Florida Senate - 2005

By Senator Lawson

6-1345A-05

1	A bill to be entitled
2	An act relating to review by the state of
3	federal activities under the federal Coastal
4	Zone Management Act; amending s. 380.23, F.S.;
5	providing for limits on consistency review by
6	the state of certain federally licensed or
7	permitted activities relating to electrical
8	power plants, drilling, mining, pipelines,
9	geological and geophysical activities, and
10	rights-of-way on public lands and deepwater
11	ports; prohibiting consistency review of
12	certain activities subject to federal permits
13	absent a finding by the Department of
14	Environmental Protection; creating a
15	presumption that the state has sufficient data
16	to conduct a consistency review of a federal
17	activity when an environmental impact statement
18	has been prepared; eliminating a requirement
19	that the department waive its review of certain
20	federally licensed or permitted activities;
21	providing an effective date.
22	
23	Be It Enacted by the Legislature of the State of Florida:
24	
25	Section 1. Subsections (3) , (4) , and (5) of section
26	380.23, Florida Statutes, are amended to read:
27	380.23 Federal consistency
28	(3) Consistency review shall be limited to review of
29	the following activities, uses, and projects to ensure that
30	such activities <u>, and</u> uses <u>, and projects</u> are conducted in
31	accordance with the state's coastal management program:
	1

1

CODING: Words stricken are deletions; words <u>underlined</u> are additions.

(a) Federal development projects and activities of 1 2 federal agencies which significantly affect coastal waters and the adjacent shorelands of the state. 3 (b) Federal assistance projects that which 4 significantly affect coastal waters and the adjacent 5 6 shorelands of the state and that which are reviewed as part of 7 the review process developed pursuant to Presidential Executive Order 12372. 8 (c) Federally licensed or permitted activities 9 affecting land or water uses when such activities are in or 10 seaward of the jurisdiction of local governments required to 11 12 develop a coastal zone protection element as provided in s. 13 380.24 and when such activities involve: 1. Permits and licenses required under the Rivers and 14 Harbors Act of 1899, 33 U.S.C. ss. 401 et seq., as amended. 15 2. Permits and licenses required under the Marine 16 17 Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. ss. 1401-1445 and 16 U.S.C. ss. 1431-1445, as amended. 18 3. Permits and licenses required under the Federal 19 Water Pollution Control Act of 1972, 33 U.S.C. ss. 1251 et 20 21 seq., as amended, unless such permitting activities have been 22 delegated to the state pursuant to said act. 23 4. Permits and licenses relating to the transportation of hazardous substance materials or transportation and dumping 2.4 which are issued pursuant to the Hazardous Materials 25 26 Transportation Act, 49 U.S.C. ss. 1501 et seq., as amended, or 27 33 U.S.C. s. 1321, as amended. 2.8 5. Permits and licenses required under 15 U.S.C. ss. 717-717w, 3301-3432, 42 U.S.C. ss. 7101-7352, and 43 U.S.C. 29 ss. 1331-1356 for construction and operation of interstate gas 30 pipelines and storage facilities. 31 2

CODING: Words stricken are deletions; words underlined are additions.

Florida Senate - 2005 6-1345A-05

1 6. Permits and licenses required under the Federal Power Act, 16 U.S.C. ss. 791a et seq., as amended; the Public 2 Utility Regulatory Policies Act, 16 U.S.C. ss. 2601 et seq., 3 4 as amended; the Energy Policy Act, 42 U.S.C. ss. 13201 et 5 seq., as amended; or the Atomic Energy Act, 42 U.S.C. ss. 2100 6 et seq., as amended for the siting and construction of any new 7 electrical power plants and the relicensing of existing power plants as defined in s. 403.503(12), as amended. 8 9 7. Permits and licenses required <u>under the Mining Law</u> 10 of 1872, 30 U.S.C. ss. 21 et seq., as amended; the Mineral Lands Leasing Act, 30 U.S.C. ss. 181 et seq., as amended; the 11 12 Mineral Leasing Act for Acquired Lands, 30 U.S.C. ss. 351 et seq., as amended; the Federal Land Policy and Management Act, 13 43 U.S.C. ss. 1701 et seq., as amended; the Mining in the 14 Parks Act, 16 U.S.C. ss. 1901 et seq., as amended; or the OCS 15 Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, for 16 17 drilling, mining, pipelines, geological and geophysical 18 activities, or rights-of-way on public lands and permits and licenses required under the Indian Mineral Development Act, 25 19 U.S.C. ss. 2101 et seq., as amended, for drilling, and mining, 20 21 pipelines, geological and geophysical activities, or rights-of-way on public lands and permits and licenses 22 required under the Indian Mineral Development Act, 25 U.S.C. 23 2.4 ss. 2101 et. seq., as amended. 8. Permits and licenses for areas leased under the OCS 25 Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, including 26 27 leases and approvals of exploration, development, and 2.8 production plans. 29 Permits for pipeline rights of way for oil and 30 transmissions. 31

3

CODING: Words stricken are deletions; words underlined are additions.

1 9.10. Permits and licenses required under the for 2 Deepwater Port Act of 1974, ports under 33 U.S.C. s. 1501 et. 3 seq. 1503, as amended. 4 10.11. Permits required for the taking of marine mammals under the Marine Mammal Protection Act of 1972, as 5 б amended, 16 U.S.C. s. 1374. 7 (d) Federal activities within the territorial limits 8 of neighboring states when the Governor and the department 9 determine that significant individual or cumulative impact to 10 the land or water resources of the state would result from the activities. 11 12 (4) The department shall monitor activities that are subject to a federal license or permit that is not listed in 13 paragraph (3)(c). Unless the department determines that such 14 an activity is likely to result in significant individual or 15 cumulative impact to the land or water resources of the state, 16 17 such activities are not subject to federal consistency review 18 by the state. 19 (5) (4) The department <u>may</u> is authorized to adopt rules establishing procedures for conducting consistency reviews of 20 21 activities, uses, and projects for which consistency review is 22 required pursuant to subsections (1), (2), and (3). Such rules 23 shall include procedures for the expeditious handling of emergency repairs to existing facilities for which consistency 2.4 review is required. The department may is also authorized to 25 26 adopt rules prescribing the data and information needed for 27 the review of consistency certifications and determinations. 2.8 When an environmental impact statement required by the National Environmental Policy Act has been prepared for a 29 specific activity, use, or project that is subject to federal 30 consistency review under this section, such statement shall be 31

CODING: Words stricken are deletions; words underlined are additions.

Pecessary for the state's review of the consistency of any federal activity on the outer continental shelf or any other federal activity, use, or project that the department deems significant. This presumption does not apply to an environmental impact statement that is prepared for a federal activity, use, or project that is separate from the activity, use, or project that the state is reviewing for consistency, recardless of whether the separate project is related or unclated to the project under review. (5) In any coastal management program submitted to the appropriate federal agency for its approval pursuant to this act, the department shall specifically waive its right to determine the consistency with the coastal management program of all federally licensed or permitted activities not specifically listed in subsection (3). Section 2. This act shall take effect July 1, 2005. Evises limits on consistency review by the state of creatin federal and geophysical activities, and rights-of-way on public lands and deepwater ports under the federal permits subject to certain federal permits as and deepwater ports under the federal permits assent a finding by the Department of Environmental Protection. Creates a presumption that the state has sufficient data to conduct a consistency review of a federal activities. Eliminates a requirement that the department waive its review of certain federally licensed or permitted activities.	1	presumed to constitute the data and information that is
4 federal activity, use, or project that the department deems 5 significant. This presumption does not apply to an 6 environmental impact statement that is prepared for a federal 7 activity, use, or project that is separate from the activity, 8 use, or project that the state is reviewing for consistency, 7 recardless of whether the separate project is related or 9 recardless of whether the separate project is related or 9 unrelated to the project under review. 11 (5) Is any coastal management program submitted to the 12 appropriate federal agency for its approval pursuant to this 13 act, the department shall specifically waive its right to 14 determine the consistency with the coastal management program 15 section 2. This act shall take effect July 1, 2005. 16 specifically listed in subsection (3). 17 Section 2. This act shall take effect July 1, 2005. 18 ************************************	2	necessary for the state's review of the consistency of any
5 significant. This presumption does not apply to an 6 environmental impact statement that is prepared for a federal 7 activity, use, or project that is separate from the activity, 8 use, or project that the state is reviewing for consistency, 9 recardless of whether the separate project is related or 10 unrelated to the project under review. 11 (5) In any coastal management program submitted to the 12 appropriate federal agency for its approval pursuant to this 13 act, the department shall specifically waive its right to 14 determine the consistency with the coastal management program 15 section 2. This act shall take effect July 1, 2005. 16 specifically listed in subsection (3). 17 Section 2. This act shall take effect July 1, 2005. 18	3	federal activity on the outer continental shelf or any other
environmental impact statement that is prepared for a federal activity, use, or project that is separate from the activity, use, or project that the state is reviewing for consistency, regardless of whether the separate project is related or unrelated to the project under review. (5) In any coastal management program submitted to the appropriate federal agency for its approval pursuant to this act, the department shall specifically waive its right to determine the consistency with the coastal management program of all federally licensed or permitted activities not specifically listed in subsection (3). Section 2. This act shall take effect July 1, 2005. Revises limits on consistency review by the state of certain federal power plants, drilling, mining, pipelines, geological and geophysical activities, and rights-of-way on public lands and deepwater ports under the federal Coastal Zone Management Act. Prohibits state review of a finding by the Department of Environmental Sufficient data to conduct a consistency review of a sufficient data to conduct a consistency review of a finding by the neuronmental impact statement has been prepared. Eliminates a requirement that the department waive its review of certain federally licensed or permitted activities.	4	federal activity, use, or project that the department deems
activity, use, or project that is separate from the activity, use, or project that the state is reviewing for consistency, recardless of whether the separate project is related or unrelated to the project under review. (5) In any coastal management program submitted to the appropriate federal agency for its approval pursuant to this act, the department shall specifically waive its right to determine the consistency with the coastal management program of all federally licensed or permitted activities not specifically listed in subsection (3). Section 2. This act shall take effect July 1, 2005. Revises limits on consistency review by the state of certain federal activities, uses, and projects relating to electrical power plants, drilling, mining, pipelines, geological and geophysical activities, and rights-of-way on public lands and deepwater ports under the federal Coastal Zone Management Act. Prohibits state review of certain activities subject to certain federal permits absent a finding by the Department of Environmental Sufficient data to conduct a consistency review of a sufficient data to conduct a consistency review of a sufficient data to conduct a consistency review of a protection. Creates a presumption that the state has sufficient data to conduct a consistency review of a federal activity when an environmental impact statement has been prepared. Eliminates a requirement that the department waive its review of certain federally licensed or permitted activities.	5	significant. This presumption does not apply to an
use, or project that the state is reviewing for consistency, regardless of whether the separate project is related or unrelated to the project under review. (5) In any coastal management program submitted to the appropriate federal agency for its approval pursuant to this act, the department shall specifically waive its right to determine the consistency with the coastal management program of all federally licensed or permitted activities not specifically listed in subsection (3). Section 2. This act shall take effect July 1, 2005. Revises limits on consistency review by the state of certain federal activities, uses, and projects relating to electrical power plants, drilling, mining, pipelines, geological and geophysical activities, and rights-of-way on public lands and deepwater ports under the federal Protection. Creates a presumption that the state has sufficient data to conduct a consistency review of a federal activity when an environmental Protection. Creates a presumption that the state has sufficient data to conduct a consistency review of a federal activity when a nevironmental protection. Creates a presumption that the state has sufficient data to conduct a consistency review of a federal activity when a nevironmental finderally licensed or permitted activities.	6	environmental impact statement that is prepared for a federal
9reqardless of whether the separate project is related or unrelated to the project under review.11(5) In any coastal management program submitted to the appropriate federal agency for its approval pursuant to this act, the department shall specifically waive its right to determine the consistency with the coastal management program of all federally licensed or permitted activities not specifically listed in subsection (3).16Section 2. This act shall take effect July 1, 2005.18*********************************	7	activity, use, or project that is separate from the activity,
10 unrelated to the project under review. 11 (5) In any coastal management program submitted to the 12 appropriate federal agency for its approval pursuant to this 13 act, the department shall specifically waive its right to 14 determine the consistency with the coastal management program 16 gecifically licensed or permitted activities not 17 Section 2. This act shall take effect July 1, 2005. 18 ************************************	8	use, or project that the state is reviewing for consistency,
11 (5) In any coastal management program submitted to the 12 appropriate federal agency for its approval pursuant to this 13 act, the department shall specifically waive its right to 14 determine the consistency with the coastal management program 15 of all federally licensed or permitted activities not 16 specifically listed in subsection (3). 17 Section 2. This act shall take effect July 1, 2005. 18 ************************************	9	regardless of whether the separate project is related or
12 appropriate federal agency for its approval pursuant to this 13 act, the department shall specifically waive its right to 14 determine the consistency with the coastal management program 15 of all federally licensed or permitted activities not 16 specifically listed in subsection (3). 17 Section 2. This act shall take effect July 1, 2005. 18 ************************************	10	unrelated to the project under review.
13 act, the department shall specifically waive its right to 14 determine the consistency with the coastal management program 15 of all federally licensed or permitted activities not 16 specifically listed in subsection (3). 17 Section 2. This act shall take effect July 1, 2005. 18 ************************************	11	(5) In any coastal management program submitted to the
14 determine the consistency with the coastal management program 15 of all federally licensed or permitted activities not 16 specifically listed in subsection (3). 17 Section 2. This act shall take effect July 1, 2005. 18 ************************************	12	appropriate federal agency for its approval pursuant to this
15 of all federally licensed or permitted activities not 16 specifically listed in subsection (3). 17 Section 2. This act shall take effect July 1, 2005. 18 ************************************	13	act, the department shall specifically waive its right to
<pre>16 specifically listed in subsection (3). 17 Section 2. This act shall take effect July 1, 2005. 18 19 ************************************</pre>	14	determine the consistency with the coastal management program
17 Section 2. This act shall take effect July 1, 2005. 18 ************************************	15	of all federally licensed or permitted activities not
18 19 ************************************	16	specifically listed in subsection (3).
<pre>19 19 19 19 19 10 10 10 10 10 10 10 10 10 10 10 10 10</pre>	17	Section 2. This act shall take effect July 1, 2005.
20 SENATE SUMMARY 21 Revises limits on consistency review by the state of 22 certain federal activities, uses, and projects relating 22 to electrical power plants, drilling, mining, pipelines, 23 geological and geophysical activities, and rights-of-way 23 on public lands and deepwater ports under the federal 24 Coastal Zone Management Act. Prohibits state review of 24 certain activities subject to certain federal permits 25 Protection. Creates a presumption that the state has 26 federal activity when an environmental impact statement 27 has been prepared. Eliminates a requirement that the 28 department waive its review of certain federally licensed 29 or permitted activities.	18	
Revises limits on consistency review by the state of certain federal activities, uses, and projects relating to electrical power plants, drilling, mining, pipelines, geological and geophysical activities, and rights-of-way on public lands and deepwater ports under the federal Coastal Zone Management Act. Prohibits state review of errtain activities subject to certain federal permits absent a finding by the Department of Environmental Protection. Creates a presumption that the state has sufficient data to conduct a consistency review of a federal activity when an environmental impact statement has been prepared. Eliminates a requirement that the department waive its review of certain federally licensed or permitted activities.	19	* * * * * * * * * * * * * * * * * * * *
<pre>certain federal activities, uses, and projects relating to electrical power plants, drilling, mining, pipelines, geological and geophysical activities, and rights-of-way on public lands and deepwater ports under the federal Coastal Zone Management Act. Prohibits state review of certain activities subject to certain federal permits absent a finding by the Department of Environmental Protection. Creates a presumption that the state has sufficient data to conduct a consistency review of a federal activity when an environmental impact statement has been prepared. Eliminates a requirement that the department waive its review of certain federally licensed or permitted activities.</pre>	20	SENATE SUMMARY
to electrical power plants, drilling, mining, pipelines, geological and geophysical activities, and rights-of-way on public lands and deepwater ports under the federal Coastal Zone Management Act. Prohibits state review of certain activities subject to certain federal permits absent a finding by the Department of Environmental Protection. Creates a presumption that the state has sufficient data to conduct a consistency review of a federal activity when an environmental impact statement has been prepared. Eliminates a requirement that the department waive its review of certain federally licensed or permitted activities.	21	Revises limits on consistency review by the state of
on public lands and deepwater ports under the federal Coastal Zone Management Act. Prohibits state review of certain activities subject to certain federal permits absent a finding by the Department of Environmental Protection. Creates a presumption that the state has sufficient data to conduct a consistency review of a federal activity when an environmental impact statement has been prepared. Eliminates a requirement that the department waive its review of certain federally licensed or permitted activities.	to electrical power plants, drilling, mining, pipe geological and geophysical activities, and rights on public lands and deepwater ports under the fede Coastal Zone Management Act. Prohibits state rev: certain activities subject to certain federal per absent a finding by the Department of Environmenta Protection. Creates a presumption that the state sufficient data to conduct a consistency review of federal activity when an environmental impact state	to electrical power plants, drilling, mining, pipelines,
certain activities subject to certain federal permits absent a finding by the Department of Environmental Protection. Creates a presumption that the state has sufficient data to conduct a consistency review of a federal activity when an environmental impact statement has been prepared. Eliminates a requirement that the department waive its review of certain federally licensed or permitted activities.		on public lands and deepwater ports under the federal
25 Protection. Creates a presumption that the state has sufficient data to conduct a consistency review of a federal activity when an environmental impact statement has been prepared. Eliminates a requirement that the department waive its review of certain federally licensed or permitted activities. 28 29 30		certain activities subject to certain federal permits
26 federal activity when an environmental impact statement has been prepared. Eliminates a requirement that the department waive its review of certain federally licensed or permitted activities. 28 29 30		Protection. Creates a presumption that the state has
27 department waive its review of certain federally licensed or permitted activities. 28 29 30		federal activity when an environmental impact statement
28 29 30	27	department waive its review of certain federally licensed
30	28	or permitted detivities.
	29	
31	30	
	31	

CODING: Words stricken are deletions; words <u>underlined</u> are additions.