

1                                   A bill to be entitled  
 2           An act relating to the Florida Public Service  
 3           Commission; amending s. 350.01, F.S.; requiring the  
 4           Governor to select a member of the commission to serve  
 5           as chair; prohibiting the Governor from selecting the  
 6           same chair for two consecutive terms; amending s.  
 7           350.042, F.S.; prohibiting certain ex parte  
 8           communications between public service commissioners  
 9           and other individuals under certain circumstances;  
 10          amending s. 366.041, F.S.; prohibiting a utility from  
 11          recovering expenses associated with the exploration,  
 12          production, or drilling of oil or natural gas;  
 13          amending s. 366.06, F.S.; prohibiting the commission  
 14          from authorizing the recovery of costs associated with  
 15          the exploration, production, or drilling of oil or  
 16          natural gas; providing an effective date.

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

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 20           Section 1. Subsection (4) of section 350.01, Florida  
 21           Statutes, is amended to read:

22           350.01 Florida Public Service Commission; terms of  
 23           commissioners; vacancies; selection ~~election~~ and duties of  
 24           chair; quorum; proceedings.—

25           (4) The Governor shall select one member of the commission  
 26           ~~shall be elected by majority vote~~ to serve as chair for a term

27 | of 2 years, beginning on January 2 of the first year of the  
28 | term. The Governor may not select a member to ~~may not~~ serve two  
29 | consecutive terms as chair.

30 |       Section 2. Section 350.042, Florida Statutes, is amended  
31 | to read:

32 |       350.042 Ex parte communications.—

33 |       (1) A commissioner should accord to every person who is  
34 | legally interested in a proceeding, or the person's lawyer, full  
35 | right to be heard according to law, and, except as authorized by  
36 | law, shall neither initiate nor consider ex parte communications  
37 | concerning the merits, threat, or offer of reward in any  
38 | proceeding other than a proceeding under s. 120.54 or s.  
39 | 120.565, workshops, or internal affairs meetings. No individual  
40 | shall discuss ex parte with a commissioner the merits of any  
41 | issue that he or she reasonably expects ~~knows~~ will be filed with  
42 | the commission within 90 days or that has a reasonable  
43 | likelihood of coming before the commission, including at a  
44 | workshop or internal affairs meeting, in the foreseeable future.  
45 | The provisions of this subsection shall not apply to commission  
46 | staff.

47 |       (2) The provisions of this section shall not prohibit an  
48 | individual residential ratepayer from communicating with a  
49 | commissioner, provided that the ratepayer is representing only  
50 | himself or herself, without compensation.

51 |       (3) This section shall not apply to oral communications or  
52 | discussions in scheduled and noticed open public meetings of

53 | educational programs or of a conference or other meeting of an  
54 | association of regulatory agencies.

55 |       (4) If a commissioner knowingly receives an ex parte  
56 | communication relative to a proceeding other than as set forth  
57 | in subsection (1), to which he or she is assigned, he or she  
58 | must place on the record of the proceeding copies of all written  
59 | communications received, all written responses to the  
60 | communications, and a memorandum stating the substance of all  
61 | oral communications received and all oral responses made, and  
62 | shall give written notice to all parties to the communication  
63 | that such matters have been placed on the record. Any party who  
64 | desires to respond to an ex parte communication may do so. The  
65 | response must be received by the commission within 10 days after  
66 | receiving notice that the ex parte communication has been placed  
67 | on the record. The commissioner may, if he or she deems it  
68 | necessary to eliminate the effect of an ex parte communication  
69 | received by him or her, withdraw from the proceeding, in which  
70 | case the chair shall substitute another commissioner for the  
71 | proceeding.

72 |       (5) Any individual who makes an ex parte communication  
73 | shall submit to the commission a written statement describing  
74 | the nature of such communication, to include the name of the  
75 | person making the communication, the name of the commissioner or  
76 | commissioners receiving the communication, copies of all written  
77 | communications made, all written responses to such  
78 | communications, and a memorandum stating the substance of all

79 oral communications received and all oral responses made. The  
80 commission shall place on the record of a proceeding all such  
81 communications.

82 (6) Any commissioner who knowingly fails to place on the  
83 record any such communications, in violation of the section,  
84 within 15 days of the date of such communication is subject to  
85 removal and may be assessed a civil penalty not to exceed  
86 \$5,000.

87 (7) (a) It shall be the duty of the Commission on Ethics to  
88 receive and investigate sworn complaints of violations of this  
89 section pursuant to the procedures contained in ss. 112.322-  
90 112.3241.

91 (b) If the Commission on Ethics finds that there has been  
92 a violation of this section by a public service commissioner, it  
93 shall provide the Governor and the Florida Public Service  
94 Commission Nominating Council with a report of its findings and  
95 recommendations. The Governor is authorized to enforce the  
96 findings and recommendations of the Commission on Ethics,  
97 pursuant to part III of chapter 112.

98 (c) If a commissioner fails or refuses to pay the  
99 Commission on Ethics any civil penalties assessed pursuant to  
100 the provisions of this section, the Commission on Ethics may  
101 bring an action in any circuit court to enforce such penalty.

102 (d) If, during the course of an investigation by the  
103 Commission on Ethics into an alleged violation of this section,  
104 allegations are made as to the identity of the person who

105 participated in the ex parte communication, that person must be  
106 given notice and an opportunity to participate in the  
107 investigation and relevant proceedings to present a defense. If  
108 the Commission on Ethics determines that the person participated  
109 in the ex parte communication, the person may not appear before  
110 the commission or otherwise represent anyone before the  
111 commission for a period of 2 years.

112 Section 3. Subsection (5) is added to section 366.041,  
113 Florida Statutes, to read:

114 366.041 Rate fixing; adequacy of facilities as criterion.—

115 (5) Notwithstanding any other provision of law, a public  
116 utility may not recover from customers, directly or indirectly,  
117 charges or expenses incurred by the utility in exploring,  
118 gathering, drilling, or otherwise producing oil or natural gas.

119 Section 4. Subsection (1) of section 366.06, Florida  
120 Statutes, is amended to read:

121 366.06 Rates; procedure for fixing and changing.—

122 (1) A public utility shall not, directly or indirectly,  
123 charge or receive any rate not on file with the commission for  
124 the particular class of service involved, and no change shall be  
125 made in any schedule. All applications for changes in rates  
126 shall be made to the commission in writing under rules and  
127 regulations prescribed, and the commission shall have the  
128 authority to determine and fix fair, just, and reasonable rates  
129 that may be requested, demanded, charged, or collected by any  
130 public utility for its service, except that the commission may

131 | not authorize the recovery of charges or expenses incurred by  
132 | the public utility, directly or indirectly, in exploring,  
133 | gathering, drilling, or otherwise producing oil or natural gas.  
134 | The commission shall investigate and determine the actual  
135 | legitimate costs of the property of each utility company,  
136 | actually used and useful in the public service, and shall keep a  
137 | current record of the net investment of each public utility  
138 | company in such property which value, as determined by the  
139 | commission, shall be used for ratemaking purposes and shall be  
140 | the money honestly and prudently invested by the public utility  
141 | company in such property used and useful in serving the public,  
142 | less accrued depreciation, and shall not include any goodwill or  
143 | going-concern value or franchise value in excess of payment made  
144 | therefor. In fixing fair, just, and reasonable rates for each  
145 | customer class, the commission shall, to the extent practicable,  
146 | consider the cost of providing service to the class, as well as  
147 | the rate history, value of service, and experience of the public  
148 | utility; the consumption and load characteristics of the various  
149 | classes of customers; and public acceptance of rate structures.  
150 |       Section 5. This act shall take effect July 1, 2015.