; revising procedures and timeframes for consideration of proposed alternate corridors; revising notice requirements; providing for notice of the filing of the alternate corridor and revised time schedules; providing for notice to agencies newly affected by the proposed alternate corridor; requiring the person proposing the alternate corridor to provide all data to the agencies within a certain time; providing for a determination by the department that the data is not complete; providing for withdrawal of the proposed alternate corridor upon such determination; requiring that agencies file reports with the applicant and the department which address the proposed alternate corridor; requiring that the department file with the administrative law judge, the applicant, and all parties a project analysis of the proposed alternate corridor; providing that the party proposing an alternate corridor has the burden of proof concerning the certifiability of the alternate corridor; amending s. 403.5272, F.S.; revising procedures for informational public meetings; providing for informational public meetings held by regional planning councils; revising timeframes; amending s. 403.5275, F.S.; revising provisions for amendment to the application prior to certification; amending s. 403.528, F.S.; providing that a comprehensive application encompassing more than one proposed transmission line may be good cause for altering established time limits; amending s. 403.529, F.S.; revising provisions for final disposition of the application by the siting board; providing for the administrative law judge's or department's recommended order; amending s. 403.531, F.S.; revising provisions for conditions of certification; amending s. 403.5312, F.S.; requiring the applicant to file notice of a certified corridor route with the department; amending s. 403.5315, F.S.; revising the circumstances under which a certification may be modified after the certification has been issued; providing for procedures if objections are raised to the proposed modification; creating s. 403.5317, F.S.; providing procedures for changes proposed by the licensee after certification; requiring the department to determine within a certain time if the proposed change requires modification of the conditions of certification; requiring notice to the licensee, all agencies, and all parties of changes that are approved as not requiring modification of the conditions of certification; creating s. 403.5363, F.S.; requiring publication of certain notices by the applicant, the proponent of an alternate corridor, and the department; requiring the department to adopt rules specifying the content of such notices; amending s. 403.5365, F.S.; revising application fees and the distribution of fees collected; revising procedures for reimbursement of local governments and regional planning organizations; amending s. 403.537, F.S.; revising the schedule for notice of a public hearing by the Public Service Commission in order to determine the need for a transmission line; providing that the commission is the sole forum in which to determine the need for a transmission line; amending ss. 373.441, 403.061, 403.0876, and 403.809, F.S.; conforming terminology to changes made by the act; repealing ss. 403.5253 and 403.5369, F.S., relating to determination

of sufficiency of application or amendment to the application and the application of the act to applications filed before a certain date; requiring the Department of Environmental Protection to provide a report to the Governor and Legislature by a certain date; providing requirements for such report; amending 403.885, F.S.; revising provisions and requirements relating to the stormwater management, wastewater management, and water restoration grants program; providing for appropriations; providing effective dates.

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

Section 1. Legislative findings and intent.—The Legislature finds that advancing the development of renewable energy technologies and energy efficiency is important for the state's future, its energy stability, and the protection of its citizens' public health and its environment. The Legislature finds that the development of renewable energy technologies and energy efficiency in the state will help to reduce demand for foreign fuels, promote energy diversity, enhance system reliability, reduce pollution, educate the public on the promise of renewable energy technologies, and promote economic growth. The Legislature finds that there is a need to assist in the development of market demand that will advance the commercialization and widespread application of renewable energy technologies. The Legislature further finds that the state is ideally positioned to stimulate economic development through such renewable energy technologies due to its ongoing and successful research and development track record in these areas, an abundance of natural and renewable energy sources, an ability to attract significant federal research and development funds, and the need to find and secure renewable energy technologies for the benefit of its citizens, visitors, and environment.

Section 2. Section 377.801, Florida Statutes, is created to read:

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

Section 3. Section 377.802, Florida Statutes, is created to read:

377.802 Purpose.—This act is intended to provide matching grants to stimulate capital investment in the state and to enhance the market for and promote the statewide utilization of renewable energy technologies. The targeted grants program is designed to advance the already growing establishment of renewable energy technologies in the state and encourage the use of other incentives such as tax exemptions and regulatory certainty to attract additional renewable energy technology producers, developers, and users to the state. This act is also intended to provide incentives for the purchase of energy-efficient appliances and rebates for solar energy equipment installations for residential and commercial buildings.

Section 4. Section 377.803, Florida Statutes, is created to read:

377.803 Definitions.—As used in ss. 377.801-377.806, the term:

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

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

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

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

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

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

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

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

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

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

Section 5. Section 377.804, Florida Statutes, is created to read:

377.804 Renewable Energy Technologies Grants Program.—

(1) The Renewable Energy Technologies Grants Program is established within the department to provide renewable energy matching grants for demonstration, commercialization, research, and development projects relating to renewable energy technologies.

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

(a) Municipalities and county governments.

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

(c) Universities and colleges in the state.

(d) Utilities located and operating within the state.

(e) Not-for-profit organizations.

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

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

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

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

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

(c) The extent to which the proposed project has been demonstrated to be technically feasible based on pilot project demonstrations, laboratory testing, scientific modeling, or engineering or chemical theory that supports the proposal.

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

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

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

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

(h) The ability to administer a complete project.

(i) Project duration and timeline for expenditures.

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

(k) The degree of public visibility and interaction.

(5) The department shall solicit the expertise of other state agencies in evaluating project proposals. State agencies shall cooperate with the De-

partment of Environmental Protection and provide such assistance as requested.

(6) The department shall coordinate and actively consult with the Department of Agriculture and Consumer Services during the review and approval process of grants relating to bioenergy projects for renewable energy technology, and the departments shall jointly determine the grant awards to these bioenergy projects. No grant funding shall be awarded to any bioenergy project without such joint approval. Factors for consideration in awarding grants may include, but are not limited to, the degree to which:

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

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

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

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

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

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

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

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

Section 6. The period from 12:01 a.m., October 5, through midnight, October 11, 2006, shall be designated "Energy Efficient Week," and the tax levied under chapter 212 may not be collected on the sale of a new energy-efficient product having a selling price of $1,500 or less per product during that period. This exemption applies only when the energy-efficient product is purchased for noncommercial home or personal use and does not apply when the product is purchased for trade, business, or resale. As used in this section, the term "energy-efficient product" means a dishwasher, clothes washer, air conditioner, ceiling fan, incandescent or florescent light bulb, dehumidifier, programmable thermostat, or refrigerator that has been designated by the United States Environmental Protection Agency or by the United States Department of Energy as meeting or exceeding the requirements under the Energy Star Program of either agency. Purchases made under this section may not be made using a business or company credit or debit card or check. Any construction company, building contractor, or commercial business or entity that purchases or attempts to purchase the energy-efficient products as exempt under this section commits an unfair method of competition in violation of s. 501.204, punishable as provided in s.

501.2075. The Department of Revenue may adopt rules under ss. 120.536(1) and 120.54 to administer this section.

Section 7. Section 377.806, Florida Statutes, is created to read:

377.806 Solar Energy System Incentives Program.—

(1) PURPOSE.—The Solar Energy System Incentives Program is established within the department to provide financial incentives for the purchase and installation of solar energy systems. Any resident of the state who purchases and installs a new solar energy system of 2 kilowatts or larger for a solar photovoltaic system, a solar energy system that provides at least 50 percent of a building's hot water consumption for a solar thermal system, or a solar thermal pool heater, from July 1, 2006, through June 30, 2010, is eligible for a rebate on a portion of the purchase price of that solar energy system.

(2) SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.—

(a) Eligibility requirements.—A solar photovoltaic system qualifies for a rebate if:

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

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

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

(b) Rebate amounts.—The rebate amount shall be set at $4 per watt based on the total wattage rating of the system. The maximum allowable rebate per solar photovoltaic system installation shall be as follows:

1. Twenty thousand dollars for a residence.

2. One hundred thousand dollars for a place of business, a publicly owned or operated facility, or a facility owned or operated by a private, not-for-profit organization, including condominiums or apartment buildings.

(3) SOLAR THERMAL SYSTEM INCENTIVE.—

(a) Eligibility requirements.—A solar thermal system qualifies for a rebate if:

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

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

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

1. Five hundred dollars for a residence.

2. Fifteen dollars per 1,000 Btu up to a maximum of $5,000 for a place of business, a publicly owned or operated facility, or a facility owned or operated by a private, not-for-profit organization, including condominiums or apartment buildings. Btu must be verified by approved metering equipment.

(4) SOLAR THERMAL POOL HEATER INCENTIVE.—

(a) Eligibility requirements.—A solar thermal pool heater qualifies for a rebate if the system is installed by a state-licensed solar or plumbing contractor and the system complies with all applicable building codes as defined by the local jurisdictional authority.

(b) Rebate amount.—Authorized rebates for installation of solar thermal pool heaters shall be $100 per installation.

(5) APPLICATION.—Application for a rebate must be made within 90 days after the purchase of the solar energy equipment.

(6) REBATE AVAILABILITY.—The department shall determine and publish on a regular basis the amount of rebate funds remaining in each fiscal year. The total dollar amount of all rebates issued by the department is subject to the total amount of appropriations in any fiscal year for this program. If funds are insufficient during the current fiscal year, any requests for rebates received during that fiscal year may be processed during the following fiscal year. Requests for rebates received in a fiscal year that are processed during the following fiscal year shall be given priority over requests for rebates received during the following fiscal year.

(7) RULES.—The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to develop rebate applications and administer the issuance of rebates.

Section 8. Florida Energy Commission.—

(1) The Florida Energy Commission is created and shall be located within the Office of Legislative Services for administrative purposes. The commission shall be comprised of a total of nine members.

(a) The members shall be appointed as follows: the President of the Senate and the Speaker of the House of Representatives shall appoint four members each and shall jointly appoint the ninth member, who shall serve as chair. Members shall be appointed to 2-year terms; however, in order to establish staggered terms, for the initial appointments, each appointing official shall appoint two members to a 1-year term and two members to a 2-year term. Members must meet the following qualifications and restrictions:

1. A member must be an expert in one or more of the following fields: energy, natural resource conservation, economics, engineering, finance, law, consumer protection, state energy policy, or another field substantially re-

lated to the duties and functions of the commission. The commission shall fairly represent the fields specified in this subparagraph.

2. Each member shall, at the time of appointment and at each commission meeting during his or her term of office, disclose:

a. Whether he or she has any financial interest, other than ownership of shares in a mutual fund, in any business entity that, directly or indirectly, owns or controls, or is an affiliate or subsidiary of, any business entity that may profit by the policy recommendations developed by the commission.

b. Whether he or she is employed by or is engaged in any business activity with any business entity that, directly or indirectly, owns or controls, or is an affiliate or subsidiary of, any business entity that may profit by the policy recommendations developed by the commission.

(b) The following may also attend meetings and provide information and advise at the request of the chair:

1. The chair of the Florida Public Service Commission, or his or her designee.

2. The Public Counsel, or his or her designee.

3. The Commissioner of Agriculture, or his or her designee.

4. The Director of the Office of Insurance Regulation, or his or her designee.

5. The Secretary of Health, or his or her designee.

6. The chair of the State Board of Education, or his or her designee.

7. The Secretary of Community Affairs, or his or her designee.

8. The Secretary of Transportation, or his or her designee.

9. The Secretary of Environmental Protection, or his or her designee.

(2) Members shall serve without compensation but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061, Florida Statutes.

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

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

(b) The commission may form advisory groups consisting of members of the public to provide information on specific issues.

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

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

(b) The commission's initial report must be filed by December 31, 2007, and must identify incentives for research, development, or deployment projects involving the goals and issues set forth in this section; set forth policy recommendations for conservation of all forms of energy; and set forth a plan of action, together with a timetable, for addressing additional issues.

(c) The commission's initial report shall also recommend consensus-based public-involvement processes that evaluate greenhouse gas emissions in this state and make recommendations regarding related economic, energy, and environmental benefits.

(d) The report must include recommended steps and a schedule for the development of a comprehensive state climate action plan with greenhouse gas reduction through a public-involvement process, including transportation and land use; power generation; residential, commercial, and industrial activities; waste management; agriculture and forestry; emissions-reporting systems; and public education.

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

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

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

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

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

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

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

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

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

(i) When possible, the resources of the state should be used in achieving the goals enumerated in this subsection.

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

It is the specific intent of the Legislature that nothing in this section shall in any way change the powers, duties, and responsibilities of the Public Service Commission or the powers, duties, and responsibilities assigned by the Florida Electrical Power Plant Siting Act, ss. 403.501-403.518, Florida Statutes.

Section 9. Paragraph (ccc) is added to subsection (7) of section 212.08, Florida Statutes, to read:

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

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(ccc) Equipment, machinery, and other materials for renewable energy technologies.—

1. As used in this paragraph, the term:

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

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

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

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

a. Hydrogen-powered vehicles, materials incorporated into hydrogen-powered vehicles, and hydrogen-fueling stations, up to a limit of $2 million in tax each state fiscal year for all taxpayers.

b. Commercial stationary hydrogen fuel cells, up to a limit of $1 million in tax each state fiscal year for all taxpayers.

c. Materials used in the distribution of biodiesel (B10-B100) and ethanol (E10-100), including fueling infrastructure, transportation, and storage, up to a limit of $1 million in tax each state fiscal year for all taxpayers. Gasoline fueling station pump retrofits for ethanol (E10-E100) distribution qualify for the exemption provided in this sub-subparagraph.

3. The Department of Environmental Protection shall provide to the department a list of items eligible for the exemption provided in this paragraph.

4.a. The exemption provided in this paragraph shall be available to a purchaser only through a refund of previously paid taxes.

b. To be eligible to receive the exemption provided in this paragraph, a purchaser shall file an application with the Department of Environmental Protection. The application shall be developed by the Department of Environmental Protection, in consultation with the department, and shall require:

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

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

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

(IV) A sworn statement that the information provided is accurate and that the requirements of this paragraph have been met.

c. Within 30 days after receipt of an application, the Department of Environmental Protection shall review the application and shall notify the applicant of any deficiencies. Upon receipt of a completed application, the Department of Environmental Protection shall evaluate the application for exemption and issue a written certification that the applicant is eligible for a refund or issue a written denial of such certification within 60 days after receipt of the application. The Department of Environmental Protection shall provide the department with a copy of each certification issued upon approval of an application.

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

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

f. The department may adopt all rules pursuant to ss. 120.536(1) and 120.54 to administer this paragraph, including rules establishing forms and procedures for claiming this exemption.

g. The Department of Environmental Protection shall be responsible for ensuring that the total amounts of the exemptions authorized do not exceed the limits as specified in subparagraph 2.

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

6. This paragraph expires July 1, 2010.

Section 10. Paragraph (y) is added to subsection (7) of section 213.053, Florida Statutes, to read:

213.053 Confidentiality and information sharing.—

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

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

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

Section 11. Subsection (8) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.—

(8) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 631.828, those enumerated in s. 220.191, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 221.02, those enumerated in s. 220.184, those enumerated in s. 220.186, those enumerated in s. 220.1845, those enumerated in s. 220.19, those enumerated in s. 220.185, ~~and~~ those enumerated in s. 220.187, those enumerated in s. 220.192, and those enumerated in s. 220.193.

Section 12. Section 220.192, Florida Statutes, is created to read:

220.192 Renewable energy technologies investment tax credit.—

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

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

(b) "Eligible costs" means:

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

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

3. Seventy-five percent of all capital costs, operation and maintenance costs, and research and development costs incurred between July 1, 2006, and June 30, 2010, up to a limit of $6.5 million per state fiscal year for all taxpayers, in connection with an investment in the production, storage, and distribution of biodiesel (B10-B100) and ethanol (E10-E100) in the state, including the costs of constructing, installing, and equipping such technologies in the state. Gasoline fueling station pump retrofits for ethanol (E10-E100) distribution qualify as an eligible cost under this subparagraph.

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

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

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

(3) CORPORATE APPLICATION PROCESS.—Any corporation wishing to obtain tax credits available under this section must submit to the Department of Environmental Protection an application for tax credit that includes a complete description of all eligible costs for which the corporation is seeking a credit and a description of the total amount of credits sought. The Department of Environmental Protection shall make a determination on the eligibility of the applicant for the credits sought and certify the determination to the applicant and the Department of Revenue. The corporation must attach the Department of Environmental Protection's certification to the tax return on which the credit is claimed. The Department of Environmental Protection shall be responsible for ensuring that the corporate income tax credits granted in each fiscal year do not exceed the limits provided for in this section. The Department of Environmental Protection is authorized to adopt the necessary rules, guidelines, and application materials for the application process.

(4) TAXPAYER APPLICATION PROCESS.—To claim a credit under this section, each taxpayer must apply to the Department of Environmental Protection for an allocation of each type of annual credit by the date established by the Department of Environmental Protection. The application form may be established by the Department of Environmental Protection and shall include an affidavit from each taxpayer certifying that all information contained in the application, including all records of eligible costs claimed as the basis for the tax credit, are true and correct. Approval of the credits under this section shall be accomplished on a first-come, first-served basis, based upon the date complete applications are received by the Department of Environmental Protection. A taxpayer shall submit only one complete application based upon eligible costs incurred within a particular state fiscal year. Incomplete placeholder applications will not be accepted and will not secure a place in the first-come, first-served application line. If a taxpayer does not receive a tax credit allocation due to the exhaustion of the annual tax credit authorizations, then such taxpayer may reapply in the following year for those eligible costs and will have priority over other applicants for the allocation of credits.

(5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF CREDITS.—

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

(b) It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines, as a result of either an audit or examination or from information received from the Department of Environmental Protection, that a taxpayer received tax credits pursuant to this section to which the taxpayer was not entitled. The taxpayer is responsible for returning forfeited tax credits to the Department of Revenue, and such funds shall be paid into the General Revenue Fund of the state.

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

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

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

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

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

Section 13. Section 220.193, Florida Statutes, is created to read:

220.193 Florida renewable energy production credit.—

(1) The purpose of this section is to encourage the development and expansion of facilities that produce renewable energy in Florida.

(2) As used in this section, the term:

(a) "Commission" shall mean the Public Service Commission.

(b) "Department" shall mean the Department of Revenue.

(c) "Expanded facility" shall mean a Florida renewable energy facility that increases its electrical production and sale by more than 5 percent above the facility's electrical production and sale during the 2005 calendar year.

(d) "Florida renewable energy facility" shall mean a facility in the state that produces electricity for sale from renewable energy, as defined in s. 377.803.

(e) "New facility" shall mean a Florida renewable energy facility that is operationally placed in service after May 1, 2006.

(3) An annual credit against the tax imposed by this section shall be allowed to a taxpayer, based on the taxpayer's production and sale of electricity from a new or expanded Florida renewable energy facility. For a new facility, the credit shall be based on the taxpayer's sale of the facility's entire electrical production. For an expanded facility, the credit shall be based on the increases in the facility's electrical production that are achieved after May 1, 2006.

(a) The credit shall be $0.01 for each kilowatt-hour of electricity produced and sold by the taxpayer to an unrelated party during a given tax year.

(b) The credit may be claimed for electricity produced and sold on or after January 1, 2007. Beginning in 2008 and continuing until 2011, each taxpayer claiming a credit under this section must first apply to the department by February 1 of each year for an allocation of available credit. The department, in consultation with the commission, shall develop an application form. The application form shall, at a minimum, require a sworn affidavit from each taxpayer certifying the increase in production and sales that form the basis of the application and certifying that all information contained in the application is true and correct.

(c) If the amount of credits applied for each year exceeds $5 million, the department shall award to each applicant a prorated amount based on each applicant's increased production and sales and the increased production and sales of all applicants.

(d) If the credit granted pursuant to this section is not fully used in one year because of insufficient tax liability on the part of the taxpayer, the unused amount may be carried forward for a period not to exceed 5 years.

The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year, after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

(e) A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group.

(f)1. Tax credits that may be available under this section to an entity eligible under this section may be transferred after a merger or acquisition to the surviving or acquiring entity and used in the same manner with the same limitations.

2. The entity or its surviving or acquiring entity as described in subparagraph 1. may transfer any unused credit in whole or in units of no less than 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitations under this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. In the event the credit provided for under this section is reduced as a result of an examination or audit by the department, such tax deficiency shall be recovered from the first entity or the surviving or acquiring entity to have claimed such credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against any entity acquiring and claiming such credit, or in the case of multiple succeeding entities in the order of credit succession.

(g) Notwithstanding any other provision of this section, credits for the production and sale of electricity from a new or expanded Florida renewable energy facility may be earned between January 1, 2007 and June 30, 2010. The combined total amount of tax credits which may be granted for all taxpayers under this section is limited to $5 million per state fiscal year.

(h) A taxpayer claiming a credit under this section shall be required to add back to net income that portion of its business deductions claimed on its federal return paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under this section.

(i) A taxpayer claiming credit under this section may not claim a credit under s. 220.192. A taxpayer claiming credit under s. 220.192 may not claim a credit under this section.

(4) The department may adopt rules to implement and administer this section, including rules prescribing forms, the documentation needed to substantiate a claim for the tax credit, and the specific procedures and guidelines for claiming the credit.

(5) This section shall take effect upon becoming law and shall apply to tax years beginning on and after January 1, 2007.

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

220.13 "Adjusted federal income" defined.—

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

(a) Additions.—There shall be added to such taxable income:

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

2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other federal law, less the associated expenses disallowed in the computation of taxable income under s. 265 of the Internal Revenue Code or any other law, excluding 60 percent of any amounts included in alternative minimum taxable income, as defined in s. 55(b)(2) of the Internal Revenue Code, if the taxpayer pays tax under s. 220.11(3).

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

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

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

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

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

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

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

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

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

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

13. The amount taken as a credit for the taxable year under s. 220.193.

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

186.801 Ten-year site plans.—

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

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

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

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

(d)~~(c)~~ Possible alternatives to the proposed plan.

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

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

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

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

366.04 Jurisdiction of commission.—

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

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

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

The standards prescribed by the current 1984 edition of the National Electrical Safety Code (ANSI C2) shall constitute acceptable and adequate requirements for the protection of the safety of the public, and compliance with the minimum requirements of that code shall constitute good engineering practice by the utilities. The administrative authority referred to in the 1984 edition of the National Electrical Safety Code is the commission. However, nothing herein shall be construed as superseding, repealing, or amending the provisions of s. 403.523(1) and (10).

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

366.05 Powers.—

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

(8) If the commission determines that there is probable cause to believe that inadequacies exist with respect to the energy grids developed by the electric utility industry, including inadequacies in fuel diversity or fuel supply reliability, it shall have the power, after proceedings as provided by law, and after a finding that mutual benefits will accrue to the electric utilities involved, to require installation or repair of necessary facilities, including generating plants and transmission facilities, with the costs to be distributed in proportion to the benefits received, and to take all necessary steps to ensure compliance. The electric utilities involved in any action

taken or orders issued pursuant to this subsection shall have full power and authority, notwithstanding any general or special laws to the contrary, to jointly plan, finance, build, operate, or lease generating and transmission facilities and shall be further authorized to exercise the powers granted to corporations in chapter 361. This subsection shall not supersede or control any provision of the Florida Electrical Power Plant Siting Act, ss. 403.501-403.518.

Section 18. Section 366.92, Florida Statutes, is created to read:

366.92 Florida renewable energy policy.—

(1) It is the intent of the Legislature to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and at the same time, minimize the costs of power supply to electric utilities and their customers.

(2) For the purposes of this section, "Florida renewable energy resources" shall mean renewable energy, as defined in s. 377.803, that is produced in Florida.

(3) The commission may adopt appropriate goals for increasing the use of existing, expanded, and new Florida renewable energy resources. The commission may change the goals. The commission may review and reestablish the goals at least once every five years.

(4) The commission may adopt rules to administer and implement the provisions of this section.

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

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

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

(b) Recommendations for promoting and encouraging the conversion of existing overhead distribution facilities to underground facilities, including any recommended incentives to local governments for local-government-sponsored conversions.

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

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

(3) The commission shall submit its review and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2007.

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

Section 20. Subsections (5), (8), (9), (12), (18), (24), and (27) of section 403.503, Florida Statutes, are amended, subsections (6) through (28) are renumbered as (7) through (29), respectively, and new subsections (6) and (16) are added to that section, to read:

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

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

(6) "Associated facilities" means, for the purpose of certification, those facilities which directly support the construction and operation of the electrical power plant such as fuel unloading facilities; pipelines necessary for transporting fuel for the operation of the facility or other fuel transportation facilities; water or wastewater transport pipelines; construction, maintenance, and access roads; and railway lines necessary for transport of construction equipment or fuel for the operation of the facility.

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

(9) "Corridor" means the proposed area within which an associated linear facility right-of-way is to be located. The width of the corridor proposed for

certification as an associated facility, at the option of the applicant, may be the width of the right-of-way or a wider boundary, not to exceed a width of 1 mile. The area within the corridor in which a right-of-way may be located may be further restricted by a condition of certification. After all property interests required for the right-of-way have been acquired by the licensee ~~applicant~~, the boundaries of the area certified shall narrow to only that land within the boundaries of the right-of-way.

(12) "Electrical power plant" means, for the purpose of certification, any steam or solar electrical generating facility using any process or fuel, including nuclear materials, ~~and includes associated facilities which directly support the construction and operation of the electrical power plant and those associated transmission lines which connect the electrical power plant to an existing transmission network or rights-of-way to which the applicant intends to connect,~~ except that this term does not include any steam or solar electrical generating facility of less than 75 megawatts in capacity unless the applicant for such a facility elects to apply for certification under this act. This term includes associated facilities to be owned by the applicant which are physically connected to the electrical power plant site or which are directly connected to the electrical power plant site by other proposed associated facilities to be owned by the applicant, and associated transmission lines to be owned by the applicant which connect the electrical power plant to an existing transmission network or rights-of-way of which the applicant intends to connect. ~~An associated transmission line may include,~~ At the applicant's option, this term may include, any offsite associated facilities which will not be owned by the applicant; offsite associated facilities which are owned by the applicant but which are not directly connected to the electrical power plant site; any proposed terminal or intermediate substations or substation expansions connected to the associated transmission line; or new transmission lines, upgrades, or improvements of an existing transmission line on any portion of the applicant's electrical transmission system necessary to support the generation injected into the system from the proposed electrical power plant.

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

(19)~~(18)~~ "Nonprocedural requirements of agencies" means any agency's regulatory requirements established by statute, rule, ordinance, zoning ordinance, land development code, or comprehensive plan, excluding any provisions prescribing forms, fees, procedures, or time limits for the review or processing of information submitted to demonstrate compliance with such regulatory requirements.

(25)~~(24)~~ "Right-of-way" means land necessary for the construction and maintenance of a connected associated linear facility, such as a railroad line, pipeline, or transmission line as owned by or proposed to be certified by the applicant. The typical width of the right-of-way shall be identified in the application. The right-of-way shall be located within the certified corridor and shall be identified by the applicant subsequent to certification in documents filed with the department prior to construction.

(28)~~(27)~~ "Ultimate site capacity" means the maximum generating capacity for a site as certified by the board. ~~"Sufficiency" means that the application is not only complete but that all sections are sufficient in the comprehensiveness of data or in the quality of information provided to allow the department to determine whether the application provides the reviewing agencies adequate information to prepare the reports required by s. 403.507.~~

Section 21. Subsections (1), (7), (9), and (10) of section 403.504, Florida Statutes, are amended, and new subsections (9), (10), (11), and (12) are added to that section, to read:

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

(1) To adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this act, including rules setting forth environmental precautions to be followed in relation to the location, construction, and operation of electrical power plants.

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

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

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

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

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

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

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

Section 22. Section 403.5055, Florida Statutes, is amended to read:

403.5055 Application for permits pursuant to s. 403.0885.—In processing applications for permits pursuant to s. 403.0885 that are associated with applications for electrical power plant certification:

(1) The procedural requirements set forth in 40 C.F.R. s. 123.25, including public notice, public comments, and public hearings, shall be closely coordinated with the certification process established under this part. In the event of a conflict between the certification process and federally required procedures for NPDES permit issuance, the applicable federal requirements shall control.

~~(2) The department's proposed action pursuant to 40 C.F.R. s. 124.6, including any draft NPDES permit (containing the information required~~

~~under 40 C.F.R. s. 124.6(d)), shall within 130 days after the submittal of a complete application be publicly noticed and transmitted to the United States Environmental Protection Agency for its review pursuant to 33 U.S.C. s. 1342(d).~~

(2)~~(3)~~ If available at the time the department issues its project analysis pursuant to s. 403.507(5), the department shall include in its project analysis ~~written analysis pursuant to s. 403.507(3)~~ copies of the department's proposed action pursuant to 40 C.F.R. s. 124.6 on any application for a NPDES permit; any corresponding comments received from the United States Environmental Protection Agency, the applicant, or the general public; and the department's response to those comments.

(3)~~(4)~~ The department shall not issue or deny the permit pursuant to s. 403.0885 in advance of the issuance of the electrical ~~electric~~ power plant certification under this part unless required to do so by the provisions of federal law. When possible, any hearing on a permit issued pursuant to s. 403.0885 shall be conducted in conjunction with the certification hearing held pursuant to this act. The department's actions on an NPDES permit shall be based on the record and recommended order of the certification hearing, if the hearing on the NPDES was conducted in conjunction with the certification hearing, and of any other proceeding held in connection with the application for an NPDES permit, timely public comments received with respect to the application, and the provisions of federal law. The department's action on an NPDES permit, if issued, shall differ from the actions taken by the siting board regarding the certification order if federal laws and regulations require different action to be taken to ensure compliance with the Clean Water Act, as amended, and implementing regulations. Nothing in this part shall be construed to displace the department's authority as the final permitting entity under the federally approved state NPDES program. Nothing in this part shall be construed to authorize the issuance of a state NPDES permit which does not conform to the requirements of the federally approved state NPDES program. ~~The permit, if issued, shall be valid for no more than 5 years.~~

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

Section 23. Section 403.506, Florida Statutes, is amended to read:

403.506 Applicability, thresholds, and certification.—

(1) The provisions of this act shall apply to any electrical power plant as defined herein, except that the provisions of this act shall not apply to any electrical power plant or steam generating plant of less than 75 megawatts in capacity or to any substation to be constructed as part of an associated transmission line unless the applicant has elected to apply for certification of such plant or substation under this act. The provisions of this act shall not apply to any unit capacity expansion of 35 megawatts or less of an existing exothermic reaction cogeneration unit that was exempt from this

act when it was originally built; however, this exemption shall not apply if the unit uses oil or natural gas for purposes other than unit startup. No construction of any new electrical power plant or expansion in steam generating capacity as measured by an increase in the maximum electrical generator rating of any existing electrical power plant may be undertaken after October 1, 1973, without first obtaining certification in the manner as herein provided, except that this act shall not apply to any such electrical power plant which is presently operating or under construction or which has, upon the effective date of chapter 73-33, Laws of Florida, applied for a permit or certification under requirements in force prior to the effective date of such act.

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

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

Section 24. Section 403.5064, Florida Statutes, is amended to read:

403.5064 Application ~~Distribution of application~~; schedules.—

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

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

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

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

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

(4)~~(2)~~ Within 7 days after the filing of an application ~~completeness has been determined~~, the department shall prepare a proposed schedule of dates

for determination of completeness, submission of statements of issues, ~~determination of sufficiency, and~~ submittal of final reports, ~~from affected and other agencies~~ and other significant dates to be followed during the certification process, including dates for filing notices of appearance to be a party pursuant to s. 403.508(3)~~(4)~~. This schedule shall be timely provided by the department to the applicant, the administrative law judge, all agencies identified pursuant to subsection (2) ~~(1)~~, and all parties. Within 7 days after the filing of the proposed schedule, the administrative law judge shall issue an order establishing a schedule for the matters addressed in the department's proposed schedule and other appropriate matters, if any.

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

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

Section 25. Section 403.5065, Florida Statutes, is amended to read:

403.5065 Appointment of administrative law judge; powers and duties.—

(1) Within 7 days after receipt of an application, ~~whether complete or not,~~ the department shall request the Division of Administrative Hearings to designate an administrative law judge to conduct the hearings required by this act. The division director shall designate an administrative law judge within 7 days after receipt of the request from the department. In designating an administrative law judge for this purpose, the division director shall, whenever practicable, assign an administrative law judge who has had prior experience or training in electrical power plant site certification proceedings. Upon being advised that an administrative law judge has been appointed, the department shall immediately file a copy of the application and all supporting documents with the designated administrative law judge, who shall docket the application.

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

Section 26. Section 403.5066, Florida Statutes, is amended to read:

403.5066 Determination of completeness.—

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

(b) Within 40 ~~15~~ days after the filing ~~receipt~~ of an application, the department shall file a statement with the Division of Administrative Hearings, ~~and~~ with the applicant, and with all parties declaring its position with regard to the completeness~~, not the sufficiency,~~ of the application. The de-

partment's statement shall be based upon consultation with the affected agencies.

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

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

(b) A statement agreeing to supply the additional information necessary to make the application complete. Such additional information shall be provided within 30 days after the issuance of the department's statement on completeness of the application. The time schedules under this act shall not be tolled if the applicant makes the application complete within 30 days after the issuance of the department's statement on completeness of the application. A subsequent finding by the department that the application remains incomplete, based upon the additional information submitted by the applicant or upon the failure of the applicant to timely submit the additional information, tolls the time schedules under this act until the application is determined complete; ~~Agreeing with the statement of the department and agreeing to amend the application without withdrawing it. The time schedules referencing a complete application under this act shall not commence until the application is determined complete; or~~

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

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

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

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

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

(d)~~(b)~~ If the administrative law judge determines that the application was complete at the time it was declared incomplete ~~filed~~, the time schedules

referencing a complete application under this act shall commence upon such determination.

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

Section 27. Section 403.50663, Florida Statutes, is created to read:

403.50663 Informational public meetings.—

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

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

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

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

Section 28. Section 403.50665, Florida Statutes, is created to read:

403.50665 Land use consistency.—

(1) The applicant shall include in the application a statement on the consistency of the site or any directly associated facilities with existing land

use plans and zoning ordinances that were in effect on the date the application was filed and a full description of such consistency.

(2) Within 45 days after the filing of the application, each local government shall file a determination with the department, the applicant, the administrative law judge, and all parties on the consistency of the site or any directly associated facilities with existing land use plans and zoning ordinances that were in effect on the date the application was filed, based on the information provided in the application. The local government may issue its determination up to 35 days later if the local government has requested additional information on land use and zoning consistency as part of the local government's statement on completeness of the application submitted pursuant to s. 403.5066(1)(a). Notice of the consistency determination shall be published in accordance with the requirements of s. 403.5115.

(3) If the local government issues a determination that the proposed electrical power plant is not consistent or in compliance with local land use plans and zoning ordinances, the applicant may apply to the local government for the necessary local approval to address the inconsistencies in the local government's determination. If the applicant makes such an application to the local government, the time schedules under this act shall be tolled until the local government issues its revised determination on land use and zoning or the applicant otherwise withdraws its application to the local government. If the applicant applies to the local government for necessary local land use or zoning approval, the local government shall issue a revised determination within 30 days following the conclusion of that local proceeding, and the time schedules and notice requirements under this act shall apply to such revised determination.

(4) If any substantially affected person wishes to dispute the local government's determination, he or she shall file a petition with the department within 21 days after the publication of notice of the local government's determination. If a hearing is requested, the provisions of s. 403.508(1) shall apply.

(5) The dates in this section may be altered upon agreement between the applicant, the local government, and the department pursuant to s. 403.5095.

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

Section 29. Section 403.5067, Florida Statutes, is repealed.

Section 30. Section 403.507, Florida Statutes, is amended to read:

403.507 Preliminary statements of issues, reports, project analyses, and studies.—

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

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

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

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

2.~~3.~~ The water management district shall prepare a report as to matters within its jurisdiction, including but not limited to, the impact of the proposed electrical power plant on water resources, regional water supply planning, and district-owned lands and works.

3.~~4.~~ Each local government in whose jurisdiction the proposed electrical power plant is to be located shall prepare a report as to the consistency of the proposed electrical power plant with all applicable local ordinances, regulations, standards, or criteria that apply to the proposed electrical power plant, including ~~adopted local comprehensive plans, land development regulations, and~~ any applicable local environmental regulations adopted pursuant to s. 403.182 or by other means.

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

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

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

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

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

~~1. Cooling system requirements.~~

~~2. Construction and operational safeguards.~~

~~3. Proximity to transportation systems.~~

~~4. Soil and foundation conditions.~~

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

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

~~7. Accessibility to transmission corridors.~~

~~8. Environmental impacts.~~

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

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

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

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

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

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

agencies shall keep the applicant and the department informed as to the progress of the studies and any issues raised thereby.

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

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

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

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

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

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

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

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

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

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

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

Section 31. Section 403.508, Florida Statutes, is amended to read:

403.508 Land use and certification hearings ~~proceedings~~, parties, participants.—

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

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

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

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

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

(f) If it is determined by the board that the proposed site does not conform with existing land use plans and zoning ordinances, ~~it shall be the responsibility of the applicant to make the necessary application for rezoning. Should the application for rezoning be denied, the applicant may appeal this decision to~~ the board~~, which~~ may, if it determines after notice and hearing and upon consideration of the recommended order on land use and zoning issues that it is in the public interest to authorize the use of the land as a site for an electrical power plant, authorize a variance or other necessary approval to the adopted land use plan and zoning ordinances required to render the proposed site consistent with local land use plans and zoning ordinances. The board's action shall not be controlled by any other procedural requirements of law. In the event a variance or other approval is denied by the board, it shall be the responsibility of the applicant to make the necessary application for any approvals determined by the board as required to make the proposed site consistent and in compliance with local land use plans and zoning ordinances. No further action may be taken on the complete application ~~by the department~~ until the proposed site conforms to the adopted land use plan or zoning ordinances or the board grants relief as provided under this act.

(2)(a)~~(3)~~ A certification hearing shall be held by the designated administrative law judge no later than 265 ~~300~~ days after the ~~complete~~ application is filed with the department~~; however, an affirmative determination of need by the Public Service Commission pursuant to s. 403.519 shall be a condition precedent to the conduct of the certification hearing~~. The certification hearing shall be held at a location in proximity to the proposed site. ~~The certification hearing shall also constitute the sole hearing allowed by chapter 120 to determine the substantial interest of a party regarding any required agency license or any related permit required pursuant to any federally delegated or approved permit program.~~ At the conclusion of the certification hearing, the designated administrative law judge shall, after consideration of all evidence of record, submit to the board a recommended order no later than 45 ~~60~~ days after the filing of the hearing transcript. ~~In the event the administrative law judge fails to issue a recommended order within 60 days after the filing of the hearing transcript, the administrative law judge shall submit a report to the board with a copy to all parties within 60 days after the filing of the hearing transcript to advise the board of the reason for the delay in the issuance of the recommended order and of the date by which the recommended order will be issued.~~

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

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

1. The applicant.

2. The Public Service Commission.

3. The Department of Community Affairs.

4. The Fish and Wildlife Conservation Commission.

5. The water management district.

6. The department.

7. The regional planning council.

8. The local government.

9. The Department of Transportation.

(b) Any party listed in paragraph (a) other than the department or the applicant may waive its right to participate in these proceedings. If such listed party fails to file a notice of its intent to be a party on or before the 90th day prior to the certification hearing, such party shall be deemed to have waived its right to be a party.

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

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

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

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

(e) Other parties may include any person, including those persons enumerated in paragraph (c) who have failed to timely file a notice of intent to be a party, whose substantial interests are affected and being determined by the proceeding and who timely file a motion to intervene pursuant to chapter 120 and applicable rules. Intervention pursuant to this paragraph may be granted at the discretion of the designated administrative law judge and upon such conditions as he or she may prescribe any time prior to 30 days before the commencement of the certification hearing.

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

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

1. The applicant.

2. The department.

3. State agencies.

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

5. Local governments.

6. Other parties.

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

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

(6)(a) No earlier than 29 days prior to the conduct of the certification hearing, the department or the applicant may request that the administrative law judge cancel the certification hearing and relinquish jurisdiction to the department if all parties to the proceeding stipulate that there are no disputed issues of fact or law to be raised at the certification hearing, and if sufficient time remains for the applicant and the department to publish public notices of the cancellation of the hearing at least 3 days prior to the scheduled date of the hearing.

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

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

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

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

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

~~(6) The designated administrative law judge shall have all powers and duties granted to administrative law judges by chapter 120 and this chapter and by the rules of the department and the Administration Commission, including the authority to resolve disputes over the completeness and sufficiency of an application for certification.~~

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

~~(a) The applicant.~~

~~(b) The department.~~

~~(c) State agencies.~~

~~(d) Regional agencies, including regional planning councils and water management districts.~~

~~(e) Local governments.~~

~~(f) Other parties.~~

(8) In issuing permits under the federally approved new source review or prevention of significant deterioration permit program, the department shall observe the procedures specified under the federally approved state implementation plan, including public notice, public comment, public hearing, and notice of applications and amendments to federal, state, and local agencies, to assure that all such permits issued in coordination with the certification of a power plant under this act are federally enforceable and are issued after opportunity for informed public participation regarding the terms and conditions thereof. When possible, any hearing on a federally approved or delegated program permit such as new source review, prevention of significant deterioration permit, or NPDES permit shall be conducted in conjunction with the certification hearing held under this act. ~~The department shall accept written comment with respect to an application for, or the department's preliminary determination on, a new source review or prevention of significant deterioration permit for a period of no less than 30 days from the date notice of such action is published. Upon request submitted within 30 days after published notice, the department shall hold a public meeting, in the area affected, for the purpose of receiving public comment on issues related to the new source review or prevention of significant deterioration permit. If requested following notice of the department's preliminary determination, the public meeting to receive public comment shall be held prior to the scheduled certification hearing. The department shall also solicit comments from the United States Environmental Protection Agency and other affected federal agencies regarding the department's preliminary determination for any federally required new source review or prevention of significant deterioration permit.~~ It is the intent of the Legislature that the

review, processing, and issuance of such federally delegated or approved permits be closely coordinated with the certification process established under this part. In the event of a conflict between the certification process and federally required procedures ~~contained in the state implementation plan,~~ the applicable federal requirements ~~of the implementation plan~~ shall control.

Section 32. Section 403.509, Florida Statutes, is amended to read:

403.509 Final disposition of application.—

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

(b) If the administrative law judge has not granted a request to cancel the certification hearing under the provisions of s. 403.508(6), within 60 days after receipt of the designated administrative law judge's recommended order, the board shall act upon the application by written order, approving ~~certification~~ or denying certification ~~the issuance of a certificate~~, in accordance with the terms of this act, and stating the reasons for issuance or denial. If certification ~~the certificate~~ is denied, the board shall set forth in writing the action the applicant would have to take to secure the board's approval of the application.

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

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

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

(b) Comply with applicable nonprocedural requirements of agencies.

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

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

(e) Effect a reasonable balance between the need for the facility as established pursuant to s. 403.519, and the impacts upon air and water quality,

fish and wildlife, water resources, and other natural resources of the state resulting from the construction and operation of the facility.

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

(g) Serve and protect the broad interests of the public.

~~(3) Within 30 days after issuance of the certification, the department shall issue and forward to the United States Environmental Protection Agency a proposed operation permit for a major source of air pollution and must issue or deny any other license required pursuant to any federally delegated or approved permit program. The department's action on the license and its action on the proposed operation permit for a major source of air pollution shall be based upon the record and recommended order of the certification hearing. The department's actions on a federally required new source review or prevention of significant deterioration permit shall be based on the record and recommended order of the certification hearing and of any other proceeding held in connection with the application for a new source review or prevention of significant deterioration permit, on timely public comments received with respect to the application or preliminary determination for such permit, and on the provisions of the state implementation plan.~~

(4) The department's action on a federally required new source review or prevention of significant deterioration permit shall differ from the actions taken by the siting board regarding the certification if the federally approved state implementation plan requires such a different action to be taken by the department. Nothing in this part shall be construed to displace the department's authority as the final permitting entity under the federally approved permit program. Nothing in this part shall be construed to authorize the issuance of a new source review or prevention of significant deterioration permit which does not conform to the requirements of the federally approved state implementation plan. ~~Any final operation permit for a major source of air pollution must be issued in accordance with the provisions of s. 403.0872. Unless the federally delegated or approved permit program provides otherwise, licenses issued by the department under this subsection shall be effective for the term of the certification issued by the board. If renewal of any license issued by the department pursuant to a federally delegated or approved permit program is required, such renewal shall not affect the certification issued by the board, except as necessary to resolve inconsistencies pursuant to s. 403.516(1)(a).~~

(5)~~(4)~~ In regard to the properties and works of any agency which is a party to the certification hearing, the board shall have the authority to decide issues relating to the use, the connection thereto, or the crossing thereof, for the electrical power plant and directly associated facilities ~~site~~ and to direct any such agency to execute, within 30 days after the entry of certification, the necessary license or easement for such use, connection, or crossing, subject only to the conditions set forth in such certification.

(6)~~(5)~~ ~~Except for the issuance of any operation permit for a major source of air pollution pursuant to s. 403.0872,~~ The issuance or denial of the certification by the board or secretary of the department ~~and the issuance or denial of any related department license required pursuant to any federally delegated or approved permit program~~ shall be the final administrative action required as to that application.

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

Section 33. Section 403.511, Florida Statutes, is amended to read:

403.511 Effect of certification.—

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

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

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

2. No variance, exemption, exception, or other relief shall be granted from a state statute or rule for the protection of endangered or threatened species, aquatic preserves, Outstanding National Resource Waters, or Outstanding Florida Waters or for the disposal of hazardous waste, except to the extent authorized by the applicable statute or rule or except upon a finding in the certification order ~~by the siting board~~ that the public interests set forth in s. 403.509(3) ~~403.502~~ in certifying the electrical power plant at the site proposed by the applicant overrides the public interest protected by the

statute or rule from which relief is sought. ~~Each party shall notify the applicant and other parties at least 60 days prior to the certification hearing of any nonprocedural requirements not specifically listed in the application from which a variance, exemption, exception, or other relief is necessary in order for the board to certify any electrical power plant proposed for certification. Failure of such notification by an agency shall be treated as a waiver from nonprocedural requirements of the department or any other agency. However, no variance shall be granted from standards or regulations of the department applicable under any federally delegated or approved permit program, except as expressly allowed in such program.~~

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

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

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

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

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

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

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

Section 34. Section 403.5112, Florida Statutes, is created to read:

403.5112 Filing of notice of certified corridor route.—

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

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

Section 35. Section 403.5113, Florida Statutes, is created to read:

403.5113 Postcertification amendments.—

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

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

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

(4) Postcertification submittals filed by the licensee with one or more agencies are for the purpose of monitoring for compliance with the issued certification and must be reviewed by the agencies on an expedited and priority basis because each facility certified under this act is a critical infrastructure facility. In no event shall a postcertification review be completed in more than 90 days after complete information is submitted to the reviewing agencies.

Section 36. Section 403.5115, Florida Statutes, is amended to read:

403.5115 Public notice~~; costs of proceeding~~.—

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

(a) Notice ~~A notice~~ of the filing of a notice of intent under s. 403.5063, which shall be published within 21 days after the filing of the notice. The notice shall be published as specified by subsection (2), except that the newspaper notice shall be one-fourth page in size in a standard size newspaper or one-half page in size in a tabloid size newspaper.

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

(c) Notice of the land use determination made pursuant to s. 403.50665(1) within 21 days after the determination is filed.

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

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

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

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

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

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

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

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

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

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

(2) Notices provided by the applicant shall be published in newspapers of general circulation within the county or counties in which the proposed electrical power plant will be located. The newspaper notices shall be at least one-half page in size in a standard size newspaper or a full page in a tabloid size newspaper ~~and published in a section of the newspaper other than the legal notices section~~. These notices shall include a map generally depicting the project and all associated facilities corridors. A newspaper of general circulation shall be the newspaper which has the largest daily circulation in that county and has its principal office in that county. If the newspaper with the largest daily circulation has its principal office outside the county, the notices shall appear in both the newspaper having the largest circulation in that county and in a newspaper authorized to publish legal notices in that county.

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

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

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

(b) Notice of the filing of the application, no later than 21 days after the application filing.~~;~~

(c) Notice of the land use determination made pursuant to s. 403.50665(1) within 21 days after the determination is filed.

(d) Notice of the land use hearing before the administrative law judge, if applicable, no later than 15 days before the hearing.~~;~~

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

(f) Notice of the certification hearing at least 45 days before the date set for the certification hearing.~~;~~

(g) Notice of the cancellation of the certification hearing, if applicable, no later than 3 days prior to the date of the originally scheduled certification hearing.

(h) Notice of the hearing before the board, if applicable.~~;~~

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

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

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

Section 37. Section 403.513, Florida Statutes, is amended to read:

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

Section 38. Section 403.516, Florida Statutes, is amended to read:

403.516 Modification of certification.—

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

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

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

2. Such modification may be made without further notice if the matter has been previously noticed under the requirements for any federally delegated or approved permit program.

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

1. A petition for modification must set forth:

a. The proposed modification.

b. The factual reasons asserted for the modification.

c. The anticipated environmental effects of the proposed modification.

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

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

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

~~1. The proposed modification,~~

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

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

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

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

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

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

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

Section 39. Section 403.517, Florida Statutes, is amended to read:

403.517 Supplemental applications for sites certified for ultimate site capacity.—

(1)(a) Supplemental ~~The department shall adopt rules governing the processing of supplemental~~ applications may be submitted for certification of the construction and operation of electrical power plants to be located at sites which have been previously certified for an ultimate site capacity pursuant to this act. Supplemental applications shall be limited to electrical power plants using the fuel type previously certified for that site. Such applications shall include all new directly associated facilities that support the construction and operation of the electrical power plant. ~~The rules adopted pursuant to this section shall include provisions for:~~

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

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

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

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

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

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

(b) The review shall use the same procedural steps and notices as for an initial application.

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

(d)~~(c)~~ Any time limitation in this section or in rules adopted pursuant to this section may be altered pursuant to s. 403.5095 ~~by the designated administrative law judge upon stipulation between the department and the applicant, unless objected to by any party within 5 days after notice, or for good cause shown by any party. The parties to the proceeding shall adhere to the provisions of chapter 120 and this act in considering and processing such supplemental applications~~.

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

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

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

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

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

Section 40. Section 403.5175, Florida Statutes, is amended to read:

403.5175 Existing electrical power plant site certification.—

(1) An electric utility that owns or operates an existing electrical power plant as defined in s. 403.503(12) may apply for certification of an existing power plant and its site in order to obtain all agency licenses necessary to ensure ~~assure~~ compliance with federal or state environmental laws and regulation using the centrally coordinated, one-stop licensing process established by this part. An application for site certification under this section must be in the form prescribed by department rule. Applications must be reviewed and processed using the same procedural steps and notices as for an application for a new facility ~~in accordance with ss. 403.5064-403.5115~~,

except that a determination of need by the Public Service Commission is not required.

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

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

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

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

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

(e) Copies of all existing permits, licenses, and compliance plans authorizing utilization of the site and directly associated facilities or operation of the electrical power plant that is the subject of the application.

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

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

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

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

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

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

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

Section 41. Section 403.518, Florida Statutes, is amended to read:

403.518 Fees; disposition.—

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

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

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

(a)~~1.~~ Sixty percent of the fee shall go to the department to cover any costs associated with coordinating the review ~~reviewing~~ and acting upon the application, to cover any field services associated with monitoring construction and operation of the facility, and to cover the costs of the public notices published by the department.

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

1. Five percent to compensate expenses from the initial exercise of duties associated with the filing of an application.

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

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

(c)1.~~3.~~ Upon written request with proper itemized accounting within 90 days after final agency action by the board or withdrawal of the application, the agencies that prepared reports pursuant to s. 403.507 or participated in a hearing pursuant to s. 403.508 may submit a written request to the department for reimbursement of expenses incurred during the certification proceedings. The request shall contain an accounting of expenses incurred which may include time spent reviewing the application, ~~the department~~

~~shall reimburse the Department of Community Affairs, the Fish and Wildlife Conservation Commission, and any water management district created pursuant to chapter 373, regional planning council, and local government in the jurisdiction of which the proposed electrical power plant is to be located, and any other agency from which the department requests special studies pursuant to s. 403.507(2)(a)7. Such reimbursement shall be authorized for the~~ preparation of any studies required of the agencies by this act, ~~and for~~ agency travel and per diem to attend any hearing held pursuant to this act, and for any agency or local government's provision of notice of public meetings or hearings required as a result of the application for certification ~~governments to participate in the proceedings~~. The department shall review the request and verify that the expenses are valid. Valid expenses shall be reimbursed; however, in the event the amount of funds available for reimbursement ~~allocation~~ is insufficient to provide for full compensation ~~complete reimbursement~~ to the agencies requesting reimbursement, reimbursement shall be on a prorated basis.

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

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

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

(b) The fee shall be submitted to the department with a ~~formal~~ petition for modification ~~to the department~~ pursuant to s. 403.516. This fee shall be established, disbursed, and processed in the same manner as the application fee in subsection (2) ~~paragraph (b)~~, except that the Division of Administrative Hearings shall not receive a portion of the fee unless the petition for certification modification is referred to the Division of Administrative Hearings for hearing. If the petition is so referred, only $10,000 of the fee shall be transferred to the Administrative Trust Fund of the Division of Administrative Hearings of the Department of Management Services. ~~The fee for a modification by agreement filed pursuant to s. 403.516(1)(b) shall be $10,000 to be paid upon the filing of the request for modification. Any sums remaining after payment of authorized costs shall be refunded to the applicant within 90 days of issuance or denial of the modification or withdrawal of the request for modification.~~

(4)~~(d)~~ A supplemental application fee, not to exceed $75,000, to cover all reasonable expenses and costs of the review, processing, and proceedings of a supplemental application. This fee shall be established, disbursed, and processed in the same manner as the certification application fee in subsection (2) ~~paragraph (b), except that only $20,000 of the fee shall be transferred to the Administrative Trust Fund of the Division of Administrative Hearings of the Department of Management Services~~.

(5)~~(c)~~ An existing site certification application fee, not to exceed $200,000, to cover all reasonable costs and expenses of the review processing and proceedings for certification of an existing power plant site under s. 403.5175. This fee must be established, disbursed, and processed in the same manner as the certification application fee in subsection (2) ~~paragraph (b)~~.

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

Section 42. Any application for electrical power plant certification filed pursuant to ss. 403.501-403.518, Florida Statutes, shall be processed under the provisions of the law applicable at the time the application was filed, except that the provisions relating to cancellation of the certification hearing under s. 403.508(6), Florida Statutes, the provisions relating to the final disposition of the application and issuance of the written order by the secretary under s. 403.509(1)(a), Florida Statutes, and notice of the cancellation of the certification hearing under s. 403.5115, Florida Statutes, may apply to any application for electrical power plant certification.

Section 43. Section 403.519, Florida Statutes, is amended to read:

403.519 Exclusive forum for determination of need.—

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

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

(3) The commission shall be the sole forum for the determination of this matter, which accordingly shall not be raised in any other forum or in the review of proceedings in such other forum. In making its determination, the commission shall take into account the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, the need for fuel diversity and supply reliability, and whether the proposed plant is the most cost-effective alternative available. The commission shall also expressly consider the conservation measures taken by or reasonably available to the applicant or its members which might mitigate the need for the proposed plant and other matters within its jurisdiction which it deems relevant. The commission's determination of need for an electrical power plant shall create a presumption of public need and necessity and shall serve as the commission's report required by s. 403.507(4) ~~403.507(2)(a)2~~. An order entered pursuant to this section constitutes final agency action.

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

(a) The applicant's petition shall include:

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

2. A description of how the proposed nuclear power plant will enhance the reliability of electric power production within the state by improving the balance of power plant fuel diversity and reducing Florida's dependence on fuel oil and natural gas.

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

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

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

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

1. Provide needed base-load capacity.

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

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

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

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

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

Section 44. Section 366.93, Florida Statutes, is created to read:

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

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

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

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

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

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

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

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

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

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

(4) When the nuclear power plant is placed in commercial service, the utility shall be allowed to increase its base rate charges by the projected annual revenue requirements of the nuclear power plant based on the jurisdictional annual revenue requirements of the plant for the first 12 months of operation. The rate of return on capital investments shall be calculated using the utility's rate of return last approved by the commission prior to the commercial inservice date of the nuclear power plant. If any existing generating plant is retired as a result of operation of the nuclear power plant, the commission shall allow for the recovery, through an increase in base rate charges, of the net book value of the retired plant over a period not to exceed 5 years.

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

(6) In the event the utility elects not to complete or is precluded from completing construction of the nuclear power plant, the utility shall be allowed to recover all prudent preconstruction and construction costs incurred following the commission's issuance of a final order granting a determination of need for the nuclear power plant. The utility shall recover such costs through the capacity cost recovery clause over a period equal to the period during which the costs were incurred or 5 years, whichever is greater.

The unrecovered balance during the recovery period will accrue interest at the utility's weighted average cost of capital as reported in the commission's earnings surveillance reporting requirement for the prior year.

Section 45. Section 403.52, Florida Statutes, is amended to read:

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

Section 46. Section 403.521, Florida Statutes, is amended to read:

403.521 Legislative intent.—The legislative intent of this act is to establish a centralized and coordinated licensing ~~permitting~~ process for the location of electric transmission line corridors and the construction, operation, and maintenance of electric transmission lines, which are critical infrastructure facilities. This necessarily involves several broad interests of the public addressed through the subject matter jurisdiction of several agencies. The Legislature recognizes that electric transmission lines will have an effect upon the reliability of the electric power system, the environment, land use, and the welfare of the population. Recognizing the need to ensure electric power system reliability and integrity, and in order to meet electric ~~electrical~~ energy needs in an orderly and timely fashion, the centralized and coordinated licensing ~~permitting~~ process established by this act is intended to further the legislative goal of ensuring through available and reasonable methods that the location of transmission line corridors and the construction, operation, and maintenance of electric transmission lines produce minimal adverse effects on the environment and public health, safety, and welfare ~~while not unduly conflicting with the goals established by the applicable local comprehensive plan~~. It is the intent of this act to fully balance the need for transmission lines with the broad interests of the public in order to effect a reasonable balance between the need for the facility as a means of providing reliable, economical, and efficient electric ~~abundant low-cost electrical~~ energy and the impact on the public and the environment resulting from the location of the transmission line corridor and the construction, operation, and maintenance of the transmission lines. The Legislature intends that the provisions of chapter 120 apply to this act and to proceedings under ~~pursuant to~~ it except as otherwise expressly exempted by other provisions of this act.

Section 47. Section 403.522, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

(7) "Certification" means the approval by the board of the license for a corridor proper for certification pursuant to subsection (10) and the construction, operation, and maintenance of transmission lines within the ~~such~~ corridor with the ~~such~~ changes or conditions as the siting board deems appropriate. Certification shall be evidenced by a written order of the board.

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

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

(10) "Corridor" means the proposed area within which a transmission line right-of-way, including maintenance and access roads, is to be located. The width of the corridor proposed for certification by an applicant or other party, at the option of the applicant, may be the width of the transmission line right-of-way, or a wider boundary, not to exceed a width of 1 mile. The area within the corridor in which a right-of-way may be located may be further restricted by a condition of certification. After all property interests required for the transmission line right-of-way and maintenance and access roads have been acquired by the applicant, the boundaries of the area certified shall narrow to only that land within the boundaries of the transmission line right-of-way. The corridors proper for certification shall be those addressed in the application, in amendments to the application filed under ~~pursuant to~~ s. 403.5275, and in notices of acceptance of proposed alternate corridors filed by an applicant and the department pursuant to s. 403.5271 for which the required ~~sufficient~~ information for the preparation of agency supplemental reports was filed.

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

(12) "Electric utility" means cities and towns, counties, public utility districts, regulated electric companies, electric cooperatives, regional transmission organizations, operators of independent transmission systems, or other transmission organizations approved by the Federal Energy Regulatory Commission or the commission for the operation of transmission facilities, and joint operating agencies, or combinations thereof, engaged in, or

authorized to engage in, the business of generating, transmitting, or distributing electric energy.

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

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

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

(16) "Maintenance and access roads" mean roads constructed within the transmission line right-of-way. Nothing in this act prohibits an applicant from constructing a road to support construction, operation, or maintenance of the transmission line that lies outside the transmission line right-of-way.

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

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

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

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

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

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

(22)~~(21)~~ "Transmission line" or "electric transmission line" means structures, maintenance and access roads, and all other facilities that need to be constructed, operated, or maintained for the purpose of conveying electric power ~~any electrical transmission line~~ extending from, but not including, an

existing or proposed substation or power plant to, but not including, an existing or proposed transmission network or rights-of-way or substation to which the applicant intends to connect which defines the end of the proposed project and which is designed to operate at 230 kilovolts or more. ~~The starting point and ending point of a transmission line must be specifically defined by the applicant and must be verified by the commission in its determination of need. A transmission line includes structures and maintenance and access roads that need to be constructed for the project to become operational.~~ The transmission line may include, at the applicant's option, any proposed terminal or intermediate substations or substation expansions necessary to serve the transmission line.

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

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

Section 48. Section 403.523, Florida Statutes, is amended to read:

403.523 Department of Environmental Protection; powers and duties.—The department has ~~shall have~~ the following powers and duties:

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

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

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

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

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

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

(7) To prepare a report and project ~~written~~ analysis as required by s. 403.526.

(8) To prescribe the means for monitoring the effects arising from the location of the transmission line corridor and the construction, operation, and maintenance of the transmission lines to assure continued compliance with the terms of the certification.

(9) To make a determination of acceptability of any alternate corridor proposed for consideration under ~~pursuant to~~ s. 403.5271.

(10) To set requirements that reasonably protect the public health and welfare from the electric and magnetic fields of transmission lines for which an application is filed under ~~after the effective date of~~ this act.

(11) To present rebuttal evidence on any issue properly raised at the certification hearing.

(12) To issue final orders after receipt of the administrative law judge's order relinquishing jurisdiction pursuant to s. 403.527(6).

(13) To act as clerk for the siting board.

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

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

Section 49. Section 403.524, Florida Statutes, is amended to read:

403.524 Applicability; ~~and~~ certification; exemptions.—

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

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

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

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

(c) Transmission line development in which all construction is limited to established rights-of-way. Established rights-of-way include ~~such~~ rights-of-way established at any time for roads, highways, railroads, gas, water, oil, electricity, or sewage and any other public purpose rights-of-way. If an established transmission line right-of-way is used to qualify for this exemption, the transmission line right-of-way must have been established at least 5 years before notice of the start of construction under subsection (4) of the

proposed transmission line. If an established transmission line right-of-way is relocated to accommodate a public project, the date the original transmission line right-of-way was established applies to the relocated transmission line right-of-way for purposes of this exemption. ~~Except for transmission line rights-of-way, established rights-of-way include rights-of-way created before or after October 1, 1983. For transmission line rights-of-way, established rights-of-way include rights-of-way created before October 1, 1983.~~

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

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

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

Section 50. Section 403.525, Florida Statutes, is amended to read:

403.525 ~~Appointment of~~ Administrative law judge; appointment; powers and duties.—

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

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

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

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

Section 51. Section 403.5251, Florida Statutes, is amended to read:

403.5251 ~~Distribution of~~ Application; schedules.—

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

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

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

The department shall provide to the applicant and the Division of Administrative Hearings the names and addresses of any additional agencies or persons entitled to notice and copies of the application and amendments, if any, within 7 days after receiving the application for certification and the application fees.

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

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

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

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

Section 52. Section 403.5252, Florida Statutes, is amended to read:

403.5252 Determination of completeness.—

(1)(a) Within 30 days after distribution of an application, the affected agencies shall file a statement with the department containing the recom-

mendations of each agency concerning the completeness of the application for certification.

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

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

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

(b) Additional information necessary to make the application complete. After the department first determines the application to be incomplete, the time schedules under this act are not tolled if the applicant makes the application complete within the 14-day period. A subsequent finding by the department that the application remains incomplete tolls the time schedules under this act until the application is determined complete; ~~Agreeing with the statement of the department and agreeing to amend the application without withdrawing it. The time schedules referencing a complete application under this act shall not commence until the application is determined complete; or~~

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

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

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

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

(c)~~(a)~~ If the administrative law judge determines that the application was not complete ~~as filed~~, the applicant shall withdraw the application or make such additional submittals as necessary to complete it. The time

schedules referencing a complete application under this act do ~~shall~~ not commence until the application is determined complete.

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

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

Section 53. Section 403.526, Florida Statutes, is amended to read:

403.526 Preliminary statements of issues, reports, and project analyses; ~~and~~ studies.—

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

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

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

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

3. The Department of Community Affairs shall prepare a report containing recommendations which address the impact upon the public of the proposed transmission line or corridor, based on the degree to which the proposed transmission line or corridor is consistent with the applicable portions of the state comprehensive plan, emergency management, and other matters within its jurisdiction. The Department of Community Affairs may also

comment on the consistency of the proposed transmission line or corridor with applicable strategic regional policy plans or local comprehensive plans and land development regulations.

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

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

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

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

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

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

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

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

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

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

(c) Each reviewing agency shall initiate the activities required by this section no later than 15 days after the ~~complete~~ application is filed ~~distributed~~. Each agency shall keep the applicant and the department informed as to the progress of its studies and any issues raised thereby.

(d) When an agency whose agency head is a collegial body, such as a commission, board, or council, is required to submit a report pursuant to this section and is required by its own internal procedures to have the report reviewed by its agency head prior to finalization, the agency may submit to the Department a draft version of the report by the deadline indicated in subsection (a), and shall submit a final version of the report after review by the agency head, and no later than 15 days after the deadline indicated in subsection (a).

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

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

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

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

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

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

(4) The failure of any agency to submit a preliminary statement of issues or a report, or to submit its preliminary statement of issues or report within the allowed time, is ~~shall~~ not ~~be~~ grounds for the alteration of any time limitation in this act under ~~pursuant to~~ s. 403.528. ~~Neither~~ The failure to submit a preliminary statement of issues or a report, or ~~nor~~ the inadequacy of the preliminary statement of issues or report, are not ~~shall be~~ grounds to deny or condition certification.

Section 54. Section 403.527, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 403.527, F.S., for present text.)

403.527 Certification hearing, parties, participants.—

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

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

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

1. The applicant.

2. The department.

3. The commission.

4. The Department of Community Affairs.

5. The Fish and Wildlife Conservation Commission.

6. The Department of Transportation.

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

8. The local government.

9. The regional planning council.

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

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

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

2. Any domestic nonprofit corporation or association formed, in whole or in part, to promote conservation of natural beauty; to protect the environment, personal health, or other biological values; to preserve historical sites;

to promote consumer interests; to represent labor, commercial, or industrial groups; or to promote comprehensive planning or orderly development of the area in which the proposed transmission line or corridor is to be located.

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

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

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

1. The applicant.

2. The department.

3. State agencies.

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

5. Local governments.

6. Other parties.

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

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

(a) A local government shall notify the administrative law judge and all parties not later than 21 days after the application has been determined complete as to whether the local government wishes to have a public hearing. If a filing for an alternate corridor is accepted for consideration under s. 403.5271(1) by the department and the applicant, any newly affected local government must notify the administrative law judge and all parties not later than 10 days after the data concerning the alternate corridor has been determined complete as to whether the local government wishes to have such a public hearing. The local government is responsible for providing the location of the public hearing if held separately from the certification hearing.

(b) Within 5 days after notification, the administrative law judge shall determine the date of the public hearing, which shall be held before or during the certification hearing. If two or more local governments within one county request a public hearing, the hearing shall be consolidated so that

only one public hearing is held in any county. The location of a consolidated hearing shall be determined by the administrative law judge.

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

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

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

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

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

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

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

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

Section 55. Section 403.5271, Florida Statutes, is amended to read:

403.5271 Alternate corridors.—

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

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

(b)1. Within 7 days after receipt of the ~~such~~ notice, the applicant and the department shall file with the administrative law judge and all parties a notice of acceptance or rejection of a proposed alternate corridor for consideration. If the alternate corridor is rejected ~~either~~ by the applicant or the department, the certification hearing and the public hearings shall be held as scheduled. If both the applicant and the department accept a proposed alternate corridor for consideration, the certification hearing and the public hearings shall be rescheduled, if necessary.

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

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

(d) Within 21 ~~25~~ days after acceptance of an alternate corridor by the department and the applicant, the party proposing an alternate corridor shall have the burden of providing all ~~additional~~ data to the agencies listed in s. 403.526(2) and newly affected agencies ~~s. 403.526~~ necessary for the preparation of a supplementary report on the proposed alternate corridor.

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

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

3. If the department, within 14 days after receiving the additional data, determines that the data remains incomplete, the incompleteness of the data is deemed a withdrawal of the proposed alternate corridor. The department may make its determination based on recommendations made by other affected agencies. ~~If the department determines within 15 days that this additional data is insufficient, the party proposing the alternate corridor shall file such additional data that corrects the insufficiency within 15 days after the filing of the department's determination. If such additional data is determined insufficient, such insufficiency of data shall be deemed a withdrawal of the proposed alternate corridor. The party proposing an alternate corridor shall have the burden of proof on the certifiability of the~~

~~alternate corridor at the certification hearing pursuant to s. 403.529(4). Nothing in this act shall be construed as requiring the applicant or agencies not proposing the alternate corridor to submit data in support of such alternate corridor.~~

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

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

(h) When an agency whose agency head is a collegial body, such as a commission, board, or council, is required to submit a report pursuant to this section and is required by its own internal procedures to have the report reviewed by its agency head prior to finalization, the agency may submit to the Department a draft version of the report by the deadline indicated in subsection (f), and shall submit a final version of the report after review by the agency head, and no later than 7 days after the deadline indicated in subsection (f).

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

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

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

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

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

Section 56. Section 403.5272, Florida Statutes, is amended to read:

403.5272 ~~Local governments;~~ Informational public meetings.—

(1) A local government whose jurisdiction is to be crossed by a proposed corridor ~~governments~~ may hold one informational public meeting ~~meetings~~ in addition to the hearings specifically authorized by this act on any matter associated with the transmission line proceeding. The ~~Such~~ informational public meeting may be conducted by the local government or the regional planning council and shall ~~meetings should~~ be held no later than 55 ~~80~~ days after the application is filed. The purpose of an informational public meeting is for the local government or regional planning council to further inform the ~~general~~ public about the transmission line proposed, obtain comments from the public, and formulate its recommendation with respect to the proposed transmission line.

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

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

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

Section 57. Section 403.5275, Florida Statutes, is amended to read:

403.5275 Amendment to the application.—

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

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

Section 58. Section 403.528, Florida Statutes, is amended to read:

403.528 Alteration of time limits.—

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

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

Section 59. Section 403.529, Florida Statutes, is amended to read:

403.529 Final disposition of application.—

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

(b) If the administrative law judge does not grant a request to cancel the certification hearing under the provisions of s. 403.527(6) within 60 ~~30~~ days after receipt of the administrative law judge's recommended order, the board shall act upon the application by written order, approving in whole, approving with such conditions as the board deems appropriate, or denying the certification and stating the reasons for issuance or denial.

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

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

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

(a) Ensure electric power system reliability and integrity;

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

(c) Comply with applicable nonprocedural requirements of agencies;

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

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

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

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

(c) If the board, or secretary if applicable, finds that two or more of the corridors that comply with ~~the provisions of~~ subsection (4) have the least adverse impacts regarding the criteria in subsection (4), including costs, and that the ~~such~~ corridors are substantially equal in adverse impacts regarding the criteria in subsection (4), including costs, ~~then~~ the board, or secretary if applicable, shall certify the corridor preferred by the applicant if the corridor is one proper for certification under ~~pursuant to~~ s. 403.522(10).

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

Section 60. Section 403.531, Florida Statutes, is amended to read:

403.531 Effect of certification.—

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

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

(b) The certification may include conditions that ~~which~~ constitute variances and exemptions from nonprocedural standards or rules ~~regulations~~ of the department or any other agency~~,~~ which were expressly considered during the certification review ~~proceeding~~ unless waived by the agency as provided in s. 403.526 ~~below~~ and which otherwise would be applicable to the location of the proposed transmission line corridor or the construction, operation, and maintenance of the transmission lines. ~~Each party shall notify the applicant and other parties at the time scheduled for the filing of the agency reports of any nonprocedural requirements not specifically listed in the application from which a variance, exemption, exception, or other relief is necessary in order for the board to certify any corridor proposed for certification. Failure of such notification shall be treated as a waiver from the nonprocedural requirements of that agency.~~

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

(b) On certification, any license, easement, or other interest in state lands, except those the title of which is vested in the Board of Trustees of the Internal Improvement Trust Fund, shall be issued by the appropriate agency as a ministerial act. The applicant shall ~~be required to~~ seek any necessary interest in state lands the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund from the board of trustees before, during, or after the certification proceeding, and certification may be made contingent upon issuance of the appropriate interest in realty. However, ~~neither~~ the applicant and ~~nor~~ any party to the certification proceeding may not directly or indirectly raise or relitigate any matter that ~~which~~ was or could have been an issue in the certification proceeding in any proceeding before the Board of Trustees of the Internal Improvement Trust Fund wherein the applicant is seeking a necessary interest in state lands, but the information presented in the certification proceeding shall be available for review by the board of trustees and its staff.

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

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

Section 61. Section 403.5312, Florida Statutes, is amended to read:

403.5312 Filing ~~Recording~~ of notice of certified corridor route.—

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

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

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

Section 62. Section 403.5315, Florida Statutes, is amended to read:

403.5315 Modification of certification.—A certification may be modified after issuance in any one of the following ways:

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

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

(a) A petition for modification must set forth:

1. The proposed modification;

2. The factual reasons asserted for the modification; and

3. The anticipated additional environmental effects of the proposed modification.

(b)~~(2)~~ The department may modify the terms and conditions of the certification if no party objects in writing to the ~~such~~ modification within 45 days after notice by mail to the last address of record in the certification proceeding, and if no other person whose substantial interests will be affected by the modification objects in writing within 30 days after issuance of public notice.

(c) If objections are raised or the department denies the proposed modification, the licensee may file a request for hearing on the modification with the department. Such a request shall be handled pursuant to chapter 120.

(d) A request for hearing referred to the Division of Administrative Hearings shall be disposed of in the same manner as an application but with time periods established by the administrative law judge commensurate with the

significance of the modification requested. ~~If objections are raised, the applicant may file a petition for modification pursuant to subsection (3).~~

~~(3) The applicant or the department may file a petition for modification with the department and the Division of Administrative Hearings setting forth:~~

~~(a) The proposed modification;~~

~~(b) The factual reasons asserted for the modification; and~~

~~(c) The anticipated additional environmental effects of the proposed modification.~~

~~(4) Petitions filed pursuant to subsection (3) shall be disposed of in the same manner as an application but with time periods established by the administrative law judge commensurate with the significance of the modification requested.~~

Section 63. Section 403.5317, Florida Statutes, is created to read:

403.5317 Postcertification activities.—

(1)(a) If, subsequent to certification, a licensee proposes any material change to the application or prior amendments, the licensee shall submit to the department a written request for amendment and description of the proposed change to the application. The department shall, within 30 days after the receipt of the request for the amendment, determine whether the proposed change to the application requires a modification of the conditions of certification.

(b) If the department concludes that the change would not require a modification of the conditions of certification, the department shall notify, in writing, the licensee, all agencies, and all parties of the approval of the amendment.

(c) If the department concludes that the change would require a modification of the conditions of certification, the department shall notify the licensee that the proposed change to the application requires a request for modification under s. 403.5315.

(2) Postcertification submittals filed by a licensee with one or more agencies are for the purpose of monitoring for compliance with the issued certification. Each submittal must be reviewed by each agency on an expedited and priority basis because each facility certified under this act is a critical infrastructure facility. Postcertification review may not be completed more than 90 days after complete information for a segment of the certified transmission line is submitted to the reviewing agencies.

Section 64. Section 403.5363, Florida Statutes, is created to read:

403.5363 Public notices; requirements.—

(1)(a) The applicant shall arrange for the publication of the notices specified in paragraph (b).

1. The notices shall be published in newspapers of general circulation within counties crossed by the transmission line corridors proper for certification. The required newspaper notices for filing of an application and for the certification hearing shall be one-half page in size in a standard-size newspaper or a full page in a tabloid-size newspaper and published in a section of the newspaper other than the section for legal notices. These two notices must include a map generally depicting all transmission corridors proper for certification. A newspaper of general circulation shall be the newspaper within a county crossed by a transmission line corridor proper for certification which newspaper has the largest daily circulation in that county and has its principal office in that county. If the newspaper having the largest daily circulation has its principal office outside the county, the notices must appear in both the newspaper having the largest circulation in that county and in a newspaper authorized to publish legal notices in that county.

2. The department shall adopt rules specifying the content of the newspaper notices.

3. All notices published by the applicant shall be paid for by the applicant and shall be in addition to the application fee.

(b) Public notices that must be published under this section include:

1. The notice of the filing of an application, which must include a description of the proceedings required by this act. The notice must describe the provisions of s. 403.531(1) and (2) and give the date by which notice of intent to be a party or a petition to intervene in accordance with s. 403.527(2) must be filed. This notice must be published no more than 21 days after the application is filed.

2. The notice of the certification hearing and any other public hearing permitted under s. 403.527. The notice must include the date by which a person wishing to appear as a party must file the notice to do so. The notice of the certification hearing must be published at least 65 days before the date set for the certification hearing.

3. The notice of the cancellation of the certification hearing, if applicable. The notice must be published at least 3 days before the date of the originally scheduled certification hearing.

4. The notice of the filing of a proposal to modify the certification submitted under s. 403.5315, if the department determines that the modification would require relocation or expansion of the transmission line right-of-way or a certified substation.

(2) The proponent of an alternate corridor shall arrange for the publication of the filing of the proposal for an alternate corridor, the revised time schedules, the date by which newly affected persons or agencies may file the notice of intent to become a party, and the date of the rescheduled hearing. A notice listed in this subsection must be published in a newspaper of general circulation within the county or counties crossed by the proposed alternate corridor and comply with the content requirements set forth in

paragraph (1)(a). The notice must be published not less than 50 days before the rescheduled certification hearing.

(3) The department shall arrange for the publication of the following notices in the manner specified by chapter 120:

(a) The notice of the filing of an application and the date by which a person intending to become a party must file a petition to intervene or a notice of intent to be a party. The notice must be published no later than 21 days after the application has been filed.

(b) The notice of any administrative hearing for certification, if applicable. The notice must be published not less than 65 days before the date set for a hearing, except that notice for a rescheduled certification hearing after acceptance of an alternative corridor must be published not less than 50 days before the date set for the hearing.

(c) The notice of the cancellation of a certification hearing, if applicable. The notice must be published not later than 7 days before the date of the originally scheduled certification hearing.

(d) The notice of the hearing before the siting board, if applicable.

(e) The notice of stipulations, proposed agency action, or a petition for modification.

Section 65. Section 403.5365, Florida Statutes, is amended to read:

403.5365 Fees; disposition.—The department shall charge the applicant the following fees, as appropriate, which, unless otherwise specified, shall be paid into the Florida Permit Fee Trust Fund:

(1) An application fee.

(a) The application fee shall be ~~of~~ $100,000, plus $750 per mile for each mile of corridor in which the transmission line right-of-way is proposed to be located within an existing electric ~~electrical~~ transmission line right-of-way or within any existing right-of-way for any road, highway, railroad, or other aboveground linear facility, or $1,000 per mile for each mile of electric transmission line corridor proposed to be located outside the ~~such~~ existing right-of-way.

(b)~~(a)~~ Sixty percent of the fee shall go to the department to cover any costs associated with coordinating the review of ~~reviewing~~ and acting upon the application and any costs for field services associated with monitoring construction and operation of the electric transmission line facility.

(c)~~(b)~~ The following percentage ~~Twenty percent of the fees specified under this section, except postcertification fees,~~ shall be transferred to the Administrative Trust Fund of the Division of Administrative Hearings of the Department of Management Services:~~.~~

1. Five percent to compensate for expenses from the initial exercise of duties associated with the filing of an application.

2. An additional 10 percent if an administrative hearing under s. 403.527 is held.

(d)1.~~(c)~~ Upon written request with proper itemized accounting within 90 days after final agency action by the siting board or the department or the withdrawal of the application, the agencies that prepared reports under s. 403.526 or s. 403.5271 or participated in a hearing under s. 403.527 or s. 403.5271 may submit a written request to the department for reimbursement of expenses incurred during the certification proceedings. The request must contain an accounting of expenses incurred, which may include time spent reviewing the application, ~~department shall reimburse the expenses and costs of the Department of Community Affairs, the Fish and Wildlife Conservation Commission, the water management district, regional planning council, and local government in the jurisdiction of which the transmission line is to be located. Such reimbursement shall be authorized for the~~ preparation of any studies required of the agencies by this act, ~~and for~~ agency travel and per diem to attend any hearing held under ~~pursuant to~~ this act, and for the local government or regional planning council providing additional notice of the informational public meeting. The department shall review the request and verify whether a claimed expense is valid. Valid expenses shall be reimbursed; however, if ~~to participate in the proceedings. In the event~~ the amount of funds available for reimbursement ~~allocation~~ is insufficient to provide for full compensation ~~complete reimbursement~~ to the agencies, reimbursement shall be on a prorated basis.

2. If the application review is held in abeyance for more than 1 year, the agencies may submit a request for reimbursement under subparagraph 1.

(e)~~(d)~~ If any sums are remaining, the department shall retain them for its use in the same manner as is otherwise authorized by this section; ~~provided,~~ however, ~~that~~ if the certification application is withdrawn, the remaining sums shall be refunded to the applicant within 90 days after withdrawal.

(2) An amendment fee.

(a) If no corridor alignment change is proposed by the amendment, no amendment fee shall be charged.

(b) If a corridor alignment change under s. 403.5275 is proposed by the applicant, an additional fee of a minimum of $2,000 and $750 per mile shall be submitted to the department for use in accordance with this act.

(c) If an amendment is required to address issues, including alternate corridors under ~~pursuant to~~ s. 403.5271, raised by the department or other parties, no fee for the ~~such~~ amendment shall be charged.

(3) A certification modification fee.

(a) If no corridor alignment change is proposed by the licensee ~~applicant~~, the modification fee shall be $4,000.

(b) If a corridor alignment change is proposed by the licensee ~~applicant~~, the fee shall be $1,000 for each mile of realignment plus an amount not to

exceed $10,000 to be fixed by rule on a sliding scale based on the load-carrying capability and configuration of the transmission line for use in accordance with subsection (1) ~~(2)~~.

Section 66. Subsection (1) of section 403.537, Florida Statutes, is amended to read:

403.537 Determination of need for transmission line; powers and duties.—

(1)(a) Upon request by an applicant or upon its own motion, the Florida Public Service Commission shall schedule a public hearing, after notice, to determine the need for a transmission line regulated by the Florida Electric Transmission Line Siting Act, ss. 403.52-403.5365. The ~~Such~~ notice shall be published at least 21 ~~45~~ days before the date set for the hearing and shall be published by the applicant in at least one-quarter page size notice in newspapers of general circulation, and by the commission in the manner specified in chapter 120 ~~in the Florida Administrative Weekly~~, by giving notice to counties and regional planning councils in whose jurisdiction the transmission line could be placed, and by giving notice to any persons who have requested to be placed on the mailing list of the commission for this purpose. Within 21 days after receipt of a request for determination by an applicant, the commission shall set a date for the hearing. The hearing shall be held pursuant to s. 350.01 within 45 days after the filing of the request, and a decision shall be rendered within 60 days after such filing.

(b) The commission shall be the sole forum in which to determine the need for a transmission line. The need for a transmission line may not be raised or be the subject of review in another proceeding.

(c)~~(b)~~ In the determination of need, the commission shall take into account the need for electric system reliability and integrity, the need for abundant, low-cost electrical energy to assure the economic well-being of the residents ~~citizens~~ of this state, the appropriate starting and ending point of the line, and other matters within its jurisdiction deemed relevant to the determination of need. The appropriate starting and ending points of the electric transmission line must be verified by the commission in its determination of need.

(d)~~(c)~~ The determination by the commission of the need for the transmission line, as defined in s. 403.522(22) ~~s. 403.522(21)~~, is binding on all parties to any certification proceeding under ~~pursuant to~~ the Florida Electric Transmission Line Siting Act and is a condition precedent to the conduct of the certification hearing prescribed therein. An order entered pursuant to this section constitutes final agency action.

Section 67. Subsection (3) of section 373.441, Florida Statutes, is amended to read:

373.441 Role of counties, municipalities, and local pollution control programs in permit processing.—

(3) The department shall review environmental resource permit applications for electrical distribution and transmission lines and other facilities

related to the production, transmission, and distribution of electricity which are not certified under ss. 403.52-403.5365, the Florida Electric Transmission Line Siting Act, regulated under this part.

Section 68. Subsection (30) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(30) Establish requirements by rule that reasonably protect the public health and welfare from electric and magnetic fields associated with existing 230 kV or greater electrical transmission lines, new 230 kV and greater electrical transmission lines for which an application for certification under the Florida Electric Transmission Line Siting Act, ss. 403.52-403.5365, is not filed, new or existing electrical transmission or distribution lines with voltage less than 230 kV, and substation facilities. Notwithstanding any other provision in this chapter or any other law of this state or political subdivision thereof, the department shall have exclusive jurisdiction in the regulation of electric and magnetic fields associated with all electrical transmission and distribution lines and substation facilities. However, nothing herein shall be construed as superseding or repealing the provisions of s. 403.523(1) and (10).

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 69. Paragraph (a) of subsection (3) of section 403.0876, Florida Statutes, is amended to read:

403.0876 Permits; processing.—

(3)(a) The department shall establish a special unit for permit coordination and processing to provide expeditious processing of department permits which the district offices are unable to process expeditiously and to provide accelerated processing of certain permits or renewals for economic and operating stability. The ability of the department to process applications under ~~pursuant to~~ this subsection in a more timely manner than allowed by subsections (1) and (2) is dependent upon the timely exchange of information between the applicant and the department and the intervention of outside parties as allowed by law. An applicant may request the processing of its permit application by the special unit if the application is from an area of high unemployment or low per capita income, is from a business or industry that is the primary employer within an area's labor market, or is in an industry with respect to which the complexities involved in the review of the application require special skills uniquely available in the headquarters office. The department may require the applicant to waive the 90-day time limitation for department issuance or denial of the permit once for a period

not to exceed 90 days. The department may require a special fee to cover the direct cost of processing special applications in addition to normal permit fees and costs. The special fee may not exceed $10,000 per permit required. Applications for renewal permits, but not applications for initial permits, required for facilities pursuant to the Electrical Power Plant Siting Act or the Florida Electric Transmission Line Siting Act may be processed under this subsection. Personnel staffing the special unit shall have lengthy experience in permit processing.

Section 70. Paragraph (b) of subsection (3) of section 403.809, Florida Statutes, is amended to read:

403.809 Environmental districts; establishment; managers; functions.—

(3)

(b) The processing of all applications for permits, licenses, certificates, and exemptions shall be accomplished at the district center or the branch office, except for those applications specifically assigned elsewhere in the department under s. 403.805 or to the water management districts under s. 403.812 and those applications assigned by interagency agreement as provided in this act. However, the secretary, as head of the department, may not delegate to district or subdistrict managers, water management districts, or any unit of local government the authority to act on the following types of permit applications:

1. Permits issued under s. 403.0885, except such permit issuance may be delegated to district managers.

2. Construction of major air pollution sources.

3. Certifications under the Florida Electrical Power Plant Siting Act or the Florida Electric Transmission Line Siting Act and the associated permit issued under s. 403.0885, if applicable.

4. Permits issued under s. 403.0885 to steam electric generating facilities regulated pursuant to 40 C.F.R. part 423.

5. Permits issued under s. 378.901.

Section 71. Sections 403.5253 and 403.5369, Florida Statutes, are repealed.

Section 72. By November 1, 2006, the Department of Environmental Protection shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report detailing the state's leadership by example in energy conservation and energy efficiency. The report must include a description of state programs designed to achieve energy conservation and energy efficiency at state-owned facilities, such as the guaranteed energy performance savings contracting pursuant to s. 489.145, Florida Statutes, and the inclusion of alternative fuel vehicles in state fleets. The report must describe the costs of implementation, details of the programs, and current and projected energy and cost savings. The

report must also set forth recommendations on a rebate program for purchases of energy-efficient appliances.

Section 73. Section 403.885, Florida Statutes, is amended to read:

403.885 Water Projects ~~Stormwater management; wastewater management; and Water Restoration~~ Grant Program.—

(1) The Department of Environmental Protection shall administer a grant program to use funds transferred pursuant to s. 212.20 to the Ecosystem Management and Restoration Trust Fund or other moneys as appropriated by the Legislature for water quality improvement, stormwater management, wastewater management, and water restoration and other water projects as specifically appropriated by the Legislature ~~project grants~~. Eligible recipients of such grants include counties, municipalities, water management districts, and special districts that have legal responsibilities for water quality improvement, water management, stormwater management, wastewater management, lake and river water restoration projects, and~~.~~ drinking water projects ~~are not eligible for funding~~ pursuant to this section.

(2) The grant program shall provide for the evaluation of annual grant proposals. The department shall evaluate such proposals to determine if they:

(a) Protect public health or ~~and~~ the environment.

(b) Implement plans developed pursuant to the Surface Water Improvement and Management Act created in part IV of chapter 373, other water restoration plans required by law, management plans prepared pursuant to s. 403.067, or other plans adopted by local government for water quality improvement and water restoration.

~~(3) In addition to meeting the criteria in subsection (2), annual grant proposals must also meet the following requirements:~~

~~(a) An application for a stormwater management project may be funded only if the application is approved by the water management district with jurisdiction in the project area. District approval must be based on a determination that the project provides a benefit to a priority water body.~~

~~(b) Except as provided in paragraph (c), an application for a wastewater management project may be funded only if:~~

~~1. The project has been funded previously through a line item in the General Appropriations Act; and~~

~~2. The project is under construction.~~

~~(c) An application for a wastewater management project that would qualify as a water pollution control project and activity in s. 403.1838 may be funded only if the project sponsor has submitted an application to the department for funding pursuant to that section.~~

~~(4) All project applicants must provide local matching funds as follows:~~

~~(a) An applicant for state funding of a stormwater management project shall provide local matching funds equal to at least 50 percent of the total cost of the project; and~~

~~(b) An applicant for state funding of a wastewater management project shall provide matching funds equal to at least 25 percent of the total cost of the project.~~

~~The requirement for matching funds may be waived if the applicant is a financially disadvantaged small local government as defined in subsection (5).~~

~~(5) Each fiscal year, at least 20 percent of the funds available pursuant to this section shall be used for projects to assist financially disadvantaged small local governments. For purposes of this section, the term "financially disadvantaged small local government" means a municipality having a population of 7,500 or less, a county having a population of 35,000 or less, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce, or a county in an area designated by the Governor as a rural area of critical economic concern pursuant to s. 288.0656. Grants made to these eligible local governments shall not require matching local funds.~~

~~(6) Each year, stormwater management and wastewater management projects submitted for funding through the legislative process shall be submitted to the department by the appropriate fiscal committees of the House of Representatives and the Senate. The department shall review the projects and must provide each fiscal committee with a list of projects that appear to meet the eligibility requirements under this grant program.~~

Section 74. For the 2006-2007 fiscal year, the sum of $61,379 is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of administering the energy-efficient products sales tax holiday.

Section 75. For the 2006-2007 fiscal year, the sum of $8,587,000 in nonrecurring funds is appropriated from the General Revenue Fund and $6,413,000 in nonrecurring funds is appropriated from the Grants and Donations Trust Fund in the Department of Environmental Protection for the purpose of funding the Renewable Energy Technologies Grants program authorized in s. 377.804, Florida Statutes. From the General Revenue Funds, $5,000,000 are contingent upon the coordination between the Department of Environmental Protection and the Department of Agriculture and Consumer Services pursuant to s. 377.804(6), Florida Statutes.

Section 76. For the 2006-2007 fiscal year, the sum of $2.5 million in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Environmental Protection for the purpose of funding commercial and consumer solar incentives authorized in s. 377.806, Florida Statutes.

Section 77. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 19, 2006.

Filed in Office Secretary of State June 19, 2006.