SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2472

SPONSOR: Regulated Industries Committee and Senator Campbell

SUBJECT: Florida Clean Power Act of 2002

DATE: March 11, 2002   REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	RI	Favorable/CS
2.			NR	
3.			AGG	
4.			AP	
5.				
6.				

I. Summary:

The bill requires that electric power generators with proposed power plants that use only non-steam generation and that are 75 megawatts or more in capacity go through the electrical power plant siting process. Proposed plants that use both non-steam and steam generation, but less than 75 megawatts of steam, would still be exempted from the siting act, as would any plant with less than 75 megawatts of capacity.

The bill amends section 403.506 of the Florida Statutes.

II. Present Situation:

Sections 403.501-403.518, F.S., are the "Florida Electrical Power Plant Siting Act." Any generator proposing to build a power plant that meets the criteria of the act is required to go through the siting process, which requires a hearing on the determination of need, a hearing on local government and environmental issues, and hearing by the Governor and Cabinet, sitting as the Siting Board.

The act defines "electrical power plant" to mean "any steam or solar electrical generating facility using any process or fuel … 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." s. 403.503(12), F.S. Additionally, the act expressly excludes from its application "any electrical power plant or steam generating plant of less than 75 megawatts in capacity." s. 403.506(1), F.S.

Under these provisions, generating companies are building power plants that do not use steam, and so are outside the siting act, but are substantially larger than the 75 megawatt threshold that

would otherwise apply. Plants under 75 megawatts can be built outside the siting act process using any technology, including steam. Some companies are building plants using a combination of steam and non-steam generation, with the steam component less than 75 megawatts, outside the siting act.

III. Effect of Proposed Changes:

The bill requires that electric power generators with proposed power plants that use only non-steam generation and that are 75 megawatts or more in capacity go through the electrical power plant siting process. Proposed plants that use both non-steam and steam generation, but less than 75 megawatts of steam, would still be exempted from the siting act, as would any plant with less than 75 megawatts of capacity.

The bill takes effect October 1, 2002.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Merchant companies will have to forego building in Florida, build pursuant to a contract with a retail electric utility, or build plants using a combination of non-steam and steam generation, with the steam component being under 75 megawatts in capacity. The last option would increase their costs, and therefore their wholesale prices.

Plants could be constructed using both steam and non-steam generation in a manner to allow operation as peaker plants using only the non-steam generation. Whether this would be done would depend on the actual design and construction of each plant and the economies of operation.

C. Government Sector Impact:

Both merchant companies and investor owned utilities (IOUs) currently build purely non-steam plants that are exempt from the siting act process. They do not go through the siting process, but are required to get environmental permits from the Department of Environmental Protection (DEP) and to meet local government land use requirements, such as zoning and comprehensive plans.

Under the bill, merchant companies could no longer build plants in excess of 75 megawatts using solely non-steam generation, as the bill requires that they go through the siting process, which they cannot do as they cannot qualify as an applicant for a determination of need as part of this process.

Under the bill, the IOUs would be required to go through the electrical power plant siting process to build purely non-steam plants. The power plant siting process requires a determination of need by the Public Service Commission (PSC) and a determination of environmental and local government land use issues by a Division of Administrative Hearings (DOAH) administrative law judge. The administrative law judge's determination is based upon reports from a number of entities, including DEP and each local government in whose jurisdiction the proposed power plant is to be located, and upon a land use hearing held in the county of the proposed site on the sole issue of whether the proposed site is consistent with and in compliance with existing land use plans and zoning ordinances. ss. 403.507 & 403.508, F.S.

The bill would increase the number of PSC hearings to determine need for plants, and would shift determinations on environmental and land use issues from direct decision by DEP and local governments to an administrative law judge. The net effect on the PSC, DOAH, DEP, and local governments is indeterminable.

VI. Technical Deficiencies:

None

VII. Related Issues:

None.

VIII. Amendments:

None.