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1 A bill to be entitled
2 An act relating to the Public Service Commission;
3 amending s. 112.324, F.S., relating to the code of
4 conduct for public officers; removing a reference to
5 the Florida Public Service Commission Nominating
6 Council; amending s. 350.001, F.S.; removing a
7 provision for participation by the Governor in the
8 process for selection of members of the commission;
9 amending s. 350.01, F.S.; providing for nonpartisan
10 election of commissioners; providing for commission
11 districts; providing for terms of commissioners;
12 providing for the filling of vacancies on the
13 commission; limiting the number of years a
14 commissioner may serve; requiring the commission to
15 consult with the Public Counsel before ruling on any
16 change of rates; amending s. 350.041, F.S.;
17 prohibiting a commissioner from accepting employment
18 at certain business entities until a specified time
19 after the commissioner has left office; prohibiting a
20 candidate for the office of commissioner from
21 accepting contributions from certain regulated
22 entities; amending ss. 350.042 and 350.043, F.S.;
23 removing references to conform to changes made by the
24 act; amending s. 350.0605, F.S.; revising duties of
25 the Public Counsel; repealing s. 350.031, F.S.,
26 relating to the Florida Public Service Commission
27 Nominating Council; providing effective dates.
28

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

30 |

31 | Section 1. Paragraph (a) of subsection (8) of section
32 | 112.324, Florida Statutes, is amended to read:

33 | 112.324 Procedures on complaints of violations; public
34 | records and meeting exemptions.—

35 | (8) If, in cases pertaining to complaints other than
36 | complaints against impeachable officers or members of the
37 | Legislature, upon completion of a full and final investigation
38 | by the commission, the commission finds that there has been a
39 | violation of this part or of s. 8, Art. II of the State
40 | Constitution, it shall be the duty of the commission to report
41 | its findings and recommend appropriate action to the proper
42 | disciplinary official or body as follows, and such official or
43 | body shall have the power to invoke the penalty provisions of
44 | this part, including the power to order the appropriate
45 | elections official to remove a candidate from the ballot for a
46 | violation of s. 112.3145 or s. 8(a) and (i), Art. II of the
47 | State Constitution:

48 | (a) The President of the Senate and the Speaker of the
49 | House of Representatives, jointly, in any case concerning the
50 | Public Counsel, members of the Public Service Commission,
51 | ~~members of the Public Service Commission Nominating Council,~~ the
52 | Auditor General, or the director of the Office of Program Policy
53 | Analysis and Government Accountability.

54 | Section 2. Section 350.001, Florida Statutes, is amended
55 | to read:

56 | 350.001 Legislative intent.—The Florida Public Service

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57 Commission has been and shall continue to be an arm of the
58 legislative branch of government. The Public Service Commission
59 shall perform its duties independently. ~~It is the desire of the~~
60 ~~Legislature that the Governor participate in the appointment~~
61 ~~process of commissioners to the Public Service Commission. The~~
62 ~~Legislature accordingly delegates to the Governor a limited~~
63 ~~authority with respect to the Public Service Commission by~~
64 ~~authorizing him or her to participate in the selection of~~
65 ~~members only in the manner prescribed by s. 350.031.~~

66 Section 3. Section 350.01, Florida Statutes, is amended to
67 read:

68 350.01 Florida Public Service Commission; election and
69 terms of commissioners; vacancies; election and duties of chair;
70 quorum; proceedings.—

71 (1) The Florida Public Service Commission shall consist of
72 five commissioners elected for terms of 2 years each by the
73 qualified electors of this state voting in nonpartisan elections
74 within each of the following commission districts: ~~appointed~~
75 pursuant to s. 350.031.

76 (a) District one.—One commissioner shall be elected within
77 a district comprising the First Appellate District described in
78 s. 35.02.

79 (b) District two.—One commissioner shall be elected within
80 a district comprising the Second Appellate District described in
81 s. 35.03.

82 (c) District three.—One commissioner shall be elected
83 within a district comprising the Third Appellate District
84 described in s. 35.04.

85 (d) District four.—One commissioner shall be elected
 86 within a district comprising the Fourth Appellate District
 87 described in s. 35.042.

88 (e) District five.—One commissioner shall be elected
 89 within a district comprising the Fifth Appellate District
 90 described in s. 35.043.

91 (2) (a) Each appointed commissioner serving on July 1,
 92 2014, shall remain in office until January 2, 2015, unless the
 93 commissioner vacates the office or is otherwise removed from the
 94 commission before that date. ~~July 1, 1978, shall be permitted to~~
 95 ~~remain in office until the completion of his or her current~~
 96 ~~term. Upon the expiration of the term, a successor shall be~~
 97 ~~appointed in the manner prescribed by s. 350.031 for a 4-year~~
 98 ~~term, except that the terms of the initial members appointed~~
 99 ~~under this act shall be as follows:~~

100 ~~1. The vacancy created by the present term ending in~~
 101 ~~January, 1981, shall be filled by appointment for a 4-year term~~
 102 ~~and for 4-year terms thereafter; and~~

103 ~~2. The vacancies created by the two present terms ending~~
 104 ~~in January, 1979, shall be filled by appointment for a 3-year~~
 105 ~~term and for 4-year terms thereafter.~~

106 ~~(b) Two additional commissioners shall be appointed in the~~
 107 ~~manner prescribed by s. 350.031 for 4-year terms beginning the~~
 108 ~~first Tuesday after the first Monday in January, 1979, and~~
 109 ~~successors shall be appointed for 4-year terms thereafter with~~
 110 ~~each term beginning on January 2 of the year the term commences~~
 111 ~~and ending 4 years later on January 1.~~

112 (b)-(e) Vacancies on the commission shall be filled for the

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113 unexpired portion of the term by appointment by the Governor
114 subject to confirmation by the Senate. ~~in the same manner as~~
115 ~~original appointments to the commission.~~

116 (3) Any person serving on the commission may seek election
117 or reelection to the commission; however, a person may not
118 appear on the ballot for reelection as a commissioner if, by the
119 end of the current term of office, the person will have served,
120 or, but for resignation, would have served, as commissioner for
121 8 or more years, inclusive of service as an elected or ~~who seeks~~
122 ~~to be appointed commissioner or reappointed shall file with the~~
123 ~~nominating council no later than June 1 prior to the year in~~
124 ~~which his or her term expires a statement that he or she desires~~
125 ~~to serve an additional term.~~

126 (4) One member of the commission shall be elected by
127 majority vote to serve as chair for a term of 2 years, beginning
128 on January 2 of the first year of the term. A member may not
129 serve two consecutive terms as chair.

130 (5) The primary duty of the chair is to serve as chief
131 administrative officer of the commission; however, the chair may
132 participate in any proceedings pending before the commission
133 when administrative duties and time permit. In order to
134 distribute the workload and expedite the commission's calendar,
135 the chair, in addition to other administrative duties, has
136 authority to assign the various proceedings pending before the
137 commission requiring hearings to two or more commissioners or to
138 the commission's staff of hearing examiners under the
139 supervision of the office of general counsel. Only those
140 commissioners assigned to a proceeding requiring hearings are

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141 entitled to participate in the final decision of the commission
142 as to that proceeding; however ~~provided~~, if only two
143 commissioners are assigned to a proceeding requiring hearings
144 and cannot agree on a final decision, the chair shall cast the
145 deciding vote for final disposition of the proceeding. If more
146 than two commissioners are assigned to any proceeding, a
147 majority of the members assigned shall constitute a quorum and a
148 majority vote of the members assigned shall be essential to
149 final commission disposition of those proceedings requiring
150 actual participation by the commissioners. If a commissioner
151 becomes unavailable after assignment to a particular proceeding,
152 the chair shall assign a substitute commissioner. In those
153 proceedings assigned to a hearing examiner, after ~~following~~ the
154 conclusion of the hearings, the designated hearing examiner is
155 responsible for preparing recommendations for final disposition
156 by a majority vote of the commission. A petition for
157 reconsideration shall be voted upon by those commissioners
158 participating in the final disposition of the proceeding.

159 (6) A majority of the commissioners may determine that the
160 full commission shall sit in any proceeding. The public counsel
161 or a person regulated by the Public Service Commission and
162 substantially affected by a proceeding may file a petition that
163 the proceeding be assigned to the full commission. Within 15
164 days after ~~of~~ receipt by the commission of any petition or
165 application, the full commission shall dispose of such petition
166 by majority vote and render a written decision thereon before
167 ~~prior to~~ assignment of less than the full commission to a
168 proceeding. In disposing of such petition, the commission shall

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169 consider the overall general public interest and impact of the
170 pending proceeding, including, but not limited to, the following
171 criteria: the magnitude of a rate filing, including the number
172 of customers affected and the total revenues requested; the
173 services rendered to the affected public; the urgency of the
174 requested action; the needs of the consuming public and the
175 utility; value of service involved; the effect on consumer
176 relations, regulatory policies, conservation, economy,
177 competition, public health, and safety of the area involved. If
178 the petition is denied, the commission shall set forth the
179 grounds for denial.

180 (7) This section does not prohibit a commissioner,
181 designated by the chair, from conducting a hearing as provided
182 under ss. 120.569 and 120.57(1) and the rules of the commission
183 adopted pursuant thereto.

184 (8) The commission shall consult with the Public Counsel
185 before ruling on any change of rates for a regulated company as
186 defined in s. 350.111.

187 Section 4. Paragraph (b) of subsection (2) and subsection
188 (3) of section 350.041, Florida Statutes, are amended, and
189 paragraph (j) is added to subsection (2) of that section, to
190 read:

191 350.041 Commissioners; candidates for office of
192 commissioner; standards of conduct.—

193 (2) STANDARDS OF CONDUCT.—

194 (b) A commissioner, during his or her term of office and
195 until the end of 8 years after leaving office as commissioner,
196 may not accept any form of employment with or engage in any

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197 business activity with any business entity which, either
198 directly or indirectly, owns or controls any public utility
199 regulated by the commission, any public utility regulated by the
200 commission, or any business entity which, either directly or
201 indirectly, is an affiliate or subsidiary of any public utility
202 regulated by the commission.

203 (j) A candidate for election to the office of commissioner
204 may not directly or indirectly, through staff or other means,
205 solicit or accept a campaign contribution from a public utility
206 regulated by the commission; from a business entity that,
207 whether directly or indirectly, is an affiliate or subsidiary of
208 any public utility regulated by the commission; or from a party
209 appearing in a proceeding considered by the commission during
210 the previous 2 years.

211 (3) The Commission on Ethics shall accept and investigate
212 any alleged violations of this section pursuant to the
213 procedures contained in ss. 112.322-112.3241. The Commission on
214 Ethics shall provide the Governor and the Florida Public Service
215 Commission Nominating Council with a report of its findings and
216 recommendations. The Governor is authorized to enforce the
217 findings and recommendations of the Commission on Ethics,
218 pursuant to part III of chapter 112. A public service
219 commissioner ~~or a member of the Florida Public Service~~
220 ~~Commission Nominating Council~~ may request an advisory opinion
221 from the Commission on Ethics, pursuant to s. 112.322(3)(a),
222 regarding the standards of conduct or prohibitions set forth in
223 this section and ss. ~~350.031~~, 350.04~~7~~, and 350.042.

224 Section 5. Paragraph (b) of subsection (7) of section

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225 350.042, Florida Statutes, is amended to read:

226 350.042 Ex parte communications.—

227 (7)

228 (b) If the Commission on Ethics finds that there has been
 229 a violation of this section by a public service commissioner, it
 230 shall provide the Governor ~~and the Florida Public Service~~
 231 ~~Commission Nominating Council~~ with a report of its findings and
 232 recommendations. The Governor is authorized to enforce the
 233 findings and recommendations of the Commission on Ethics,
 234 pursuant to part III of chapter 112.

235 Section 6. Section 350.043, Florida Statutes, is amended
 236 to read:

237 350.043 Enforcement and interpretation.—Any violation of
 238 ~~s. 350.031~~, s. 350.04, s. 350.041, s. 350.042, or s. 350.0605 by
 239 a commissioner, former commissioner, or former employee, ~~or~~
 240 ~~Public Service Commission Nominating Council member~~ shall be
 241 punishable as provided in ss. 112.317 and 112.324. The
 242 Commission on Ethics is hereby given the power and authority to
 243 investigate complaints of violation of this chapter in the
 244 manner provided in part III of chapter 112, as if this section
 245 were included in that part. A commissioner may request an
 246 advisory opinion from the Commission on Ethics as provided by s.
 247 112.322 (3) (a).

248 Section 7. Subsection (3) of section 350.0605, Florida
 249 Statutes, is amended to read:

250 350.0605 Former commissioners and employees;
 251 representation of clients before commission.—

252 (3) For a period of 8 ~~2~~ years following termination of

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253 service on the commission, a former member may not accept
254 employment by or compensation from a business entity which,
255 directly or indirectly, owns or controls a public utility
256 regulated by the commission, from a public utility regulated by
257 the commission, from a business entity which, directly or
258 indirectly, is an affiliate or subsidiary of a public utility
259 regulated by the commission or is an actual business competitor
260 of a local exchange company or public utility regulated by the
261 commission and is otherwise exempt from regulation by the
262 commission under ss. 364.02(13) and 366.02(1), or from a
263 business entity or trade association that has been a party to a
264 commission proceeding within the 2 years preceding the member's
265 termination of service on the commission. ~~This subsection~~
266 ~~applies only to members of the Florida Public Service Commission~~
267 ~~who are appointed or reappointed after May 10, 1993.~~

268 Section 8. Section 350.0611, Florida Statutes, is amended
269 to read:

270 350.0611 Public Counsel; duties and powers.—In addition to
271 consultation with the commission regarding rate changes pursuant
272 to s. 350.01, it is shall be the duty of the Public Counsel to
273 provide legal representation for the people of the state in
274 proceedings before the commission and in proceedings before
275 counties pursuant to s. 367.171(8). The Public Counsel shall
276 have such powers as are necessary to carry out the duties of his
277 or her office, including, but not limited to, the following
278 specific powers:

279 (1) To recommend to the commission or the counties, by
280 petition, the commencement of any proceeding or action or to

281 appear, in the name of the state or its citizens, in any
282 proceeding or action before the commission or the counties and
283 urge therein any position which he or she deems to be in the
284 public interest, whether consistent or inconsistent with
285 positions previously adopted by the commission or the counties,
286 and utilize therein all forms of discovery available to
287 attorneys in civil actions generally, subject to protective
288 orders of the commission or the counties which shall be
289 reviewable by summary procedure in the circuit courts of this
290 state;

291 (2) To have access to and use of all files, records, and
292 data of the commission or the counties available to any other
293 attorney representing parties in a proceeding before the
294 commission or the counties;

295 (3) In any proceeding in which he or she has participated
296 as a party, to seek review of any determination, finding, or
297 order of the commission or the counties, or of any hearing
298 examiner designated by the commission or the counties, in the
299 name of the state or its citizens;

300 (4) To prepare and issue reports, recommendations, and
301 proposed orders to the commission, the Governor, and the
302 Legislature on any matter or subject within the jurisdiction of
303 the commission, and to make such recommendations as he or she
304 deems appropriate for legislation relative to commission
305 procedures, rules, jurisdiction, personnel, and functions; and

306 (5) To appear before other state agencies, federal
307 agencies, and state and federal courts in connection with
308 matters under the jurisdiction of the commission, in the name of

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309 | the state or its citizens.

310 | Section 9. Effective January 1, 2015, section 350.031,
311 | Florida Statutes, is repealed.

312 | Section 10. Except as otherwise expressly provided in this
313 | act, this act shall take effect July 1, 2013.