

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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**BILL:** CS/SB 196

**INTRODUCER:** Innovation, Industry, and Technology Committee and Senator Powell

**SUBJECT:** Office of Public Counsel

**DATE:** March 25, 2019      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
2.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 196 establishes a four-year term for the Public Counsel beginning January 15, 2021. The bill clarifies that the Public Counsel continues to serve at the pleasure of the joint committee in that the committee can remove the Public Counsel with a majority vote of the committee appointees of each house.

The bill requires the joint committee to receive applications, conduct interviews, and appoint a Public Counsel to a four-year term beginning on January 15, 2021, and every four years thereafter. A Public Counsel may continue in office beyond the four-year limit until his or her successor is appointed and takes office, unless he or she was removed by the committee. In no event may a person serve as the Public Counsel for more than 12 consecutive years.

The bill takes effect July 1, 2019.

**II. Present Situation:**

The Joint Committee on Public Counsel Oversight is a standing joint committee established by the Joint Rules of the Florida Legislature.<sup>1</sup> No fewer than five and no more than seven members

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<sup>1</sup> Joint Rule 4.1(1)(b), Joint Rules of the Florida Legislature.

of each house must be appointed to serve on the joint committee.<sup>2</sup> The joint committee has the authority to appoint a Public Counsel.<sup>3</sup>

The Public Counsel must be an attorney admitted to practice before the Florida Supreme Court. The Public Counsel is appointed by the joint committee and serves at the pleasure of the joint committee, subject to biennial reconfirmation.<sup>4</sup>

The Public Counsel has the statutory duty to provide legal representation for the people of the state in proceedings before the Florida Public Service Commission and in proceedings concerning a water or wastewater utility before counties that have opted out of PSC jurisdiction over such utilities.<sup>5</sup>

The Public Counsel is under the legislative branch, and the Governor has no power to release or withhold funds appropriated to it or to determine the number, or fix the compensation, of the employees of the Public Counsel or to exercise any control over them.<sup>6</sup>

The Public Counsel is appointed by and serves at the pleasure of the committee, and is subject to biennial reconfirmation. Vacancies in the office are to be filled in the same manner as the original appointment. The Public Counsel is to perform his or her duties independently.<sup>7</sup>

### **III. Effect of Proposed Changes:**

The bill establishes a four-year term for the Public Counsel beginning January 15, 2021. The bill clarifies that the Public Counsel continues to serve at the pleasure of the joint committee in that the committee can remove the Public Counsel with a majority vote of the committee appointees of each house.

The bill requires the joint committee to receive applications, conduct interviews, and appoint a Public Counsel to a four-year term beginning on January 15, 2021, and every four years thereafter. A Public Counsel may continue in office beyond the four-year limit until his or her successor is appointed and takes office, unless he or she was removed by the committee. In no event may a person serve as the Public Counsel for more than 12 consecutive years.

The bill takes effect July 1, 2019.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

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<sup>2</sup> Joint Rule 4.1(3), Joint Rules of the Florida Legislature.

<sup>3</sup> Joint Rule 4.7, Joint Rules of the Florida Legislature, and s. 350.061, F.S.

<sup>4</sup> Section 350.061(1), F.S.

<sup>5</sup> Section 350.0611, F.S.

<sup>6</sup> Section 350.0614, F.S.

<sup>7</sup> Section 350.061, F.S.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 350.061 of the Florida Statutes.

**IX. Additional Information:**

- A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Innovation, industry, and Technology on March 19, 2019:**  
The committee substitute:

- Clarifies that the joint committee may remove an incumbent Public Counsel by majority vote of the committee appointees of each house (current law says the Public Counsel serves at the pleasure of the joint committee);
- Allows a sitting Public Counsel to continue to serve beyond the newly-created four-year term until the committee appoints a successor and the successor takes office; and
- Makes stylistic changes in structure and wording.

B. Amendments:

None.