

CS/SB 288 by **CU, Latvala**; (Similar to H 0219) Utilities Regulation

307024	A	S	RCS	CU, Dean	btw L.56 - 57:	04/08 08:59 AM
291948	A	S	RCS	CU, Garcia	btw L.291 - 292:	04/08 08:59 AM

SB 1022 by **Gibson**; (Identical to H 0929) Wireless Communications Devices

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
COMMUNICATIONS, ENERGY, AND PUBLIC UTILITIES
Senator Grimsley, Chair
Senator Hukill, Vice Chair

MEETING DATE: Tuesday, April 7, 2015
TIME: 4:00 —6:00 p.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Grimsley, Chair; Senator Hukill, Vice Chair; Senators Abruzzo, Bradley, Dean, Evers, Garcia, Gibson, and Sachs

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 288 Communications, Energy, and Public Utilities / Latvala (Similar H 219, H 7109)	Utilities Regulation; Requiring the Florida Public Service Commission to hold public customer service meetings in certain service territories; requiring a person who lobbies a member of the Florida Public Service Commission Nominating Council to register as a lobbyist; requiring the Governor to remove from office any commissioner found to have willfully and knowingly violated the ex parte communications statute; requiring that money received by a utility for the development of demand-side renewable energy systems be used solely for that purpose, etc. CU 02/17/2015 Fav/CS CU 04/07/2015 Fav/CS AP	Fav/CS Yeas 8 Nays 0
2	SB 1022 Gibson (Identical H 929)	Wireless Communications Devices; Prohibiting a person from operating a motor vehicle while dialing, or talking or listening on, a wireless communications device for the purpose of interpersonal communication or while using a wireless communications device to view or post an electronic message or initiate a command to the Internet; requiring the Department of Transportation to notify the motoring public about the Florida Ban on Handheld Wireless Communications While Driving Law, etc. CU 04/07/2015 Favorable TR ATD FP	Favorable Yeas 7 Nays 1

Other Related Meeting Documents

SUMMARY OF AMENDMENTS
TO
CS/SB 288

Amendment # 1

By Senator Dean

Barcode 307024

Between lines 56 and 57

The amendment limits a commissioner appointed after July 1, 2015, to serving not more than three consecutive terms.

Amendment # 2

By Senator Garcia

Barcode 291948

Between lines 291 and 292

The amendment is based on s. 366.8260, F.S., which was enacted following the severe tropical storm seasons of 2004 and 2005, to create a new financing mechanism, referred to as securitization, by which investor-owned electric utilities could petition the Public Service Commission for issuance of a financing order authorizing the utility to issue bonds through a separate legal entity. A financing order would establish a nonbypassable charge to the utility's customers to provide a secure stream of revenues to the separate legal entity from which the bonds would be paid. This securitized revenue stream would allow the utilities access to low-cost financing to cover storm recovery costs and replenish depleted storm reserve funds. The reduced interest rates would result in savings to the utilities ratepayers. This mechanism has been used only once.¹

The amendment authorizes an electric utility to recover "nuclear asset recovery costs"² by issuing bonds to obtain funding to pay those costs. The bonds would be paid through charging and collecting a "nuclear asset recovery charge"³ from the utility's customers. The "financing costs"⁴ would be added to the charge. The right to bill and collect the authorized charges and to have all resulting revenues constitutes "nuclear asset recovery property."⁵ The utility may transfer the nuclear asset recovery property to an assignee.⁶

¹ Docket No. 060038-EI, Florida Public Service Commission.

² The bill defines "nuclear asset recovery costs" as pretax costs that an electric utility has incurred or expects to incur which are caused by, associated with, or remain as a result of the early retirement or abandonment of a nuclear generating asset unit that generated electricity and is located in this state where such early retirement or abandonment is deemed to be reasonable and prudent by the commission through a final order approving a settlement or other final order issued by the commission before July 1, 2017, and where the pretax costs to be securitized exceed \$750 million at the time of the filing of the petition. Such pretax costs, where determined appropriate by the commission, include, but are not limited to, the capitalized cost of the retired or abandoned nuclear generating asset unit, other applicable capital and operating costs, accrued carrying charges, deferred expenses, reductions for applicable insurance and salvage proceeds and previously stipulated write-downs or write-offs, if any, and the costs of retiring any existing indebtedness, fees, costs, and expenses to modify existing debt agreements or for waivers or consents related to existing debt agreements. Costs eligible or claimed for recovery pursuant to s. 366.93 are not eligible for securitization under this section unless they were in the electric utility's rate base and were included in base rates before retirement or abandonment.

³ A "nuclear asset recovery charge" is the charge authorized by the commission to repay nuclear asset recovery costs and financing costs. It is imposed on and part of all customer bills as a separate, nonbypassable charge.

⁴ The term "financing costs" includes:

- Interest and acquisition, defeasance, or redemption premiums that are payable on nuclear asset recovery bonds;
- Any payment required under an ancillary agreement and any amount required to fund or replenish a reserve account or other accounts established under the terms of any indenture, ancillary agreement, or other financing documents pertaining to the bonds;
- Any other cost related to issuing, supporting, repaying, refunding, and servicing the bonds, including, but not limited to, servicing fees, accounting and auditing fees, trustee fees, legal fees, consulting fees, financial advisor fees, administrative fees, placement and underwriting fees, capitalized interest, rating agency fees, stock exchange listing and compliance fees, security registration fees, filing fees, information technology programming costs, and any other costs necessary to otherwise ensure the timely payment of the bonds or other amounts or charges payable in connection with the bonds, including costs related to obtaining the financing order;
- Any taxes and license fees imposed on the revenues generated from the collection of the nuclear asset recovery charge;
- Any state and local taxes, franchise, gross receipts, and other taxes or similar charges, including but not limited to, regulatory assessment fees, in any such case whether paid, payable, or accrued; and
- Any costs that are incurred by the commission for any outside consultants or counsel.

⁵ The term "nuclear asset recovery property" means:

- All rights and interests of an electric utility or successor or assignee under a financing order, including the right to impose, bill, collect, and receive nuclear asset recovery charges as authorized in the financing order and to obtain periodic adjustments to such charges as provided in the financing order; and
- All revenues, collections, claims, rights to payments, payments, money, or proceeds arising from the rights and interests, regardless of whether such revenues, collections, claims, rights to payment, payments, money, or proceeds are imposed, billed, received, collected, or maintained together with or commingled with other revenues, collections, rights to payment, payments, money, or proceeds.

More specifically, the electric utility would petition the Public Service Commission (PSC or commission) for a financing order. In the petition, the utility must:

- Describe the total nuclear asset recovery costs;
- Indicate whether the utility proposes to finance all or a portion of the nuclear asset recovery costs using securitized bonds, and if only a portion of the total costs will be recovered through bonds, identify that portion;
- Estimate the financing costs;
- Estimate the nuclear asset recovery charges necessary to recover the nuclear asset recovery costs and financing costs and the period for recovery of such costs;
- Estimate any projected cost savings, based on current market conditions, or demonstrate how the issuance of the securitized bonds and the imposition of nuclear asset recovery charges would avoid or significantly mitigate rate impacts to customers as compared with the traditional method of financing and recovering nuclear asset recovery costs from customers;
- Demonstrate that securitization has a significant likelihood of resulting in lower overall costs or would avoid or significantly mitigate rate impacts compared to traditional cost recovery; and
- File with the petition direct testimony supporting the petition.

Within 7 days after the filing of a petition, the PSC must publish a case schedule which will permit the it to make a decision no later than 120 days after the date the petition is filed. No later than 135 days after the date the petition is filed, the commission must issue either a financing order or an order rejecting the petition. The commission must issue a financing order authorizing financing of reasonable and prudent nuclear asset recovery costs and financing costs if it finds that the issuance of the nuclear asset recovery bonds will have a significant likelihood of resulting in lower overall costs or would avoid or significantly mitigate rate impacts to customers as compared with the traditional method of financing and recovering nuclear asset recovery costs.

A financing order issued by the commission must:

- Specify the amount of nuclear asset recovery costs to be financed using securitized bonds; describe and estimate the amount of financing costs which may be recovered through nuclear asset recovery charges; and specify the period over which such costs may be recovered;
- Determine if the proposed structuring, expected pricing, and financing costs have a significant likelihood of resulting in lower overall costs or would avoid or significantly mitigate rate impacts to customers as compared with the traditional method of financing and recovering nuclear asset recovery costs, and provide detailed findings of fact addressing cost-effectiveness and associated rate impacts upon retail customers and retail customer classes;
- Provide that, for a specified period, the nuclear asset recovery charges authorized in the financing order shall be nonbypassable and must be paid by all existing and future customers receiving transmission or distribution service from the electric utility or its successors or assignees, even if the customer elects to purchase electricity from an alternative electric supplier including following a fundamental change in regulation of public utilities in the state;
- Include a formula-based true-up mechanism for making expeditious periodic adjustments in the nuclear asset recovery charges that are necessary to correct for any overcollection or undercollection of the charges;

⁶ “Assignee” is defined to mean any entity, including, but not limited to, a corporation, limited liability company, partnership or limited partnership, public authority, trust, financing entity, or other legally recognized entity to which an electric utility assigns, sells, or transfers, other than as security, all or a portion of its interest in or right to nuclear asset recovery property. The term also includes any entity to which an assignee assigns, sells, or transfers, other than as security, its interest in or right to nuclear asset recovery property. Subparagraph 366.95(5)(a)3. provides that all or any portion of nuclear asset recovery property may be transferred, sold, conveyed, or assigned to a successor or assignee, that is wholly owned, directly or indirectly, by the electric utility, created for the limited purpose of acquiring, owning, or administering nuclear asset recovery property or issuing nuclear asset recovery bonds. This appears to limit the initial transfer of the nuclear asset recovery property to a subsidiary or affiliate company.

- Specify the nuclear asset recovery property that is, or will be, created in favor of the electric utility or its successors or assignees and that will be used to pay or secure the nuclear asset recovery bonds;
- Specify the degree of flexibility to be afforded to the utility in establishing the terms and conditions of the bonds, including, but not limited to, repayment schedules, expected interest rates, and other financing costs;
- Provide that nuclear asset recovery charges must be allocated to the customer classes using the criteria set out in s. 366.06(1), F.S.,⁷ in the manner in which these costs or their equivalent were allocated in the cost-of-service study approved in connection with the electric utility's last rate case. If the electric utility's last rate case was resolved by a settlement agreement, the cost-of-service methodology adopted in the settlement agreement is to be used;
- Provide that, after the final terms of an issuance of nuclear asset recovery bonds have been established and prior to the issuance of nuclear asset recovery bonds, the electric utility must determine the resulting initial nuclear asset recovery charge in accordance with the financing order and the initial nuclear asset recovery charge is final and effective upon the issuance of the securitized bonds without further commission action so long as the charge is consistent with the financing order; and
- Include any other conditions that the PSC considers appropriate and that are authorized by this section.

If the commission issues a financing order and bonds are issued, the electric utility or its assignee must file with the commission at least biannually a petition or a letter applying the formula-based true-up mechanism and, based on estimates of consumption for each rate class and other factors, requesting administrative approval to make necessary adjustments. Review of the request is limited to determining whether there is any error in the application of the formula-based mechanism relating to the amount of any overcollection or undercollection or in the amount of an adjustment.

Within 120 days after the issuance of nuclear asset recovery bonds, the electric utility must file with the PSC information on the actual costs of the bond issuance. The PSC must review the information to determine if the costs incurred in the issuance of the bonds resulted in the lowest overall costs that were reasonably consistent with market conditions at the time of the issuance and the terms of the financing order. The commission may disallow any incremental issuance costs in excess of the lowest overall costs by requiring the utility to make a credit to the capacity cost recovery clause in an amount equal to the excess of actual issuance costs incurred, and paid for out of bond proceeds, and the lowest overall issuance costs as determined by the commission. The commission may not make adjustments to the nuclear asset recovery charges for any excess issuance costs. The apparent effect of this is that while the amount of the charges remains the same, the ratepayers get a refund through the credit to the capacity cost recovery clause, which reduces the amount that ratepayers must pay.

Subsequent to the earlier of the transfer of nuclear asset recovery property to an assignee or the issuance of nuclear asset recovery bonds, a financing order is irrevocable and the commission may not, other than the true-up process, amend, modify, or terminate the financing order by any subsequent action or reduce, impair, postpone, terminate, or otherwise adjust nuclear asset recovery charges.

After the issuance of a financing order, the electric utility retains sole discretion regarding whether to assign, sell, or otherwise transfer nuclear asset recovery property or to cause nuclear asset recovery bonds to be issued. If the electric utility decides not to cause bonds to be issued the electric utility may not recover financing costs from ratepayers.

Within 30 days after the commission issues a financing order or another final order, an adversely affected party may petition for judicial review in the Florida Supreme Court. The Court must hear and determine the action as

⁷ This statute states that in fixing fair, just, and reasonable rates for each customer class, the commission shall, to the extent practicable, consider the cost of providing service to the class, as well as the rate history, value of service, and experience of the public utility; the consumption and load characteristics of the various classes of customers; and public acceptance of rate structures.

expeditiously as practicable and give the action precedence over other matters not accorded similar precedence by law.

A financing order remains in effect and all nuclear asset recovery property continues to exist until the nuclear asset recovery bonds have been paid in full and all financing costs have been recovered in full. A financing order remains in effect and unabated notwithstanding the reorganization, bankruptcy, or other insolvency proceedings, or merger, or sale of the electric utility or its successors or assignees.

An electric utility that has issued nuclear asset recovery bonds must disclose on its bills that portion of the charges on the bill which represents nuclear asset recovery charges and, if the nuclear asset recovery property has been transferred to an assignee, must include a statement that the assignee is the owner of the rights to the nuclear asset recovery charges and that the electric utility is acting as a collection agent for the assignee. The applicable tariff also must indicate the nuclear asset recovery charge and the ownership of that charge.

If an electric utility defaults on any payment of nuclear asset recovery charges, a court, upon application by an interested party, and without limiting any other remedies available to the applying party, must order the sequestration and payment of the revenues arising from the nuclear asset recovery property.

Any successor to an electric utility, whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any merger or acquisition, sale, or other business combination, or transfer by operation of law, as a result of electric utility restructuring or otherwise, must perform and satisfy all obligations of, and have the same rights under a financing order as, the electric utility, including collecting and paying to the person entitled to receive the revenues, collections, payments, or proceeds of the nuclear asset recovery property.

A valid, enforceable, and attached security interest is perfected against third parties as of the date of filing of a financing statement in the Florida Secured Transaction Registry and thereafter is a continuously perfected lien. The security interest in the nuclear asset recovery property and all proceeds of the nuclear asset recovery property, whether billed, accrued, or collected, and whether deposited into a deposit account and however evidenced, have priority and take precedence over any subsequent judicial or other lien creditor.

If a default or termination occurs under the terms of the nuclear asset recovery bonds, the financing parties⁸ or their representatives may foreclose on or otherwise enforce their lien and security interest in any nuclear asset recovery property as if they were a secured party under Article 9 of the Uniform Commercial Code; and a court may order that amounts arising from nuclear asset recovery property be transferred to a separate account for the financing parties' benefit. On application by or on behalf of the financing parties to a circuit court of this state, the court must order the sequestration and payment to the financing parties of revenues arising from the nuclear asset recovery property.

The bill sets out a "state pledge" that the state will not:

- Alter the provisions of this section which make the nuclear asset recovery charges irrevocable, binding, and nonbypassable charges;
- Take or permit any action that impairs or would impair the value of nuclear asset recovery property or revises authorized nuclear asset recovery costs; or
- Except as allowed under this section, reduce, alter, or impair nuclear asset recovery charges that are to be imposed, collected, and remitted for the benefit of the bondholders and other financing parties until all principal, interest, premium, financing costs and other fees, expenses, or charges incurred, and any contracts to be performed, in connection with the nuclear asset recovery bonds have been paid and performed in full.

⁸ "Financing Party" means any and all of the following; holders of Nuclear Asset Recovery Bonds and trustees, collateral agents, any party under an Ancillary Agreement, or any other persons acting for the benefit of holders of nuclear asset recovery bonds.

If an electric utility violates this section or a financing order, it is subject to penalties under s. 366.095, F.S.,⁹ and to any other penalties or remedies that the commission determines are necessary. If the commission orders a penalty or a remedy for a violation, the monetary penalty or remedy and the costs of defending against the proposed penalty or remedy may not be recovered from the ratepayers.

⁹ This statute authorizes the commission to impose upon a utility that is found to have refused to comply with or to have willfully violated any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the commission. Each day that such refusal or violation continues shall constitute a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien.

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.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: CS/CS/SB 288

INTRODUCER: Communications, Energy, and Public Utilities Committee, Communications, Energy, and Public Utilities Committee, and Senator Latvala

SUBJECT: Utilities Regulation

DATE: April 7, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Fav/CS
2.	Wiehle	Caldwell	CU	Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 288:

- Creates a process by which an electric utility may seek to recover nuclear asset recovery costs by issuing bonds to obtain funding to pay those costs, with the bonds paid through charging and collecting a nuclear asset recovery charge, and that dedicated revenue stream is used to securitize the bonds to obtain a lower interest rate;
- Creates a term limit of three consecutive terms for PSC Commissioners appointed after July 1, 2015;
- Requires the Florida Public Service Commission (PSC or commission) to meet in utilities' service territories and to stream all meetings live;
- Requires a person who lobbies the Florida Public Service Commission Nominating Council to register as a legislative lobbyist;
- Requires each PSC commissioner to complete annual ethics training;
- Expands the existing ex parte prohibition to all meetings and educational conferences;
- If the Public Counsel participated as a party in the relevant PSC proceeding as a party and is not a party to a settlement agreement, prohibits submission of the settlement agreement to the PSC and prohibits the PSC from approving the settlement agreement;
- Prohibits imposing a higher rate for increased electricity use which is due solely to an extended billing period;

- Establishes a limitation on the total deposit that may be demanded from an electricity customer;
- Requires each utility to assist customers in getting the most advantageous rate;
- Requires the Commission to approve all tariffs and tariff changes; and
- Requires that money received for demand-side renewable energy be used for that purpose.

II. Present Situation:

In recent months, a number of complaints have arisen against regulated electric utilities and involving the PSC. The following is both general background information and background information specific to individual complaints.

Florida Public Service Commission

Appointment

The Florida Public Service Commission (PSC or commission) is a five-member body that has economic regulation authority over electric and water utilities that meet specified criteria. The members are appointed to four-year terms.¹ Appointment is a three-step process:

- applicants are interviewed by the Florida Public Service Commission Nominating Council, which must nominate to the Governor no fewer than three persons for each vacancy;
- the Governor selects one of the nominated applicants for appointment to each vacant position; and
- each appointee is then subject to confirmation by the Senate.²

The Florida Public Service Commission Nominating Council (council) is a 12-member panel with:

- Six members appointed by and serving at the pleasure of the President of the Senate, including three members of the Senate, one of whom must be a member of the minority party, and
- Six members appointed by and serving at the pleasure of the Speaker of the House of Representatives, including three members of the House of Representatives, one of whom must be a member of the minority party.

Council members have four-year terms, except that legislator members serve two-year terms concurrent with the two-year elected terms of House members. Council meetings are subject to public records and public meetings law.

PSC Jurisdiction

With electric utilities, the commission has economic regulation authority over each “public utility,” which is defined to mean every person or legal entity supplying electricity to or for the public within this state, but to expressly exclude both a rural electric cooperative and a municipality or any agency thereof.³

¹ Section 350.01, F.S.

² Section 350.031, F.S.

³ Section 366.02(1), F.S.

For water and wastewater utilities, the statutes grant the commission exclusive jurisdiction over each utility with respect to its authority, service, and rates.⁴ However, after 10 continuous years under the jurisdiction of the commission, a county can opt-out of commission jurisdiction by resolution or ordinance, in which case, the county regulates the rates of all utilities in within its boundaries.⁵ The commission has exclusive jurisdiction over all utility systems whose service transverses county boundaries, whether the counties involved are jurisdictional or nonjurisdictional, except for utility systems that are subject to, and remain subject to, interlocal utility agreements in effect as of January 1, 1991, that create a single governmental authority to regulate the utility systems whose service transverses county boundaries. The commission has jurisdiction in 37 counties and counties have jurisdiction in 30 counties.⁶ Jurisdiction is divided as listed in the following table.

Jurisdictional Counties (37)	Non-Jurisdictional Counties (30)
Alachua	Baker
Bradford	Bay
Brevard	Calhoun
Broward	Citrus
Charlotte	Collier
Clay	Columbia
Duval	Dade
Escambia	Desoto
Franklin	Dixie
Gadsden	Flagler
Gulf	Gilchrist
Hardee	Glades
Highlands	Hamilton
Jackson	Hendry
Lake	Hernando
Lee	Hillsborough
Levy	Holmes
Manatee	Indian River
Marion	Jefferson
Martin	Lafayette
Monroe	Leon
Nassau	Liberty
Okaloosa	Madison
Okeechobee	Santa Rosa
Orange	Sarasota
Osceola	Suwanee
Palm Beach	Taylor
Pasco	Union
Pinellas	Wakulla

⁴ Section 367.011, F.S

⁵ Section 367.171, F.S.

⁶ <http://www.psc.state.fl.us/utilities/waterwastewater/wawtextchart.pdf>

Jurisdictional Counties (37)	Non-Jurisdictional Counties (30)
Polk	Walton
Putnam	
Seminole	
St. Johns	
St. Lucie	
Sumter	
Volusia	
Washington	

PSC Commissioner Standards of Conduct

1. Generally

Section 350.041, F.S., provides the statutory standards of conduct for PSC commissioners, which prohibit them from:

- accepting anything from any public utility regulated by the commission or any business entity that has specified relationships with such a public utility, with exceptions for attendance at conferences and associated meals and events in accordance with specified conditions,
- accepting any form of employment with or engaging in any business activity with any public utility regulated by the commission or any business entity that has specified relationships with such a public utility,
- having any financial interest, other than shares in a mutual fund, in any public utility regulated by the commission or any business entity that has specified relationships with such a public utility,
- accepting anything from a party in a proceeding currently pending before the commission,
- serving in specified capacities with any political party,
- making any public comment regarding the merits of any proceeding pending before the commission,
- conducting himself or herself in an unprofessional manner at any time during the performance of his or her official duties, and soliciting anything of value, directly or indirectly, from any public utility regulated by the commission or any business entity that has specified relationships with such a public utility or from any party appearing in a proceeding considered by the commission in the last 2 years.

Additionally, the statute requires each commissioner to avoid impropriety in all of his or her activities and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the commission. The standards contain no training requirements.

The Commission on Ethics is to accept and investigate any alleged violations of these standards and to provide the Governor and the Florida Public Service Commission Nominating Council with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations.

2. *Ex Parte Communications*

Section 350.042, F.S., provides for ex parte communications involving commissioners.⁷ The statute prohibits a commissioner from initiating or considering ex parte communications concerning the merits, threat, or offer of reward in any proceeding other than a rulemaking proceeding, a declaratory statement proceeding, workshops, or internal affairs meetings. It also prohibits an individual from discussing ex parte with a commissioner the merits of any issue that he or she knows will be filed with the commission within 90 days. These provisions do not apply to commission staff.

The section does not apply to oral communications or discussions in scheduled and noticed open public meetings of educational programs or of a conference or other meeting of an association of regulatory agencies.

The Commission on Ethics is to investigate sworn complaints of violations of this section. If the Commission on Ethics finds that there has been a violation by a PSC commissioner, it is to provide the Governor and the Florida Public Service Commission Nominating Council with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations.

Public Counsel and Settlement Agreements

Section 350.0611, F.S., provides the duties and powers of the Public Counsel. The duty is to provide legal representation for the people of the state in proceedings before the commission and in proceedings before counties that have jurisdiction over water and wastewater utilities, and the powers are those necessary to carry out this duty, including the power:

- To recommend to the commission or the counties, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the commission or the counties and urge therein any position which he or she deems to be in the public interest, and
- In any proceeding in which he or she has participated as a party, to seek review of any determination, finding, or order of the commission or the counties, or of any hearing examiner designated by the commission or the counties, in the name of the state or its citizens.

The question of whether the commission is authorized to approve a non-unanimous settlement agreement over Public Counsel's objection was recently determined by the Florida Supreme Court.⁸

The case resulted from an application by Florida Power & Light (FPL) for a rate increase which was filed with the commission on March 19, 2012. The Office of Public Counsel (OPC) and others intervened in the case opposing the rate increase. Shortly thereafter, FPL negotiated a settlement with the Florida Industrial Power Users Group (FIPUG), South Florida Hospital and

⁷ In this context, an ex parte communication is a communication between a commissioner and a party or other interested person, including a person's attorney, that was neither on the record nor on reasonable prior notice to all parties and that relates to the merits of a proceeding.

⁸ *Citizens of the State of Florida vs. Florida Public Service Commission*, 146 So.3d 1143 (Fla. 2014).

Healthcare Association (SFHHA), and Federal Executive Agencies (FEA). In July, FPL first presented OPC with the negotiated settlement.

On August 15, 2012, the signatories to the settlement agreement – FPL, FEA, FIPUG, and SFHHA – filed joint motions to suspend the procedural schedule and approve the settlement agreement. OPC filed motions to suspend the hearing schedule and to consider the settlement agreement on the merits. The commission denied the requests and proceeded with the hearing as scheduled, holding full evidentiary hearings on August 20–24 and August 27–31, 2012.

On August 30, 2012, during the hearing, the commission announced on the record that the hearing would reconvene on September 27, 2012, to discuss the proposed settlement agreement. At the September 27, 2012, hearing, the commission determined that the proposed settlement agreement raised five new disputed issues of material fact supplemental to the disputed issues presented in the initial petition and scheduled a hearing to take additional testimony limited to the five new disputed issues of fact for November 19–21, 2012.

The formal hearing reconvened on November 19, 2012, and concluded on November 20, 2012. On December 13, 2012, the commission held a special agenda conference to rule upon the merits of the proposed settlement agreement. After the commission voiced its concern with some items, the commission recessed to give all the parties an opportunity to engage in further settlement negotiations. When presented with the modified settlement agreement, the commission found that it satisfied all of the commission's concerns, that it established fair, just, and reasonable rates, and that it was in the public interest. The final order on January 14, 2013, memorialized this finding and incorporated the approved settlement.

The OPC appealed the commission's decision, arguing that the commission erred by approving a non-unanimous negotiated settlement agreement over OPC's objection. More specifically, OPC argued that:

- Section 350.0611, F.S., which sets forth OPC's powers, is not an exhaustive list;
- Chapter 366, F.S., which provides for PSC regulation of electric utilities, provides that it is to be liberally construed for the accomplishment of protecting the public welfare;
- OPC must be treated differently from other intervenors as it has a unique status created by the statutes and recognized by the court in its statement in *Mayo* that “special conditions pertain in cases where public counsel has intervened. This is a consequence of the statutory nexus between the file and suspend procedures and the role prescribed for public counsel in rate regulation. Public counsel was authorized to represent the citizens of the State of Florida in rate proceedings of this type. That office was created with the realization that the citizens of the state cannot adequately represent themselves in utility matters, and that the rate-setting function of the Commission is best performed when those who will pay utility rates are represented in an adversary proceeding by counsel at least as skilled as counsel for the utility company.”⁹; and
- “[u]nless the Court reverses the Final Order, the effect will be to marginalize the participation of ‘the public's advocate’ as the petitioning utility could bypass [the] OPC's opposition through the expedient of offering a revenue concession to a willing intervenor.”¹⁰

⁹ *Citizens v. Mayo*, 333 So.2d 1, 6-7 (Fla. 1976).

¹⁰ *Citizens of the State of Florida vs. Florida Public Service Commission*, at 1153.

The court agreed that the statutory list of OPC's powers is not meant to be an exhaustive list and that the statutes on regulation of electric utilities are to be liberally construed for the accomplishment of protecting the public welfare. However, "related statutory provisions must be read together to achieve a consistent whole"¹¹ and "further, '[w]here possible, courts must give full effect to all statutory provisions and construe related statutory provisions in harmony with one another.'"¹²

The PSC is an arm of the legislative branch and is to perform its duties independently.¹³ Additionally, the commission has exclusive jurisdiction to fix fair, just, and reasonable rates of electric utilities.¹⁴ Thus, the plain language of the statutes clearly provides that the commission independently determines rates of public utilities subject to the statutory requirements and this authority is not conditioned on the OPC's approval or absence of the OPC's objections.¹⁵ Further, adoption of OPC's argument that its powers include the ability to preclude the commission from approving a settlement agreement over the OPC's objection would render the statutory language in chapters 350 and 366 inconsistent.¹⁶

As to settlement agreements, the statutes provide for informal disposition of the rate proceeding by stipulation, agreed settlement, or consent order "[u]nless precluded by law."¹⁷ Chapters 350 and 366, pertaining to the commission and public utilities respectively, do not prohibit the commission from approving a negotiated settlement to resolve a rate-making proceeding.¹⁸ Also, in *Jaber*,¹⁹ this court held that the commission's approval of a non-unanimous settlement agreement did not violate intervenor's due process rights because "the record shows that the appellant presented arguments in opposition to the settlement during the agenda conference" in which the appellant was allowed thirty minutes to present its views in opposition to the settlement agreement.²⁰ Thus, the Commission is not clearly precluded by statute or case law from approving non-unanimous settlements.²¹

OPC argued that *Mayo* recognized that it has special status and that special conditions pertain in cases where it has intervened, status that will be marginalized if the Final Order is not reversed. The court found these arguments to be without merit.²² Ultimately, the commission's actions are conditioned by statute (rates set must be fair, just, and reasonable) and its actions are subject to judicial review – the commission cannot simply accept any settlement agreement devoid of

¹¹ *Citizens of the State of Florida vs. Florida Public Service Commission*, at 1151, citing *Raymond James Fin. Serv., Inc. v. Phillips*, 126 So.3d 186, 191 (Fla. 2013) (quoting *Heart of Adoptions, Inc. v. J.A.*, 963 So.2d 189, 199 (Fla. 2007)).

¹² *Id.*

¹³ *Citizens of the State of Florida vs. Florida Public Service Commission*, at 1150, citing section 350.001, Florida Statutes, *Pub. Serv. Comm'n v. Bryson*, 569 So.2d 1253, 1254 (Fla. 1990) (noting that "the legislature granted the [Commission] exclusive jurisdiction over matters respecting the rates and service of public utilities."); *Chiles v. Pub. Serv. Comm'n Nominating Council*, 573 So.2d 829, 832 (Fla. 1991) ("[R]ate-making by the [Commission] is a legislative function.")

¹⁴ *Id.*, citing sections 366.04(1) and 366.06(1), F.S.

¹⁵ *Id.*

¹⁶ *Id.*, at 1151.

¹⁷ *Id.*, at 1150, citing section 120.57(4), Florida Statutes (2012).

¹⁸ *Id.*

¹⁹ *South Florida Hospital and Healthcare Ass'n v. Jaber*, 887 So.2d 1210, 1212 (Fla. 2004).

²⁰ *Citizens of the State of Florida vs. Florida Public Service Commission*, at 1150.

²¹ *Id.*

²² *Id.*, at 1153.

record support as in the public interest.²³ Moreover, none of the actions taken by the commission in this case will preclude the OPC from fully representing the public's interest in future cases because the OPC was able to “urge therein any position which he or she deem[ed] to be in the public interest” in this rate-making proceeding.²⁴ Finally, the fact situation of *Mayo* was completely different and the holding was not intended to extend to the factual circumstances present here.²⁵ In *Mayo*, OPC was unable to cross-examine Gulf Power witnesses or present any direct evidence contradictory to the data supplied by Gulf Power because it indicated it was not prepared due to the commission's notice of hearing specifying such facets of the hearing would be held at a later date.²⁶ As a result, the commission issued an order granting Gulf Power a rate increase without OPC ever being provided an opportunity to introduce evidence.²⁷ Here, the OPC fully represented citizens in ten days of hearings regarding FPL's petition for a rate increase and also fully participated in hearings regarding the proposed settlement agreement by submitting prefiled testimony, participating in discovery, presenting evidence in opposition to the settlement agreement, and filing post-hearing briefs.²⁸ Thus, the OPC was not precluded from zealously representing citizens, but was provided multiple opportunities to urge the public's position on FPL's petition and subsequent settlement agreement.²⁹

Electric Utilities

1. *Extended Billing Period and Tiered Rates*

Public utilities are allowed to use tiered billing, in which a higher rate is charged for higher levels of use, as a way to encourage conservation. They also are allowed to vary their billing period from the standard month-long period. Recently a utility adjusted its billing period for one billing cycle “as part of an ongoing process started in May 2013 to streamline the company’s routes for meter-reading throughout central and northern Florida.”³⁰ As a result of the extended billing period, some customers’ total usage for the extended billing period increased such that a tiered rate was applicable, even though their average daily use did not increase during that period. After many complaints, the utility agreed to refund all increased charges.³¹

2. *Public Utility Deposits*

Section 366.05, F.S., provides for the powers of the PSC including the power to prescribe fair and reasonable rates and charges. Based in part on this authority, the commission has adopted a rule on customer deposits.³² As to the amount of the deposit, the rule requires each public utility’s tariff to contain the utility’s specific criteria for determining the amount of initial deposit. After a customer has had continuous service for a period of 23 months, has established a satisfactory

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*, at 1151.

²⁶ *Id.*, at 1152

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Jim Turner, *Duke Energy called to explain billing change*, Tallahassee Democrat, August 25, 2014,

<http://www.tallahassee.com/story/news/politics/2014/08/25/duke-energy-called-explain-billing-change/14594563/>

³¹ Ivan Penn, *Duke Energy refunds \$1.7 million to customers because of meter issue*, Tampa Bay Times, September 10, 2014,

<http://www.tampabay.com/news/business/energy/duke-energy-refunds-17-million-to-customers-because-of-meter-issue/2197029>

³² Rule 25-6.097, F.A.C.

payment record, and has not done any of a list of actions or non-actions which disqualify it for a refund, the utility must:

- Refund a residential customer's deposits, and
- At its option, either refund or pay the higher rate of interest³³ for nonresidential deposits.

The rule also allows for an increase in the deposit amount:

(3) New or additional deposits. *A utility may require*, upon reasonable written notice of not less than thirty (30) days, a new deposit, where previously waived or returned, or *additional deposit, in order to secure payment of current bills*. Such request shall be separate and apart from any bill for service and shall explain the reason for such new or additional deposit, *provided, however, that the total amount of the required deposit shall not exceed an amount equal to twice the average charges for actual usage of electric service for the twelve month period immediately prior to the date of notice*. In the event the customer has had service less than twelve months, then the utility shall base its new or additional deposit upon the average actual monthly usage available.

The phrase “an amount equal to twice the average charges for actual usage of electric service for the twelve month period immediately prior to the date of notice” is ambiguous; however, it has consistently been interpreted and implemented to mean that the total amount of the deposit required by the utility may not exceed twice the average bill for the immediately preceding twelve months.³⁴

Recently there have been complaints that a utility was demanding deposit increases in excess of the rules.³⁵

3. Most Advantageous Rate

Utilities have different customer classes and a variety of rates applicable within each class based on usage amounts and patterns. Recently there were complaints that a utility was billing some customers using rates that were inappropriately high.³⁶

³³ This higher interest rate is three percent instead of the usual two percent. In all cases the interest is simple interest, not compounded.

³⁴ See, e.g., *Pantry Pride Enterprises, Inc. v. Florida Power & Light Company*, 1982 Fla. PUC LEXIS 607, Florida Public Service Commission (June 4, 1982); *In re: Complaint of Sears, Roebuck and Company against Florida Power & Light Company and motion to compel FPL to continue electric service and to cease and desist demands for deposit pending final decision regarding complaint*, 2006 Fla. PUC LEXIS 241 Florida Public Service Commission (May 9, 2006); *In re: Complaint of Kmart Corporation against Florida Power & Light Company and motion to compel FPL to continue electric service and to cease and desist demands for deposit pending final decision regarding complaint*, 2006 Fla. PUC LEXIS 242 Florida Public Service Commission (May 9, 2006); and *In re: Complaint of Frederick Smallakoff against Progress Energy Florida, Inc. concerning alleged improper billing*, 2013 Fla. PUC LEXIS 70 Florida Public Service Commission (March 13, 2013).

³⁵ Mitch Perry, *Pinellas Republican state lawmakers say the gloves are off regarding Duke Energy and the PSC*, Creative Loafing Tampa Bay, September 30, 2014, <http://cltampa.com/politicalanimal/archives/2014/09/30/pinellas-republican-state-lawmakers-say-the-gloves-are-off-regarding-duke-energy-and-the-psc#.VNEFL00cTJJ>

³⁶ Mike Deeson, *Duke bills small businesses, churches at higher rate*, WTSP News, October 8, 2014, <http://www.wtsp.com/story/news/investigations/2014/10/07/duke-energy--billing-customers/16866407/>

Florida Energy Efficiency and Conservation Act

Sections 366.80-366.83 and 403.519, F.S., are the “Florida Energy Efficiency and Conservation Act.” Section 366.82, F.S., provides for setting efficiency and conservation goals and establishing plans and programs to meet the overall goals. This section was amended in 2008 to require the commission to adopt appropriate goals for increasing the development of demand-side renewable energy systems. The term “demand-side renewable energy” means a system located on a customer’s premises generating thermal or electric energy using Florida renewable energy resources and primarily intended to offset all or part of the customer’s electricity requirements provided such system does not exceed 2 megawatts.

To implement this requirement, the PSC created a five-year solar pilot project, and each year the utilities collected money for these purposes. At the most recent goal-setting hearings, the utilities proposed ending the project early, and there was concern about what they might do with remaining funds.

III. Effect of Proposed Changes:

Florida Public Service Commission – Meetings

Section 1 amends s. 350.01, F.S., which establishes the Florida Public Service Commission (PSC or commission), provides for terms of commissioners, and provides for commission proceedings. The bill limits a commissioner appointed after July 1, 2015, to serving not more than three consecutive terms.

The bill requires that the commission hold at least one public customer service meeting per year in the service territory of each public utility regulated by the commission which supplies electricity. Additionally, it must hold a public customer service meeting in the service territory of each water or wastewater utility that is subject to regulation under chapter 367, F.S., if at least 10 percent of the customers of that utility file a written request. The meeting must be held within a reasonable time after receipt of the request.

Finally, the bill requires that specified meetings be streamed live on the Internet, with a recorded copy of the meeting available afterward on the commission’s web page. This requirement applies to:

- Each meeting, including an internal affairs meeting, workshop, hearing, or proceeding that is attended by two or more commissioners, and
- Each meeting, workshop, hearing, or proceeding at which a decision is made which concerns the rights or obligations of any person.

Florida Public Service Commission – Appointment

Section 2 amends s. 350.031, F.S., which creates the Florida Public Service Commission Nominating Council and provides its duties and procedures. The bill recognizes that the purpose of the council is to select nominees to be appointed to an arm of the legislative branch of government and requires a person who lobbies a member of the council, whether a legislator or nonlegislator, to register as a legislative lobbyist pursuant to s. 11.045, F.S., and comply with the requirements of that section.

This will require the person to:

- Make a separate registration each principal represented,
- Include a statement signed by the principal or principal's representative that the registrant is authorized to represent the principal which identifies the principal's main business,
- State the extent of any direct business association or partnership with any current member of the Legislature,
- Preserve for a period of 4 years all accounts, bills, receipts, computer records, books, papers, and other documents and records necessary to substantiate compensation,
- Through his or her lobbying firm, file a compensation report for each calendar quarter during any portion of which the person was registered to represent a principal,
- Refrain from making, directly or indirectly, any expenditure to the benefit of any council member, and
- Be subject to a prohibition against knowingly failing to disclose any material fact required by this section or rules, or knowingly providing false information on any report required by this section or rules, with a violation of the prohibition a noncriminal infraction punishable by a fine not to exceed \$5,000.

PSC Commissioner Standards of Conduct – Generally

Section 3 amends s. 350.041, F.S., on Commissioners' standards of conduct to require that beginning January 1, 2016, each commissioner must annually complete 4 hours of ethics training that addresses, at a minimum, s. 8, Art. II of the State Constitution on ethics in government, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation, if the required subjects are covered.

PSC Commissioner Standards of Conduct – Ex Parte Communications

Section 4 amends s 350.042, F.S., which provides for ex parte communications involving commissioners. The statute currently prohibits a commissioner from initiating or considering ex parte communications concerning any proceeding other than a rulemaking proceeding, a declaratory statement proceeding, workshops, or internal affairs meetings, and prohibits an individual from discussing ex parte with a commissioner the merits of any issue that he or she knows will be filed with the commission within 90 days. The bill specifies that the prohibition applies to a proceeding under ss. 120.569 or 120.57 (proceedings in which a party has a substantial affected interest involved) and expands the current 90-day language to 180 days.

The bill recognizes the value of having commissioners attend educational programs, conferences, and meetings of an association of regulatory agencies, and provides requirements for attendance and participation in such meetings that are intended to avoid a violation of the ex parte prohibition. While participating in these meetings, a commissioner must refrain from commenting on or discussing the subject matter of any proceeding covered by the prohibition and must use reasonable care to ensure that the content of a meeting in which the commissioner participates is not designed to address or create a forum to influence the commissioner on the subject matter of any such proceeding.

The bill requires the Governor to remove from office any commissioner found by the Commission on Ethics to have willfully and knowingly violated this section.

Public Counsel and Settlement Agreements

Section 5 amends s. 350.0611, F.S., on powers and duties of the Public Counsel. The bill prohibits submission of a settlement agreement to the PSC, and prohibits the PSC from approving a settlement agreement, if the Public Counsel participated as a party in the relevant PSC proceeding as a party and is not a party to the settlement.

This appears to be in reaction to the *Citizens of the State of Florida, etc., v. Florida Public Service Commission* case discussed in the Present Situation section above. Read in isolation, this section could be taken to codify OPC's arguments in that case. However, part of the Florida Supreme Court's reasoning in that case was that:

- The PSC is an arm of the legislative branch and is to perform its duties independently; that the commission has exclusive jurisdiction to fix electric utilities' rates; and thus, the plain language of the statutes clearly provides that the commission independently determines rates of public utilities and this authority is not conditioned on the OPC's approval or absence of the OPC's objections; and
- The statutes must be interpreted and applied, to the extent possible, with consistency, in harmony, and to give full effect to all, and that it was not possible to apply OPC's argument consistently and with harmony with the PSC's statutory sole authority to independently perform its duties.

Because the bill does change the PSC's independent, exclusive authority and would continue this statutory inconsistency, the bill must intend something else.

The reasonable interpretation seems to be that if the OPC does not agree to a settlement agreement the PSC must proceed as if there were no proposed settlement agreement, holding full evidentiary hearings, hearing pleadings that designate all relief sought, and hearing evidence to substantiate that each item of that relief meets the relevant statutory requirements. This would ensure that all of OPC's concerns are adequately addressed, thereby better protecting the citizens of the State of Florida, while maintaining the PSC's independent authority and the full, consistent, harmonious effect of each statute.

Electric Utilities – Extended Billing Period and Tiered Rates, Deposits, and Most Advantageous Rate

Section 6 amends s. 366.05, F.S, which provides for the powers of the PSC, including the power to prescribe fair and reasonable rates and charges. The bill adds prohibitions and limitations relating to these rates and charges:

- If the commission grants a public utility the authorizes both to charge tiered rates based upon levels of usage and to vary the billing period, the utility may not charge a customer a higher rate because of an increase in usage attributable to an extension of the billing period.
- Notwithstanding any commission rule to the contrary, a utility may not charge or receive a deposit in excess of the following amounts:

- For an existing customer, the total deposit cannot exceed the total charges for 2 months of average actual usage, calculated by adding the monthly charges from the 12-month period immediately before the date any change in the deposit amount is sought, dividing this total by 12, and multiplying the result by 2.³⁷
- For a new customer, the amount may not exceed 2 months of projected charges, calculated using the process specified in subparagraph 1. Once a new customer has had continuous service for a 12-month period, the amount of the deposit shall be recalculated, using actual usage data. Any difference between the projected and actual amounts must be resolved by the customer paying any additional amount due or the utility returning any overcharge.
- If a utility has more than one rate for any customer class, it must notify each customer in that class of the available rates and explain how the rate is charged to the customer. If a customer contacts the utility seeking assistance in selecting the most advantageous rate, the utility must provide good faith assistance to the customer. The customer is responsible for charges for service calculated under the selected rate.
- New tariffs and changes to an existing tariff, other than an administrative change that does not substantially change the meaning or operation of the tariff, must be approved by vote of the commission.

Florida Energy Efficiency and Conservation Act

Section 7 amends s. 366.82, F.S., to require that money received by a utility for implementation of measures to encourage development of demand-side renewable energy systems be used solely for that purpose.

Nuclear Asset-Recovery Bonds

Section 8 creates s. 366.95, F.S., which is based on s. 366.8260, F.S., which was enacted following the severe tropical storm seasons of 2004 and 2005, to create a new financing mechanism, referred to as securitization, by which investor-owned electric utilities could petition the PSC for issuance of a financing order authorizing the utility to issue bonds through a separate legal entity. A financing order would establish a nonbypassable charge to the utility's customers to provide a secure stream of revenues to the separate legal entity from which the bonds would be paid. This securitized revenue stream would allow the utilities access to low-cost financing to cover storm recovery costs and replenish depleted storm reserve funds. The reduced interest rates would result in savings to the utilities ratepayers. This mechanism has been used only once.³⁸

The bill authorizes an electric utility to recover “nuclear asset recovery costs”³⁹ by issuing bonds to obtain funding to pay those costs. The bonds would be paid through charging and collecting a

³⁷ This appears to codify current PSC practice.

³⁸ Docket No. 060038-EI, Florida Public Service Commission.

³⁹ The bill defines “nuclear asset recovery costs” as pretax costs that an electric utility has incurred or expects to incur which are caused by, associated with, or remain as a result of the early retirement or abandonment of a nuclear generating asset unit that generated electricity and is located in this state where such early retirement or abandonment is deemed to be reasonable and prudent by the commission through a final order approving a settlement or other final order issued by the commission before July 1, 2017, and where the pretax costs to be securitized exceed \$750 million at the time of the filing of the petition. Such pretax costs, where determined appropriate by the commission, include, but are not limited to, the capitalized cost of the retired or abandoned nuclear generating asset unit, other applicable capital and operating costs, accrued carrying charges,

“nuclear asset recovery charge”⁴⁰ from the utility’s customers. The “financing costs”⁴¹ would be added to the charge. The right to bill and collect the authorized charges and to have all resulting revenues constitutes “nuclear asset recovery property.”⁴² The utility may transfer the nuclear asset recovery property to an assignee.⁴³

More specifically, the electric utility would petition the PSC for a financing order. In the petition, the utility must:

- Describe the total nuclear asset recovery costs;
- Indicate whether the utility proposes to finance all or a portion of the nuclear asset recovery costs using securitized bonds, and if only a portion of the total costs will be recovered through bonds, identify that portion;
- Estimate the financing costs;

deferred expenses, reductions for applicable insurance and salvage proceeds and previously stipulated write-downs or write-offs, if any, and the costs of retiring any existing indebtedness, fees, costs, and expenses to modify existing debt agreements or for waivers or consents related to existing debt agreements. Costs eligible or claimed for recovery pursuant to s. 366.93 are not eligible for securitization under this section unless they were in the electric utility’s rate base and were included in base rates before retirement or abandonment.

⁴⁰ A “nuclear asset recovery charge” is the charge authorized by the commission to repay nuclear asset recovery costs and financing costs. It is imposed on and part of all customer bills as a separate, nonbypassable charge.

⁴¹ The term “financing costs” includes:

- Interest and acquisition, defeasance, or redemption premiums that are payable on nuclear asset recovery bonds;
- Any payment required under an ancillary agreement and any amount required to fund or replenish a reserve account or other accounts established under the terms of any indenture, ancillary agreement, or other financing documents pertaining to the bonds;
- Any other cost related to issuing, supporting, repaying, refunding, and servicing the bonds, including, but not limited to, servicing fees, accounting and auditing fees, trustee fees, legal fees, consulting fees, financial advisor fees, administrative fees, placement and underwriting fees, capitalized interest, rating agency fees, stock exchange listing and compliance fees, security registration fees, filing fees, information technology programming costs, and any other costs necessary to otherwise ensure the timely payment of the bonds or other amounts or charges payable in connection with the bonds, including costs related to obtaining the financing order;
- Any taxes and license fees imposed on the revenues generated from the collection of the nuclear asset recovery charge;
- Any state and local taxes, franchise, gross receipts, and other taxes or similar charges, including but not limited to, regulatory assessment fees, in any such case whether paid, payable, or accrued; and
- Any costs that are incurred by the commission for any outside consultants or counsel.

⁴² The term “nuclear asset recovery property” means:

- All rights and interests of an electric utility or successor or assignee under a financing order, including the right to impose, bill, collect, and receive nuclear asset recovery charges as authorized in the financing order and to obtain periodic adjustments to such charges as provided in the financing order; and
- All revenues, collections, claims, rights to payments, payments, money, or proceeds arising from the rights and interests, regardless of whether such revenues, collections, claims, rights to payment, payments, money, or proceeds are imposed, billed, received, collected, or maintained together with or commingled with other revenues, collections, rights to payment, payments, money, or proceeds.

⁴³ “Assignee” is defined to mean any entity, including, but not limited to, a corporation, limited liability company, partnership or limited partnership, public authority, trust, financing entity, or other legally recognized entity to which an electric utility assigns, sells, or transfers, other than as security, all or a portion of its interest in or right to nuclear asset recovery property. The term also includes any entity to which an assignee assigns, sells, or transfers, other than as security, its interest in or right to nuclear asset recovery property. Subparagraph 366.95(5)(a)3. provides that all or any portion of nuclear asset recovery property may be transferred, sold, conveyed, or assigned to a successor or assignee, that is wholly owned, directly or indirectly, by the electric utility, created for the limited purpose of acquiring, owning, or administering nuclear asset recovery property or issuing nuclear asset recovery bonds. This appears to limit the initial transfer of the nuclear asset recovery property to a subsidiary or affiliate company.

- Estimate the nuclear asset recovery charges necessary to recover the nuclear asset recovery costs and financing costs and the period for recovery of such costs;
- Estimate any projected cost savings, based on current market conditions, or demonstrate how the issuance of the securitized bonds and the imposition of nuclear asset recovery charges would avoid or significantly mitigate rate impacts to customers as compared with the traditional method of financing and recovering nuclear asset recovery costs from customers;
- Demonstrate that securitization has a significant likelihood of resulting in lower overall costs or would avoid or significantly mitigate rate impacts compared to traditional cost recovery; and
- File with the petition direct testimony supporting the petition.

Within 7 days after the filing of a petition, the PSC must publish a case schedule which will permit the it to make a decision no later than 120 days after the date the petition is filed. No later than 135 days after the date the petition is filed, the commission must issue either a financing order or an order rejecting the petition. The commission must issue a financing order authorizing financing of reasonable and prudent nuclear asset recovery costs and financing costs if it finds that the issuance of the nuclear asset recovery bonds will have a significant likelihood of resulting in lower overall costs or would avoid or significantly mitigate rate impacts to customers as compared with the traditional method of financing and recovering nuclear asset recovery costs.

A financing order issued by the commission must:

- Specify the amount of nuclear asset recovery costs to be financed using securitized bonds; describe and estimate the amount of financing costs which may be recovered through nuclear asset recovery charges; and specify the period over which such costs may be recovered;
- Determine if the proposed structuring, expected pricing, and financing costs have a significant likelihood of resulting in lower overall costs or would avoid or significantly mitigate rate impacts to customers as compared with the traditional method of financing and recovering nuclear asset recovery costs, and provide detailed findings of fact addressing cost-effectiveness and associated rate impacts upon retail customers and retail customer classes;
- Provide that, for a specified period, the nuclear asset recovery charges authorized in the financing order shall be nonbypassable and must be paid by all existing and future customers receiving transmission or distribution service from the electric utility or its successors or assignees, even if the customer elects to purchase electricity from an alternative electric supplier including following a fundamental change in regulation of public utilities in the state;
- Include a formula-based true-up mechanism for making expeditious periodic adjustments in the nuclear asset recovery charges that are necessary to correct for any overcollection or undercollection of the charges;
- Specify the nuclear asset recovery property that is, or will be, created in favor of the electric utility or its successors or assignees and that will be used to pay or secure the nuclear asset recovery bonds;
- Specify the degree of flexibility to be afforded to the utility in establishing the terms and conditions of the bonds, including, but not limited to, repayment schedules, expected interest rates, and other financing costs;

- Provide that nuclear asset recovery charges must be allocated to the customer classes using the criteria set out in s. 366.06(1), F.S.,⁴⁴ in the manner in which these costs or their equivalent were allocated in the cost-of-service study approved in connection with the electric utility's last rate case. If the electric utility's last rate case was resolved by a settlement agreement, the cost-of-service methodology adopted in the settlement agreement is to be used;
- Provide that, after the final terms of an issuance of nuclear asset recovery bonds have been established and prior to the issuance of nuclear asset recovery bonds, the electric utility must determine the resulting initial nuclear asset recovery charge in accordance with the financing order and the initial nuclear asset recovery charge is final and effective upon the issuance of the securitized bonds without further commission action so long as the charge is consistent with the financing order; and
- Include any other conditions that the PSC considers appropriate and that are authorized by this section.

If the commission issues a financing order and bonds are issued, the electric utility or its assignee must file with the commission at least biannually a petition or a letter applying the formula-based true-up mechanism and, based on estimates of consumption for each rate class and other factors, requesting administrative approval to make necessary adjustments. Review of the request is limited to determining whether there is any error in the application of the formula-based mechanism relating to the amount of any overcollection or undercollection or in the amount of an adjustment.

Within 120 days after the issuance of nuclear asset recovery bonds, the electric utility must file with the PSC information on the actual costs of the bond issuance. The PSC must review the information to determine if the costs incurred in the issuance of the bonds resulted in the lowest overall costs that were reasonably consistent with market conditions at the time of the issuance and the terms of the financing order. The commission may disallow any incremental issuance costs in excess of the lowest overall costs by requiring the utility to make a credit to the capacity cost recovery clause in an amount equal to the excess of actual issuance costs incurred, and paid for out of bond proceeds, and the lowest overall issuance costs as determined by the commission. The commission may not make adjustments to the nuclear asset recovery charges for any excess issuance costs. The apparent effect of this is that while the amount of the charges remains the same, the ratepayers get a refund through the credit to the capacity cost recovery clause, which reduces the amount that ratepayers must pay.

Subsequent to the earlier of the transfer of nuclear asset recovery property to an assignee or the issuance of nuclear asset recovery bonds, a financing order is irrevocable and the commission may not, other than the true-up process, amend, modify, or terminate the financing order by any subsequent action or reduce, impair, postpone, terminate, or otherwise adjust nuclear asset recovery charges.

⁴⁴ This statute states that in fixing fair, just, and reasonable rates for each customer class, the commission shall, to the extent practicable, consider the cost of providing service to the class, as well as the rate history, value of service, and experience of the public utility; the consumption and load characteristics of the various classes of customers; and public acceptance of rate structures.

After the issuance of a financing order, the electric utility retains sole discretion regarding whether to assign, sell, or otherwise transfer nuclear asset recovery property or to cause nuclear asset recovery bonds to be issued. If the electric utility decides not to cause bonds to be issued the electric utility may not recover financing costs from ratepayers.

Within 30 days after the commission issues a financing order or another final order, an adversely affected party may petition for judicial review in the Florida Supreme Court. The Court must hear and determine the action as expeditiously as practicable and give the action precedence over other matters not accorded similar precedence by law.

A financing order remains in effect and all nuclear asset recovery property continues to exist until the nuclear asset recovery bonds have been paid in full and all financing costs have been recovered in full. A financing order remains in effect and unabated notwithstanding the reorganization, bankruptcy, or other insolvency proceedings, or merger, or sale of the electric utility or its successors or assignees.

An electric utility that has issued nuclear asset recovery bonds must disclose on its bills that portion of the charges on the bill which represents nuclear asset recovery charges and, if the nuclear asset recovery property has been transferred to an assignee, must include a statement that the assignee is the owner of the rights to the nuclear asset recovery charges and that the electric utility is acting as a collection agent for the assignee. The applicable tariff also must indicate the nuclear asset recovery charge and the ownership of that charge.

If an electric utility defaults on any payment of nuclear asset recovery charges, a court, upon application by an interested party, and without limiting any other remedies available to the applying party, must order the sequestration and payment of the revenues arising from the nuclear asset recovery property.

Any successor to an electric utility, whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any merger or acquisition, sale, or other business combination, or transfer by operation of law, as a result of electric utility restructuring or otherwise, must perform and satisfy all obligations of, and have the same rights under a financing order as, the electric utility, including collecting and paying to the person entitled to receive the revenues, collections, payments, or proceeds of the nuclear asset recovery property.

A valid, enforceable, and attached security interest is perfected against third parties as of the date of filing of a financing statement in the Florida Secured Transaction Registry and thereafter is a continuously perfected lien. The security interest in the nuclear asset recovery property and all proceeds of the nuclear asset recovery property, whether billed, accrued, or collected, and whether deposited into a deposit account and however evidenced, has priority and take precedence over any subsequent judicial or other lien creditor.

If a default or termination occurs under the terms of the nuclear asset recovery bonds, the financing parties⁴⁵ or their representatives may foreclose on or otherwise enforce their lien and security interest in any nuclear asset recovery property as if they were a secured party under Article 9 of the Uniform Commercial Code; and a court may order that amounts arising from nuclear asset recovery property be transferred to a separate account for the financing parties' benefit. On application by or on behalf of the financing parties to a circuit court of this state, the court must order the sequestration and payment to the financing parties of revenues arising from the nuclear asset recovery property.

The bill sets out a "state pledge" that the state will not:

- Alter the provisions of this section which make the nuclear asset recovery charges irrevocable, binding, and nonbypassable charges;
- Take or permit any action that impairs or would impair the value of nuclear asset recovery property or revises authorized nuclear asset recovery costs; or
- Except as allowed under this section, reduce, alter, or impair nuclear asset recovery charges that are to be imposed, collected, and remitted for the benefit of the bondholders and other financing parties until all principal, interest, premium, financing costs and other fees, expenses, or charges incurred, and any contracts to be performed, in connection with the nuclear asset recovery bonds have been paid and performed in full.

If an electric utility violates this section or a financing order, it is subject to penalties under s. 366.095, F.S.,⁴⁶ and to any other penalties or remedies that the commission determines are necessary. If the commission orders a penalty or a remedy for a violation, the monetary penalty or remedy and the costs of defending against the proposed penalty or remedy may not be recovered from the ratepayers.

Technical Matters and Effective Date

Sections 9, 10, and 11 reenact s. 403.537, F.S., on determination of need for transmission line and s. 403.9422, F.S., on determination of need for natural gas transmission pipeline, for the purpose of incorporating the amendment made by this act to s. 350.01, F.S., and reenact s. 350.043, F.S., on enforcement and interpretation of ethics statutes, for the purpose of incorporating the amendments made by this act to ss. 350.031, 350.041, and 350.042, F.S.

Section 12 provides an effective date of July 1, 2015.

⁴⁵ "Financing Party" means any and all of the following; holders of Nuclear Asset Recovery Bonds and trustees, collateral agents, any party under an Ancillary Agreement, or any other persons acting for the benefit of holders of nuclear asset recovery bonds.

⁴⁶ This statute authorizes the commission to impose upon a utility that is found to have refused to comply with or to have willfully violated any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the commission. Each day that such refusal or violation continues shall constitute a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Public utilities' ratepayers:

- Will save on costs of early retirement of a nuclear power plant through implementation of the bond securitization provisions;
- Will be protected against imposition of higher, tiered rates in situations where total usage over the extended billing cycle was high enough for imposition of the tiered rate, but the average daily usage during that period did not increase;
- Will be better protected against imposition of deposits in excess of the amount currently allowed by rule, two months' average, actual usage; and
- When they have to choose among multiple potentially-applicable rates, will be better able to obtain the most advantages rate.

If Duke Energy Florida (or another utility) issues and sells securitized bonds, it will be able to quickly pay off all or a portion of the carrying costs of a qualifying nuclear power plant, and thereby get debt off its books and be in a better position to raise capital for other projects.

People who lobby the Florida Public Service Commission Nominating Council will incur costs to register as a legislative lobbyist.

C. Government Sector Impact:

The PSC:

- Will incur costs to implement the securitized bond provisions;
- Will incur costs to meet in utilities' service territories and to stream all meetings live;
- Will, presumably, bear the cost (the amount of which is unknown) for each commissioner to complete annual ethics training; and

- May incur costs to review proposed changes to billing cycles.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 350.01, 350.031, 350.041, 350.042, 350.0611, 366.05, and 366.82.

This bill creates section 366.95 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes for the purpose of incorporating amendments made to other statutes: 350.041, 403.537, 403.9422, and 350.043.

IX. Additional Information:

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

CS/CS/SB 288 by Communications, Energy, and Public Utilities on April 7, 2015:

- Creates a term limit of three consecutive terms for PSC Commissioners appointed after July 1, 2015; and
- Creates a process by which an electric utility may seek to recover nuclear asset recovery costs by issuing bonds to obtain funding to pay those costs, with the bonds paid through charging and collecting a nuclear asset recovery charge, and that dedicated revenue stream is used to securitize the bonds to obtain a lower interest rate.

CS/SB 288 by Communications, Energy, and Public Utilities on February 17, 2015:

- Specifies that the ex parte prohibition applies only to proceedings under ss. 120.569 and 120.57, F.S. (those in which a party has a substantial affected interest);
- Decreases the time period between a communication and when a proceeding is initiated from one year to 180 days;
- Applies the prohibition to educational programs and conferences, and providing additional requirements as to a commissioner's communications during these events;
- Provides that for the Governor to remove a commissioner from office for an ex parte violation, the ex parte communication must be done willfully and knowingly;
- Creates an exemption to the requirement that all changes to tariffs be approved by a vote of the commission to allow an administrative change that does not substantially change the meaning or operation of the tariff without approval.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



307024

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2015	.	
	.	
	.	
	.	

The Committee on Communications, Energy, and Public Utilities
(Dean) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 56 and 57

insert:

(3) Any person serving on the commission who seeks to be appointed or reappointed shall file with the nominating council no later than June 1 prior to the year in which his or her term expires a statement that he or she desires to serve an additional term. A commissioner appointed after July 1, 2015, may not serve more than three consecutive terms.



307024

11
12 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

13 And the directory clause is amended as follows:

14 Delete lines 52 - 53

15 and insert:

16 Section 1. Subsection (3) of section 350.01, Florida
17 Statutes, is amended, and subsections (8), (9), and (10) are
18 added to that section, to read:

19
20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 Delete line 3

23 and insert:

24 350.01, F.S.; providing term limits for commissioners
25 appointed after a specified date; requiring the
26 Florida Public Service



291948

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2015	.	
	.	
	.	
	.	

The Committee on Communications, Energy, and Public Utilities
(Garcia) recommended the following:

Senate Amendment (with title amendment)

Between lines 291 and 292

insert:

Section 8. Section 366.95, Florida Statutes, is created to
read:

366.95 Financing for certain nuclear generating asset
retirement or abandonment costs.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Ancillary agreement" means any bond, insurance policy,



291948

11 letter of credit, reserve account, surety bond, interest rate
12 lock or swap arrangement, hedging arrangement, liquidity or
13 credit support arrangement, or other financial arrangement
14 entered into in connection with nuclear asset-recovery bonds.

15 (b) "Assignee" means any entity, including, but not limited
16 to, a corporation, limited liability company, partnership or
17 limited partnership, public authority, trust, financing entity,
18 or other legally recognized entity to which an electric utility
19 assigns, sells, or transfers, other than as security, all or a
20 portion of its interest in or right to nuclear asset-recovery
21 property. The term also includes any entity to which an assignee
22 assigns, sells, or transfers, other than as security, its
23 interest in or right to nuclear asset-recovery property.

24 (c) "Commission" means the Florida Public Service
25 Commission.

26 (d) "Electric utility" or "utility" has the same meaning as
27 in s. 366.8255.

28 (e) "Financing costs" means:

29 1. Interest and acquisition, defeasance, or redemption
30 premiums that are payable on nuclear asset-recovery bonds;

31 2. Any payment required under an ancillary agreement and
32 any amount required to fund or replenish a reserve account or
33 other accounts established under the terms of any indenture,
34 ancillary agreement, or other financing documents pertaining to
35 nuclear asset-recovery bonds;

36 3. Any other cost related to issuing, supporting, repaying,
37 refunding, and servicing nuclear asset-recovery bonds,
38 including, but not limited to, servicing fees, accounting and
39 auditing fees, trustee fees, legal fees, consulting fees,



291948

40 financial advisor fees, administrative fees, placement and
41 underwriting fees, capitalized interest, rating agency fees,
42 stock exchange listing and compliance fees, security
43 registration fees, filing fees, information technology
44 programming costs, and any other costs necessary to otherwise
45 ensure the timely payment of nuclear asset-recovery bonds or
46 other amounts or charges payable in connection with the bonds,
47 including costs related to obtaining the financing order;

48 4. Any taxes and license fees imposed on the revenues
49 generated from the collection of the nuclear asset-recovery
50 charge;

51 5. Any state and local taxes, franchise, gross receipts,
52 and other taxes or similar charges, including, but not limited
53 to, regulatory assessment fees, in any such case whether paid,
54 payable, or accrued; and

55 6. Any costs that are incurred by the commission for any
56 outside consultants or counsel pursuant to subparagraph (2)(c)2.

57 (f) "Financing order" means an order that authorizes the
58 issuance of nuclear asset-recovery bonds; the imposition,
59 collection, and periodic adjustments of the nuclear asset-
60 recovery charge; and the creation of nuclear asset-recovery
61 property.

62 (g) "Financing party" means any and all of the following:
63 holders of nuclear asset-recovery bonds and trustees, collateral
64 agents, any party under an ancillary agreement, or any other
65 person acting for the benefit of holders of nuclear asset-
66 recovery bonds.

67 (h) "Financing statement" has the same meaning as in Art. 9
68 of the Uniform Commercial Code.



291948

69 (i) "Nuclear asset-recovery bonds" means bonds, debentures,
70 notes, certificates of participation, certificates of beneficial
71 interest, certificates of ownership, or other evidences of
72 indebtedness or ownership that are issued by an electric utility
73 or an assignee pursuant to a financing order, the proceeds of
74 which are used directly or indirectly to recover, finance, or
75 refinance commission-approved nuclear asset-recovery costs and
76 financing costs, and that are secured by or payable from nuclear
77 asset-recovery property. If certificates of participation or
78 ownership are issued, references in this section to principal,
79 interest, or premium shall be construed to refer to comparable
80 amounts under those certificates.

81 (j) "Nuclear asset-recovery charge" means the amounts
82 authorized by the commission to repay, finance, or refinance
83 nuclear asset-recovery costs and financing costs. If determined
84 appropriate by the commission and provided for in a financing
85 order, such amounts are to be imposed on and be a part of all
86 customer bills and be collected by an electric utility or its
87 successors or assignees, or a collection agent, in full through
88 a nonbypassable charge that is separate and apart from the
89 electric utility's base rates, which charge shall be paid by all
90 existing or future customers receiving transmission or
91 distribution service from the electric utility or its successors
92 or assignees under commission-approved rate schedules or under
93 special contracts, even if a customer elects to purchase
94 electricity from an alternative electricity supplier following a
95 fundamental change in regulation of public utilities in this
96 state.

97 (k) "Nuclear asset-recovery costs" means:



291948

98 1. At the option of and upon petition by the electric
99 utility, and as approved by the commission pursuant to sub-
100 subparagraph (2)(c)1.b., pretax costs that an electric utility
101 has incurred or expects to incur which are caused by, associated
102 with, or remain as a result of the early retirement or
103 abandonment of a nuclear generating asset unit that generated
104 electricity and is located in this state where such early
105 retirement or abandonment is deemed to be reasonable and prudent
106 by the commission through a final order approving a settlement
107 or other final order issued by the commission before July 1,
108 2017, and where the pretax costs to be securitized exceed \$750
109 million at the time of the filing of the petition. Costs
110 eligible or claimed for recovery pursuant to s. 366.93 are not
111 eligible for securitization under this section unless they were
112 in the electric utility's rate base and were included in base
113 rates before retirement or abandonment.

114 2. Such pretax costs, where determined appropriate by the
115 commission, include, but are not limited to, the capitalized
116 cost of the retired or abandoned nuclear generating asset unit,
117 other applicable capital and operating costs, accrued carrying
118 charges, deferred expenses, reductions for applicable insurance
119 and salvage proceeds and previously stipulated write-downs or
120 write-offs, if any, and the costs of retiring any existing
121 indebtedness, fees, costs, and expenses to modify existing debt
122 agreements or for waivers or consents related to existing debt
123 agreements.

124 (1) "Nuclear asset-recovery property" means:

125 1. All rights and interests of an electric utility or
126 successor or assignee of the electric utility under a financing



291948

127 order, including the right to impose, bill, collect, and receive
128 nuclear asset-recovery charges authorized under the financing
129 order and to obtain periodic adjustments to such charges as
130 provided in the financing order; or

131 2. All revenues, collections, claims, rights to payments,
132 payments, money, or proceeds arising from the rights and
133 interests specified in subparagraph 1., regardless of whether
134 such revenues, collections, claims, rights to payment, payments,
135 money, or proceeds are imposed, billed, received, collected, or
136 maintained together with or commingled with other revenues,
137 collections, rights to payment, payments, money, or proceeds.

138 (m) "Pledgee" means a financing party to which an electric
139 utility or its successors or assignees mortgages, negotiates,
140 hypothecates, pledges, or creates a security interest or lien on
141 all or any portion of its interest in or right to nuclear asset-
142 recovery property.

143 (n) "Uniform Commercial Code" has the same meaning as in
144 chapters 670-680.

145 (2) FINANCING ORDERS.-

146 (a) An electric utility may petition the commission for a
147 financing order. For each petition, the electric utility shall:

148 1. Describe the nuclear asset-recovery costs;

149 2. Indicate whether the utility proposes to finance all or
150 a portion of the nuclear asset-recovery costs using nuclear
151 asset-recovery bonds. If the utility proposes to finance a
152 portion of such costs, the utility must identify which specific
153 portion in the petition;

154 3. Estimate the financing costs related to the nuclear
155 asset-recovery bonds;



291948

156 4. Estimate the nuclear asset-recovery charges necessary to
157 recover the nuclear asset-recovery costs and financing costs and
158 the period for recovery of such costs;

159 5. Estimate any projected cost savings, based on current
160 market conditions, or demonstrate how the issuance of nuclear
161 asset-recovery bonds and the imposition of nuclear asset-
162 recovery charges would avoid or significantly mitigate rate
163 impacts to customers as compared with the traditional method of
164 financing and recovering nuclear asset-recovery costs from
165 customers;

166 6. Demonstrate that securitization has a significant
167 likelihood of resulting in lower overall costs or would avoid or
168 significantly mitigate rate impacts compared to traditional
169 method of cost recovery; and

170 7. File direct testimony supporting the petition.

171 (b) If an electric utility is subject to a settlement
172 agreement that governs the type and amount of principal costs
173 that could be included in nuclear asset-recovery costs, the
174 electric utility must file a petition, or have filed a petition,
175 with the commission for review and approval of those principal
176 costs no later than 60 days before filing a petition for a
177 financing order pursuant to this section. The commission may not
178 authorize any such principal costs to be included or excluded,
179 as applicable, as nuclear asset-recovery costs if such inclusion
180 or exclusion, as applicable, of those costs would otherwise be
181 precluded by such electric utility's settlement agreement.

182 (c)1. Proceedings on a petition submitted pursuant to
183 paragraph (a) begin with the petition by an electric utility,
184 filed subject to the timeframe specified in subparagraph



291948

185 (1) (k) 3., if applicable, and shall be disposed of in accordance
186 with chapter 120 and applicable rules, except that this section,
187 to the extent applicable, controls.

188 a. Within 7 days after the filing of a petition, the
189 commission shall publish a case schedule, which must place the
190 matter before the commission on an agenda that permits a
191 commission decision no later than 120 days after the date the
192 petition is filed.

193 b. No later than 135 days after the date the petition is
194 filed, the commission shall issue a financing order or an order
195 rejecting the petition. A party to the commission proceeding may
196 petition the commission for reconsideration of the financing
197 order within 5 days after the date of its issuance. The
198 commission shall issue a financing order authorizing financing
199 of reasonable and prudent nuclear asset-recovery costs and
200 financing costs if the commission finds that the issuance of the
201 nuclear asset-recovery bonds and the imposition of nuclear
202 asset-recovery charges authorized by the financing order have a
203 significant likelihood of resulting in lower overall costs or
204 would avoid or significantly mitigate rate impacts to customers
205 as compared with the traditional method of financing and
206 recovering nuclear asset-recovery costs. Any determination of
207 whether nuclear asset-recovery costs are reasonable and prudent
208 shall be made with reference to the general public interest and
209 in accordance with subparagraph (1) (k) 3., if applicable.

210 2. In a financing order issued to an electric utility, the
211 commission shall:

212 a. Except as provided in sub-subparagraph d. and in
213 subparagraph 4., specify the amount of nuclear asset-recovery



214 costs to be financed using nuclear asset-recovery bonds, taking
215 into consideration, to the extent the commission deems
216 appropriate, any other methods used to recover these costs. The
217 commission shall describe and estimate the amount of financing
218 costs which may be recovered through nuclear asset-recovery
219 charges and specify the period over which such costs may be
220 recovered. Any such determination as to the overall time period
221 for cost recovery must be consistent with a settlement
222 agreement, if any, as referenced in subparagraph (1) (k) 3.;

223 b. Determine if the proposed structuring, expected pricing,
224 and financing costs of the nuclear asset-recovery bonds have a
225 significant likelihood of resulting in lower overall costs or
226 would avoid or significantly mitigate rate impacts to customers
227 as compared with the traditional method of financing and
228 recovering nuclear asset-recovery costs. A financing order must
229 provide detailed findings of fact addressing cost-effectiveness
230 and associated rate impacts upon retail customers and retail
231 customer classes;

232 c. Require, for the period specified pursuant to sub-
233 subparagraph a., that the imposition and collection of nuclear
234 asset-recovery charges authorized under a financing order be
235 nonbypassable and paid by all existing and future customers
236 receiving transmission or distribution service from the electric
237 utility or its successors or assignees under commission-approved
238 rate schedules or under special contracts, even if a customer
239 elects to purchase electricity from an alternative electric
240 supplier following a fundamental change in regulation of public
241 utilities in this state;

242 d. Include a formula-based true-up mechanism for making



291948

243 expeditious periodic adjustments in the nuclear asset-recovery
244 charges that customers are required to pay pursuant to the
245 financing order and for making any adjustments that are
246 necessary to correct for any overcollection or undercollection
247 of the charges or to otherwise ensure the timely payment of
248 nuclear asset-recovery bonds and financing costs and other
249 required amounts and charges payable in connection with the
250 nuclear asset-recovery bonds;

251 e. Specify the nuclear asset-recovery property that is, or
252 shall be, created in favor of an electric utility or its
253 successors or assignees and that shall be used to pay or secure
254 nuclear asset-recovery bonds and all financing costs;

255 f. Specify the degree of flexibility to be afforded to the
256 electric utility in establishing the terms and conditions of the
257 nuclear asset-recovery bonds, including, but not limited to,
258 repayment schedules, expected interest rates, and other
259 financing costs consistent with sub-subparagraphs a.-e.;

260 g. Require nuclear asset-recovery charges to be allocated
261 to the customer classes using the criteria set out in s.
262 366.06(1), in the manner in which these costs or their
263 equivalent was allocated in the cost-of-service study that was
264 approved in connection with the electric utility's last rate
265 case and that is in effect during the nuclear asset-recovery
266 charge annual billing period. If the electric utility's last
267 rate case was resolved by a settlement agreement, the cost-of-
268 service methodology that was adopted in the settlement agreement
269 in that case and that is in effect during the nuclear asset-
270 recovery charge annual billing period shall be used;

271 h. Require, after the final terms of an issuance of nuclear



291948

272 asset-recovery bonds have been established and before the
273 issuance of nuclear asset-recovery bonds, that the electric
274 utility determine the resulting initial nuclear asset-recovery
275 charge in accordance with the financing order and that such
276 initial nuclear asset-recovery charge be final and effective
277 upon the issuance of such nuclear asset-recovery bonds without
278 further commission action so long as the nuclear asset-recovery
279 charge is consistent with the financing order; and

280 i. Include any other conditions that the commission
281 considers appropriate and that are authorized by this section.
282

283 In performing the responsibilities of this subparagraph and
284 subparagraph 5., the commission may engage outside consultants
285 or counsel. All expenses associated with such services shall be
286 included as part of financing costs and included in the nuclear
287 asset-recovery charge.

288 3. A financing order issued to an electric utility may
289 provide that creation of the electric utility's nuclear asset-
290 recovery property pursuant to sub-subparagraph e. is conditioned
291 upon, and simultaneous with, the sale or other transfer of the
292 nuclear asset-recovery property to an assignee and the pledge of
293 the nuclear asset-recovery property to secure nuclear asset-
294 recovery bonds.

295 4. If the commission issues a financing order and nuclear
296 asset-recovery bonds are issued, the electric utility or
297 assignee must file with the commission at least biannually a
298 petition or a letter applying the formula-based true-up
299 mechanism pursuant to sub-subparagraph 2.d. and, based on
300 estimates of consumption for each rate class and other



301 mathematical factors, requesting administrative approval to make
302 the adjustments described in sub-subparagraph 2.d. The review of
303 such a request is limited to determining whether there is any
304 mathematical error in the application of the formula-based
305 mechanism relating to the amount of any overcollection or
306 undercollection of nuclear asset-recovery charges and the amount
307 of any adjustment. Such adjustments shall ensure the recovery of
308 revenues sufficient to provide for the timely payment of
309 principal, interest, acquisition, defeasance, financing costs,
310 or redemption premium and other fees, costs, and charges
311 relating to nuclear asset-recovery bonds approved under the
312 financing order. Within 60 days after receiving an electric
313 utility's request pursuant to this paragraph, the commission
314 must approve the request or inform the electric utility of any
315 mathematical errors in its calculation. If the commission
316 informs the utility of mathematical errors in its calculation,
317 the utility may correct its error and refile its request. The
318 timeframes previously described in this paragraph apply to a
319 refiled request.

320 5. Within 120 days after the issuance of nuclear asset-
321 recovery bonds, the electric utility shall file with the
322 commission information on the actual costs of the nuclear asset-
323 recovery bonds issuance. The commission shall review, on a
324 reasonably comparable basis, such information to determine if
325 such costs incurred in the issuance of the bonds resulted in the
326 lowest overall costs that were reasonably consistent with market
327 conditions at the time of the issuance and the terms of the
328 financing order. The commission may disallow all incremental
329 issuance costs in excess of the lowest overall costs by



291948

330 requiring the electric utility to make a credit to the capacity
331 cost recovery clause in an amount equal to the excess of actual
332 issuance costs incurred, and paid for out of nuclear asset-
333 recovery bonds proceeds, and the lowest overall issuance costs
334 as determined by the commission. The commission may not make
335 adjustments to the nuclear asset-recovery charges for any such
336 excess issuance costs.

337 6. Subsequent to the transfer of nuclear asset-recovery
338 property to an assignee or the issuance of nuclear asset-
339 recovery bonds authorized thereby, whichever is earlier, a
340 financing order is irrevocable and, except as provided in
341 subparagraph (c)4. and paragraph (d), the commission may not
342 amend, modify, or terminate the financing order by any
343 subsequent action or reduce, impair, postpone, terminate, or
344 otherwise adjust nuclear asset-recovery charges approved in the
345 financing order. After the issuance of a financing order, the
346 electric utility retains sole discretion regarding whether to
347 assign, sell, or otherwise transfer nuclear asset-recovery
348 property or to cause nuclear asset-recovery bonds to be issued,
349 including the right to defer or postpone such assignment, sale,
350 transfer, or issuance. If the electric utility decides not to
351 cause nuclear asset-recovery bonds to be issued, the electric
352 utility may not recover financing costs as defined in paragraph
353 (1) (e) from customers.

354 (d) At the request of an electric utility, the commission
355 may commence a proceeding and issue a subsequent financing order
356 that provides for refinancing, retiring, or refunding nuclear
357 asset-recovery bonds issued pursuant to the original financing
358 order if the commission finds that the subsequent financing



291948

359 order satisfies all of the criteria specified in paragraph (c).
360 Effective upon retirement of the refunded nuclear asset-recovery
361 bonds and the issuance of new nuclear asset-recovery bonds, the
362 commission shall adjust the related nuclear asset-recovery
363 charges accordingly.

364 (e) Within 30 days after the commission issues a financing
365 order or a decision denying a request for reconsideration or, if
366 the request for reconsideration is granted, within 30 days after
367 the commission issues its decision on reconsideration, an
368 adversely affected party may petition for judicial review in the
369 Florida Supreme Court. The petition for review must be served
370 upon the executive director of the commission personally or by
371 service at the office of the commission. Review on appeal shall
372 be based solely on the record before the commission and briefs
373 to the court and is limited to determining whether the financing
374 order, or the order on reconsideration, conforms to the state
375 constitution and laws of this state and federal law and is
376 within the authority of the commission under this section.
377 Inasmuch as delay in the determination of the appeal of a
378 financing order will delay the issuance of nuclear asset-
379 recovery bonds, thereby diminishing savings to customers which
380 might be achieved if such nuclear asset-recovery bonds were
381 issued as contemplated by a financing order, the Florida Supreme
382 Court shall proceed to hear and determine the action as
383 expeditiously as practicable and give the action precedence over
384 other matters not accorded similar precedence by law.

385 (f)1. A financing order remains in effect and all such
386 nuclear asset-recovery property continues to exist until nuclear
387 asset-recovery bonds issued pursuant to the financing order have



388 been paid in full and all commission-approved financing costs of
389 such nuclear asset-recovery bonds have been recovered in full.

390 2. A financing order issued to an electric utility remains
391 in effect and unabated notwithstanding the reorganization,
392 bankruptcy, or other insolvency proceedings, or merger, or sale
393 of the electric utility or its successors or assignees.

394 (3) EXCEPTIONS TO COMMISSION JURISDICTION.-

395 (a) If the commission issues a financing order to an
396 electric utility pursuant to this section, the commission may
397 not, in exercising its powers and carrying out its duties
398 regarding any matter within its authority pursuant to this
399 chapter, consider the nuclear asset-recovery bonds issued
400 pursuant to the financing order to be the debt of the electric
401 utility other than for federal income tax purposes, consider the
402 nuclear asset-recovery charges paid under the financing order to
403 be the revenue of the electric utility for any purpose, or
404 consider the nuclear asset-recovery costs or financing costs
405 specified in the financing order to be the costs of the electric
406 utility, nor may the commission determine any action taken by an
407 electric utility which is consistent with the financing order to
408 be unjust or unreasonable.

409 (b) The commission may not order or otherwise directly or
410 indirectly require an electric utility to use nuclear asset-
411 recovery bonds to finance any project, addition, plant,
412 facility, extension, capital improvement, equipment, or any
413 other expenditure, unless that expenditure is a nuclear asset-
414 recovery cost and the electric utility has filed a petition
415 pursuant to paragraph (2) (a) to finance such expenditure using
416 nuclear asset-recovery bonds. The commission may not refuse to



291948

417 allow an electric utility to recover nuclear asset-recovery
418 costs in an otherwise permissible fashion, or refuse or
419 condition authorization or approval pursuant to s. 366.04 of the
420 issuance and sale by an electric utility of securities or the
421 assumption by it of liabilities or obligations, solely because
422 of the potential availability of nuclear asset-recovery cost
423 financing.

424 (4) ELECTRIC UTILITY DUTIES.—The electric bills of an
425 electric utility that has obtained a financing order and caused
426 nuclear asset-recovery bonds to be issued must:

427 (a) Explicitly reflect that a portion of the charges on
428 such bill represents nuclear asset-recovery charges approved in
429 a financing order issued to the electric utility and, if the
430 nuclear asset-recovery property has been transferred to an
431 assignee, must include a statement to the effect that the
432 assignee is the owner of the rights to nuclear asset-recovery
433 charges and that the electric utility or other entity, if
434 applicable, is acting as a collection agent or servicer for the
435 assignee. The tariff applicable to customers must indicate the
436 nuclear asset-recovery charge and the ownership of that charge.

437 (b) Include the nuclear asset-recovery charge on each
438 customer's bill as a separate line item titled "Asset
439 Securitization Charge" and include both the rate and the amount
440 of the charge on each bill.

441
442 The failure of an electric utility to comply with this
443 subsection does not invalidate, impair, or affect any financing
444 order, nuclear asset-recovery property, nuclear asset-recovery
445 charge, or nuclear asset-recovery bonds, but does subject the



291948

446 electric utility to penalties under s. 366.095.

447 (5) NUCLEAR ASSET-RECOVERY PROPERTY.—

448 (a)1. All nuclear asset-recovery property that is specified
449 in a financing order constitutes an existing, present property
450 right or interest therein, notwithstanding that the imposition
451 and collection of nuclear asset-recovery charges depends on the
452 electric utility, to which the financing order is issued,
453 performing its servicing functions relating to the collection of
454 nuclear asset-recovery charges and on future electricity
455 consumption. Such property exists whether or not the revenues or
456 proceeds arising from the property have been billed, have
457 accrued, or have been collected and notwithstanding the fact
458 that the value or amount of the property is dependent on the
459 future provision of service to customers by the electric utility
460 or its successors or assignees.

461 2. Nuclear asset-recovery property specified in a financing
462 order exists until nuclear asset-recovery bonds issued pursuant
463 to the financing order are paid in full and all financing costs
464 and other costs of such nuclear asset-recovery bonds have been
465 recovered in full.

466 3. All or any portion of nuclear asset-recovery property
467 specified in a financing order issued to an electric utility may
468 be transferred, sold, conveyed, or assigned to a successor or
469 assignee, that is wholly owned, directly or indirectly, by the
470 electric utility, created for the limited purpose of acquiring,
471 owning, or administering nuclear asset-recovery property or
472 issuing nuclear asset-recovery bonds under the financing order.
473 All or any portion of nuclear asset-recovery property may be
474 pledged to secure nuclear asset-recovery bonds issued pursuant



291948

475 to the financing order, amounts payable to financing parties and
476 to counterparties under any ancillary agreements, and other
477 financing costs. Each such transfer, sale, conveyance,
478 assignment, or pledge by an electric utility or affiliate of an
479 electric utility is considered to be a transaction in the
480 ordinary course of business.

481 4. If an electric utility defaults on any required payment
482 of charges arising from nuclear asset-recovery property
483 specified in a financing order, a court, upon application by an
484 interested party, and without limiting any other remedies
485 available to the applying party, shall order the sequestration
486 and payment of the revenues arising from the nuclear asset-
487 recovery property to the financing parties. Any such financing
488 order remains in full force and effect notwithstanding any
489 reorganization, bankruptcy, or other insolvency proceedings with
490 respect to the electric utility or its successors or assignees.

491 5. The interest of a transferee, purchaser, acquirer,
492 assignee, or pledgee in nuclear asset-recovery property
493 specified in a financing order issued to an electric utility,
494 and in the revenue and collections arising from that property,
495 is not subject to setoff, counterclaim, surcharge, or defense by
496 the electric utility or any other person or in connection with
497 the reorganization, bankruptcy, or other insolvency of the
498 electric utility or any other entity.

499 6. Any successor to an electric utility, whether pursuant
500 to any reorganization, bankruptcy, or other insolvency
501 proceeding or whether pursuant to any merger or acquisition,
502 sale, or other business combination, or transfer by operation of
503 law, as a result of electric utility restructuring or otherwise,



291948

504 must perform and satisfy all obligations of, and have the same
505 rights under a financing order as, the electric utility under
506 the financing order in the same manner and to the same extent as
507 the electric utility, including collecting and paying to the
508 person entitled to receive the revenues, collections, payments,
509 or proceeds of the nuclear asset-recovery property.

510 (b)1. Except as provided in this section, the Uniform
511 Commercial Code does not apply to nuclear asset-recovery
512 property or any right, title, or interest of an electric utility
513 or assignee described in subparagraph (1)(1)1., whether before
514 or after the issuance of the financing order. In addition, such
515 right, title, or interest pertaining to a financing order,
516 including, but not limited to, the associated nuclear asset-
517 recovery property and any revenues, collections, claims, rights
518 to payment, payments, money, or proceeds of or arising from
519 nuclear asset-recovery charges pursuant to such order, is not
520 deemed proceeds of any right or interest other than in the
521 financing order and the nuclear asset-recovery property arising
522 from the order.

523 2. The creation, attachment, granting, perfection,
524 priority, and enforcement of liens and security interests in
525 nuclear asset-recovery property to secure nuclear asset-recovery
526 bonds is governed solely by this section and, except to the
527 extent provided in this section, not by the Uniform Commercial
528 Code.

529 3. A valid, enforceable, and attached lien and security
530 interest in nuclear asset-recovery property may be created only
531 upon the later of:

532 a. The issuance of a financing order;



291948

533 b. The execution and delivery of a security agreement with
534 a financing party in connection with the issuance of nuclear
535 asset-recovery bonds; or

536 c. The receipt of value for nuclear asset-recovery bonds.
537

538 A valid, enforceable, and attached security interest is
539 perfected against third parties as of the date of filing of a
540 financing statement in the Florida Secured Transaction Registry,
541 as defined in s. 679.527, in accordance with subparagraph 4.,
542 and is thereafter a continuously perfected lien; and such
543 security interest in the nuclear asset-recovery property and all
544 proceeds of such nuclear asset-recovery property, whether or not
545 billed, accrued, or collected, and whether or not deposited into
546 a deposit account and however evidenced, has priority in
547 accordance with subparagraph 8. and takes precedence over any
548 subsequent judicial or other lien creditor. A continuation
549 statement does not need to be filed to maintain such perfection.

550 4. Financing statements required to be filed pursuant to
551 this section must be filed, maintained, and indexed in the same
552 manner and in the same system of records maintained for the
553 filing of financing statements in the Florida Secured
554 Transaction Registry, as defined in s. 679.527. The filing of
555 such a financing statement is the only method of perfecting a
556 lien or security interest on nuclear asset-recovery property.

557 5. The priority of a lien and security interest perfected
558 under this paragraph is not impaired by any later modification
559 of the financing order or nuclear asset-recovery property or by
560 the commingling of funds arising from nuclear asset-recovery
561 property with other funds, and any other security interest that



291948

562 may apply to those funds is terminated as to all funds
563 transferred to a segregated account for the benefit of an
564 assignee or a financing party or to an assignee or financing
565 party directly.

566 6. If a default or termination occurs under the terms of
567 the nuclear asset-recovery bonds, the financing parties or their
568 representatives may foreclose on or otherwise enforce their lien
569 and security interest in any nuclear asset-recovery property as
570 if they were a secured party under Art. 9 of the Uniform
571 Commercial Code; and a court may order that amounts arising from
572 nuclear asset-recovery property be transferred to a separate
573 account for the financing parties' benefit, to which their lien
574 and security interest applies. Upon application by or on behalf
575 of the financing parties to a circuit court of this state, the
576 court shall order the sequestration and payment to the financing
577 parties of revenues arising from the nuclear asset-recovery
578 property.

579 7. The interest of a pledgee of an interest or any rights
580 in any nuclear asset-recovery property is not perfected until
581 filing as provided in subparagraph 4.

582 8. The priority of the conflicting interests of pledgees in
583 the same interest or rights in any nuclear asset-recovery
584 property is determined as follows:

585 a. Conflicting perfected interests or rights of pledgees
586 rank according to priority in time of perfection. Priority dates
587 from the time a filing covering the interest or right is made in
588 accordance with this paragraph.

589 b. A perfected interest or right of a pledgee has priority
590 over a conflicting unperfected interest or right of a pledgee.



291948

591 c. A perfected interest or right of a pledgee has priority
592 over a person who becomes a lien creditor after the perfection
593 of such pledgee's interest or right.

594 (c) The sale, assignment, or transfer of nuclear asset-
595 recovery property is governed by this paragraph. All of the
596 following apply to a sale, assignment, or transfer under this
597 paragraph:

598 1. The sale, conveyance, assignment, or other transfer of
599 nuclear asset-recovery property by an electric utility to an
600 assignee that the parties have in the governing documentation
601 expressly stated to be a sale or other absolute transfer is an
602 absolute transfer and true sale of, and not a pledge of or
603 secured transaction relating to, the transferor's right, title,
604 and interest in, to, and under the nuclear asset-recovery
605 property, other than for federal and state income and franchise
606 tax purposes. After such a transaction, the nuclear asset-
607 recovery property is not subject to any claims of the transferor
608 or the transferor's creditors, other than creditors holding a
609 prior security interest in the nuclear asset-recovery property
610 perfected under paragraph (b).

611 2. The characterization of the sale, conveyance,
612 assignment, or other transfer as a true sale or other absolute
613 transfer under subparagraph 1. and the corresponding
614 characterization of the transferee's property interest are not
615 affected by:

616 a. Commingling of amounts arising with respect to the
617 nuclear asset-recovery property with other amounts;

618 b. The retention by the transferor of a partial or residual
619 interest, including an equity interest, in the nuclear asset-



291948

620 recovery property, whether direct or indirect, or whether
621 subordinate or otherwise;

622 c. Any recourse that the transferee may have against the
623 transferor other than any such recourse created, contingent
624 upon, or otherwise occurring or resulting from one or more of
625 the transferor's customers' inability or failure to timely pay
626 all or a portion of the nuclear asset-recovery charge;

627 d. Any indemnifications, obligations, or repurchase rights
628 made or provided by the transferor, other than indemnity or
629 repurchase rights based solely upon a transferor's customers'
630 inability or failure to timely pay all or a portion of the
631 nuclear asset-recovery charge;

632 e. The responsibility of the transferor to collect nuclear
633 asset-recovery charges;

634 f. The treatment of the sale, conveyance, assignment, or
635 other transfer for tax, financial reporting, or other purposes;
636 or

637 g. The granting or providing to holders of nuclear asset-
638 recovery bonds a preferred right to the nuclear asset-recovery
639 property or credit enhancement by the electric utility or its
640 affiliates with respect to such nuclear asset-recovery bonds.

641 3. Any right that an electric utility has in the nuclear
642 asset-recovery property before its pledge, sale, or transfer or
643 any other right created under this section or created in the
644 financing order and assignable under this section or assignable
645 pursuant to a financing order is property in the form of a
646 contract right. Transfer of an interest in nuclear asset-
647 recovery property to an assignee is enforceable only upon the
648 later of the issuance of a financing order, the execution and



291948

649 delivery of transfer documents to the assignee in connection
650 with the issuance of nuclear asset-recovery bonds, and the
651 receipt of value. An enforceable transfer of an interest in
652 nuclear asset-recovery property to an assignee is perfected
653 against all third parties, including subsequent judicial or
654 other lien creditors, when a notice of that transfer has been
655 given by the filing of a financing statement in accordance with
656 subparagraph (b)4. The transfer is perfected against third
657 parties as of the date of filing.

658 4. Financing statements required to be filed under this
659 section must be maintained and indexed in the same manner and in
660 the same system of records maintained for the filing of
661 financing statements in the Florida Secured Transaction
662 Registry, as defined in s. 679.527. The filing of such a
663 financing statement is the only method of perfecting a transfer
664 of nuclear asset-recovery property.

665 5. The priority of a transfer perfected under this section
666 is not impaired by any later modification of the financing order
667 or nuclear asset-recovery property or by the commingling of
668 funds arising from nuclear asset-recovery property with other
669 funds. Any other security interest that may apply to those
670 funds, other than a security interest perfected under paragraph
671 (b), is terminated when they are transferred to a segregated
672 account for the assignee or a financing party. If nuclear asset-
673 recovery property has been transferred to an assignee or
674 financing party, any proceeds of that property must be held in
675 trust for the assignee or financing party.

676 6. The priority of the conflicting interests of assignees
677 in the same interest or rights in any nuclear asset-recovery



291948

678 property is determined as follows:

679 a. Conflicting perfected interests or rights of assignees
680 rank according to priority in time of perfection. Priority dates
681 from the time a filing covering the transfer is made in
682 accordance with subparagraph (b)4.

683 b. A perfected interest or right of an assignee has
684 priority over a conflicting unperfected interest or right of an
685 assignee.

686 c. A perfected interest or right of an assignee has
687 priority over a person who becomes a lien creditor after the
688 perfection of such assignee's interest or right.

689 (6) DESCRIPTION OR INDICATION OF PROPERTY.—The description
690 of nuclear asset-recovery property being transferred to an
691 assignee in any sale agreement, purchase agreement, or other
692 transfer agreement, granted or pledged to a pledgee in any
693 security agreement, pledge agreement, or other security
694 document, or indicated in any financing statement is only
695 sufficient if such description or indication describes the
696 financing order that created the nuclear asset-recovery property
697 and states that such agreement or financing statement covers all
698 or part of such property described in such financing order. This
699 subsection applies to all purported transfers of, and all
700 purported grants or liens or security interests in, nuclear
701 asset-recovery property, regardless of whether the related sale
702 agreement, purchase agreement, other transfer agreement,
703 security agreement, pledge agreement, or other security document
704 was entered into, or any financing statement was filed, before
705 or after the effective date of this section.

706 (7) FINANCING STATEMENTS.—All financing statements



291948

707 referenced in this section are subject to Part V of Art. 9 of
708 the Uniform Commercial Code, except that the requirement as to
709 continuation statements does not apply.

710 (8) CHOICE OF LAW.—The law governing the validity,
711 enforceability, attachment, perfection, priority, and exercise
712 of remedies with respect to the transfer of an interest or right
713 or the pledge or creation of a security interest in any nuclear
714 asset-recovery property shall be the laws of this state, and
715 exclusively, the laws of this section.

716 (9) NUCLEAR ASSET-RECOVERY BONDS NOT PUBLIC DEBT.—The state
717 or its political subdivisions are not liable on any nuclear
718 asset-recovery bonds, and the bonds are not a debt or a general
719 obligation of the state or any of its political subdivisions,
720 agencies, or instrumentalities. An issue of nuclear asset-
721 recovery bonds does not, directly or indirectly or contingently,
722 obligate the state or any agency, political subdivision, or
723 instrumentality of the state to levy any tax or make any
724 appropriation for payment of the nuclear asset-recovery bonds,
725 other than in their capacity as consumers of electricity. This
726 subsection does not preclude bond guarantees or enhancements
727 pursuant to this section. All nuclear asset-recovery bonds must
728 contain on the face thereof a statement to the following effect:
729 “Neither the full faith and credit nor the taxing power of the
730 State of Florida is pledged to the payment of the principal of,
731 or interest on, this bond.”

732 (10) NUCLEAR ASSET-RECOVERY BONDS AS LEGAL INVESTMENTS WITH
733 RESPECT TO INVESTORS THAT REQUIRE STATUTORY AUTHORITY REGARDING
734 LEGAL INVESTMENT.—All of the following entities may legally
735 invest any sinking funds, moneys, or other funds belonging to



291948

736 them or under their control in nuclear asset-recovery bonds:

737 (a) The state, the investment board, municipal
738 corporations, political subdivisions, public bodies, and public
739 officers, except for members of the commission.

740 (b) Banks and bankers, savings and loan associations,
741 credit unions, trust companies, savings banks and institutions,
742 investment companies, insurance companies, insurance
743 associations, and other persons carrying on a banking or
744 insurance business.

745 (c) Personal representatives, guardians, trustees, and
746 other fiduciaries.

747 (d) All other persons whatsoever who are now or may
748 hereafter be authorized to invest in bonds or other obligations
749 of a similar nature.

750 (11) STATE PLEDGE.—

751 (a) For purposes of this subsection, the term "bondholder"
752 means a person who holds a nuclear asset-recovery bond.

753 (b) The state pledges to and agrees with bondholders, the
754 owners of the nuclear asset-recovery property, and other
755 financing parties that the state will not:

756 1. Alter the provisions of this section which make the
757 nuclear asset-recovery charges imposed by a financing order
758 irrevocable, binding, and nonbypassable charges;

759 2. Take or permit any action that impairs or would impair
760 the value of nuclear asset-recovery property or revises the
761 nuclear asset-recovery costs for which recovery is authorized;
762 or

763 3. Except as authorized under this section, reduce, alter,
764 or impair nuclear asset-recovery charges that are to be imposed,



291948

765 collected, and remitted for the benefit of the bondholders and
766 other financing parties until any and all principal, interest,
767 premium, financing costs and other fees, expenses, or charges
768 incurred, and any contracts to be performed, in connection with
769 the related nuclear asset-recovery bonds have been paid and
770 performed in full.

771
772 This paragraph does not preclude limitation or alteration if
773 full compensation is made by law for the full protection of the
774 nuclear asset-recovery charges collected pursuant to a financing
775 order and of the holders of nuclear asset-recovery bonds and any
776 assignee or financing party entering into a contract with the
777 electric utility.

778 (c) Any person or entity that issues nuclear asset-recovery
779 bonds may include the pledge specified in paragraph (b) in the
780 nuclear asset-recovery bonds and related documentation.

781 (12) NOT AN ELECTRIC UTILITY.—An assignee or financing
782 party is not an electric utility or person providing electric
783 service by virtue of engaging in the transactions described in
784 this section.

785 (13) CONFLICTS.—If there is a conflict between this section
786 and any other law regarding the attachment, assignment, or
787 perfection, or the effect of perfection, or priority of,
788 assignment or transfer of, or security interest in nuclear
789 asset-recovery property, this section governs.

790 (14) EFFECT OF INVALIDITY ON ACTIONS.—Effective on the date
791 that nuclear asset-recovery bonds are first issued under this
792 section, if any provision of this section is held to be invalid
793 or is invalidated, superseded, replaced, repealed, or expires



291948

794 for any reason, that occurrence does not affect the validity of
795 any action allowed under this section which is taken by an
796 electric utility, an assignee, a financing party, a collection
797 agent, or a party to an ancillary agreement; and any such action
798 remains in full force and effect with respect to all nuclear
799 asset-recovery bonds issued or authorized in a financing order
800 issued under this section before the date that such provision is
801 held to be invalid or is invalidated, superseded, replaced, or
802 repealed, or that expires for any reason.

803 (15) PENALTIES.—A violation of this section or of a
804 financing order issued under this section subjects the utility
805 that obtained the order to penalties under s. 366.095 and to any
806 other penalties or remedies that the commission determines are
807 necessary to achieve the intent of this section and the intent
808 and terms of the financing order and to prevent any increase in
809 financial impact to the utility's customers above that set forth
810 in the financing order. If the commission orders a penalty or a
811 remedy for a violation, the monetary penalty or remedy and the
812 costs of defending against the proposed penalty or remedy may
813 not be recovered from the customers. The commission may not make
814 adjustments to nuclear asset-recovery charges for any such
815 penalties or remedies.

816
817 ===== T I T L E A M E N D M E N T =====

818 And the title is amended as follows:

819 Between lines 42 and 43

820 insert:

821 creating s. 366.95, F.S.; defining terms; authorizing
822 electric utilities to petition the Florida Public



291948

823 Service Commission for certain financing orders that
824 authorize the issuance of nuclear asset-recovery
825 bonds, the imposition, collection, and periodic
826 adjustments of nuclear asset-recovery charges, and the
827 creation of nuclear asset-recovery property; providing
828 requirements; providing exceptions to the commission's
829 jurisdictions as it relates to financing orders;
830 specifying duties of electric utilities that have
831 obtained a financing order and issued nuclear asset-
832 recovery bonds; specifying properties, requirements
833 and limitations relating to nuclear asset-recovery
834 property; providing requirements as to the sufficiency
835 of the description of certain nuclear asset-recovery
836 property; subjecting financing statements to the
837 Uniform Commercial Code; providing an exception;
838 specifying that nuclear asset-recovery bonds are not
839 public debt; specifying certain state pledges relating
840 to bondholders; declaring certain entities as not
841 electric utilities under certain circumstances;
842 specifying effect of certain provisions in situations
843 of conflict; providing for protecting validity of
844 certain bonds under certain circumstances; providing
845 penalties;

By the Committee on Communications, Energy, and Public Utilities; and Senator Latvala

579-01679-15

2015288c1

1 A bill to be entitled
2 An act relating to utilities regulation; amending s.
3 350.01, F.S.; requiring the Florida Public Service
4 Commission to hold public customer service meetings in
5 certain service territories; requiring that specified
6 meetings, workshops, hearings, or proceedings of the
7 commission be streamed live and recorded copies be
8 made available on the commission's web page; amending
9 s. 350.031, F.S.; requiring a person who lobbies a
10 member of the Florida Public Service Commission
11 Nominating Council to register as a lobbyist;
12 reenacting and amending s. 350.041, F.S.; requiring
13 public service commissioners to annually complete
14 ethics training; providing applicability; amending s.
15 350.042, F.S.; revising the prohibition against ex
16 parte communication to apply to any matter that a
17 commissioner knows or reasonably expects will be filed
18 within a certain timeframe; providing legislative
19 intent; defining terms; applying the prohibition
20 against ex parte communications to specified meetings;
21 requiring the Governor to remove from office any
22 commissioner found to have willfully and knowingly
23 violated the ex parte communications statute; amending
24 s. 350.0611, F.S.; authorizing the Public Counsel to
25 be a party to settlement agreements in any proceeding
26 before the commission in which he or she has
27 participated as a party; prohibiting a settlement
28 agreement to which the Public Counsel is not a party
29 from being submitted to or approved by the Florida

579-01679-15

2015288c1

30 Public Service Commission; amending s. 366.05, F.S.;

31 limiting the use of tiered rates in conjunction with

32 extended billing periods; limiting deposit amounts;

33 requiring a utility to notify each customer if it has

34 more than one rate for any customer class; requiring

35 the utility to provide good faith assistance to the

36 customer in determining the best rate; assigning

37 responsibility to the customer for the rate selection;

38 requiring that the commission approve new tariffs and

39 certain changes to existing tariffs; amending s.

40 366.82, F.S.; requiring that money received by a

41 utility for the development of demand-side renewable

42 energy systems be used solely for that purpose;

43 reenacting ss. 403.537 and 403.9422, F.S., relating to

44 determination of need for electric and natural gas

45 transmission lines, respectively; reenacting s.

46 350.043, F.S., relating to the enforcement and

47 interpretation of laws relating to the commission;

48 providing an effective date.

49

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

51

52 Section 1. Subsections (8), (9), and (10) are added to

53 section 350.01, Florida Statutes, to read:

54 350.01 Florida Public Service Commission; terms of

55 commissioners; vacancies; election and duties of chair; quorum;

56 proceedings.-

57 (8) At least annually, the commission shall hold a customer

58 service meeting, open to the public, in the service territory of

579-01679-15

2015288c1

59 each public utility regulated by the commission which supplies
60 electricity.

61 (9) The commission shall hold a customer service meeting,
62 open to the public, in the service territory of each water or
63 wastewater utility that is subject to regulation under chapter
64 367, upon receipt of a written request signed by at least 10
65 percent of the customers of that utility. Such meeting shall be
66 scheduled within a reasonable time after receipt of the request.

67 (10) Each meeting, including an internal affairs meeting,
68 workshop, hearing, or proceeding that is attended by two or more
69 commissioners and each meeting, workshop, hearing, or proceeding
70 at which a decision is made which concerns the rights or
71 obligations of any person, shall be streamed live on the
72 Internet, and a recorded copy of such meeting, workshop,
73 hearing, or proceeding must be made available on the
74 commission's web page.

75 Section 2. Subsection (10) is added to section 350.031,
76 Florida Statutes, to read:

77 350.031 Florida Public Service Commission Nominating
78 Council.-

79 (10) In keeping with the purpose of the council, which is
80 to select nominees to be appointed to an arm of the legislative
81 branch of government, a person who lobbies a member of the
82 council, legislator or nonlegislator, must register as a
83 lobbyist pursuant to s. 11.045 and comply with the requirements
84 of that section.

85 Section 3. Present subsection (3) of section 350.041,
86 Florida Statutes, is reenacted and amended, and a new subsection
87 (3) is added to that section, to read:

579-01679-15

2015288c1

88 350.041 Commissioners; standards of conduct.—

89 (3) ETHICS TRAINING.—Beginning January 1, 2016, a
90 commissioner must annually complete 4 hours of ethics training
91 that addresses, at a minimum, s. 8, Art. II of the State
92 Constitution, the Code of Ethics for Public Officers and
93 Employees, and the public records and public meetings laws of
94 this state. This requirement may be satisfied by completion of a
95 continuing legal education class or other continuing
96 professional education class, seminar, or presentation, if the
97 required subjects are covered.

98 (4) COMMISSION ON ETHICS.—The Commission on Ethics shall
99 accept and investigate any alleged violations of this section
100 pursuant to the procedures contained in ss. 112.322-112.3241.
101 The Commission on Ethics shall provide the Governor and the
102 Florida Public Service Commission Nominating Council with a
103 report of its findings and recommendations. The Governor is
104 authorized to enforce the findings and recommendations of the
105 Commission on Ethics, pursuant to part III of chapter 112. A
106 public service commissioner or a member of the Florida Public
107 Service Commission Nominating Council may request an advisory
108 opinion from the Commission on Ethics, pursuant to s.
109 112.322(3)(a), regarding the standards of conduct or
110 prohibitions set forth in this section and ss. 350.031, 350.04,
111 and 350.042.

112 Section 4. Subsections (1) and (3) and paragraph (b) of
113 subsection (7) of section 350.042, Florida Statutes, are amended
114 to read:

115 350.042 Ex parte communications.—

116 (1) A commissioner should accord to every person who is

579-01679-15

2015288c1

117 legally interested in a proceeding, or the person's lawyer, full
118 right to be heard according to law, and, except as authorized by
119 law, shall neither initiate nor consider ex parte communications
120 concerning the merits, threat, or offer of reward in any
121 proceeding under s. 120.569 or s. 120.57 which is currently
122 pending before the commission or which he or she knows or
123 reasonably expects will be filed with the commission within 180
124 days after the date of any such communication, other than a
125 proceeding under s. 120.54 or s. 120.565, workshops, or internal
126 affairs meetings. An ~~No~~ individual may not ~~shall~~ discuss ex
127 parte with a commissioner the merits of any issue that he or she
128 knows will be filed with the commission within 180 ~~90~~ days. ~~The~~
129 ~~provisions of~~ This subsection does ~~shall~~ not apply to commission
130 staff.

131 (3) (a) The Legislature finds that it is important to have
132 commissioners who are educated and informed on regulatory
133 policies and developments in science, technology, business
134 management, finance, law, and public policy which are associated
135 with the industries that the commissioners regulate, and the
136 Legislature also finds that it is in the public interest for
137 commissioners to become educated and informed on these matters
138 through active participation in meetings that are scheduled by
139 the sponsoring organization, such as sessions, programs, or
140 conferences, which are duly noticed and open to the public.

141 (b) As used in this subsection, the term "active
142 participation" or the term "participating in" includes, but is
143 not limited to, attending or speaking at educational sessions,
144 participating in organization governance by attending meetings,
145 serving on committees, or in leadership positions, participating

579-01679-15

2015288c1

146 in panel discussions, and attending meals and receptions
147 associated with such events that are open to all attendees.

148 (c) The prohibition in subsection (1) remains in effect at
149 all times at such meetings wherever located. While participating
150 in such meetings, a commissioner shall:

151 1. Refrain from commenting on or discussing the subject
152 matter of any proceeding under s. 120.569 or s. 120.57 which is
153 currently pending before the commission or which he or she knows
154 or reasonably expects will be filed with the commission within
155 180 days after the meeting; and

156 2. Use reasonable care to ensure that the content of the
157 educational session or other session in which the commissioner
158 participates is not designed to address or create a forum to
159 influence the commissioner on the subject matter of any
160 proceeding under s. 120.569 or s. 120.57 which is currently
161 pending before the commission or which he or she knows or
162 reasonably expects will be filed with the commission within 180
163 days after the meeting ~~This section shall not apply to oral~~
164 ~~communications or discussions in scheduled and noticed open~~
165 ~~public meetings of educational programs or of a conference or~~
166 ~~other meeting of an association of regulatory agencies.~~

167 (7)

168 (b) If the Commission on Ethics finds that there has been a
169 violation of this section by a public service commissioner, it
170 shall provide the Governor and the Florida Public Service
171 Commission Nominating Council with a report of its findings and
172 recommendations. The Governor shall remove from office a
173 commissioner who willfully and knowingly violates this section
174 and is authorized to enforce the findings and recommendations of

579-01679-15

2015288c1

175 the Commission on Ethics, pursuant to part III of chapter 112.

176 Section 5. Section 350.0611, Florida Statutes, is amended
177 to read:

178 350.0611 Public Counsel; duties and powers.—It shall be the
179 duty of the Public Counsel to provide legal representation for
180 the people of the state in proceedings before the commission and
181 in proceedings before counties pursuant to s. 367.171(8). The
182 Public Counsel shall have such powers as are necessary to carry
183 out the duties of his or her office, including, but not limited
184 to, the following specific powers:

185 (1) To recommend to the commission or the counties, by
186 petition, the commencement of any proceeding or action or to
187 appear, in the name of the state or its citizens, in any
188 proceeding or action before the commission or the counties and
189 urge therein any position which he or she deems to be in the
190 public interest, whether consistent or inconsistent with
191 positions previously adopted by the commission or the counties,
192 and utilize therein all forms of discovery available to
193 attorneys in civil actions generally, subject to protective
194 orders of the commission or the counties which shall be
195 reviewable by summary procedure in the circuit courts of this
196 state;

197 (2) To have access to and use of all files, records, and
198 data of the commission or the counties available to any other
199 attorney representing parties in a proceeding before the
200 commission or the counties;

201 (3) In any proceeding before the commission in which he or
202 she has participated as a party, to be a party to a settlement
203 agreement. If he or she is not a party to the settlement

579-01679-15

2015288c1

204 agreement, it may not be submitted to or approved by the
205 commission;

206 (4)~~(3)~~ In any proceeding in which he or she has
207 participated as a party, to seek review of any determination,
208 finding, or order of the commission or the counties, or of any
209 hearing examiner designated by the commission or the counties,
210 in the name of the state or its citizens;

211 (5)~~(4)~~ To prepare and issue reports, recommendations, and
212 proposed orders to the commission, the Governor, and the
213 Legislature on any matter or subject within the jurisdiction of
214 the commission, and to make such recommendations as he or she
215 deems appropriate for legislation relative to commission
216 procedures, rules, jurisdiction, personnel, and functions; and

217 (6)~~(5)~~ To appear before other state agencies, federal
218 agencies, and state and federal courts in connection with
219 matters under the jurisdiction of the commission, in the name of
220 the state or its citizens.

221 Section 6. Subsection (1) of section 366.05, Florida
222 Statutes, is amended to read:

223 366.05 Powers.—

224 (1)(a) In the exercise of such jurisdiction, the commission
225 shall have power to prescribe fair and reasonable rates and
226 charges, classifications, standards of quality and measurements,
227 including the ability to adopt construction standards that
228 exceed the National Electrical Safety Code, for purposes of
229 ensuring the reliable provision of service, and service rules
230 and regulations to be observed by each public utility; to
231 require repairs, improvements, additions, replacements, and
232 extensions to the plant and equipment of any public utility when

579-01679-15

2015288c1

233 reasonably necessary to promote the convenience and welfare of
234 the public and secure adequate service or facilities for those
235 reasonably entitled thereto; to employ and fix the compensation
236 for such examiners and technical, legal, and clerical employees
237 as it deems necessary to carry out the provisions of this
238 chapter; and to adopt rules pursuant to ss. 120.536(1) and
239 120.54 to implement and enforce the provisions of this chapter.

240 (b) If the commission authorizes a public utility to charge
241 tiered rates based upon levels of usage and to vary the billing
242 period, the utility may not charge a customer a higher rate
243 because of an increase in usage attributable to an extension of
244 the billing period.

245 (c) Notwithstanding any commission rule to the contrary, a
246 utility may not charge or receive a deposit in excess of the
247 amounts specified in subparagraphs 1. and 2.

248 1. For an existing customer, the total deposit cannot
249 exceed the total charges for 2 months of average actual usage,
250 calculated by adding the monthly charges from the 12-month
251 period immediately before the date any change in the deposit
252 amount is sought, dividing this total by 12, and multiplying the
253 result by 2.

254 2. For a new customer, the amount may not exceed 2 months
255 of projected charges, calculated using the process specified in
256 subparagraph 1. Once a new customer has had continuous service
257 for a 12-month period, the amount of the deposit shall be
258 recalculated, using actual usage data. Any difference between
259 the projected and actual amounts must be resolved by the
260 customer paying any additional amount due or the utility
261 returning any overcharge.

579-01679-15

2015288c1

262 (d) If a utility has more than one rate for any customer
263 class, it must notify each customer in that class of the
264 available rates and explain how the rate is charged to the
265 customer. If a customer contacts the utility seeking assistance
266 in selecting the most advantageous rate, the utility must
267 provide good faith assistance to the customer. The customer is
268 responsible for charges for service calculated under the
269 selected rate.

270 (e) New tariffs and changes to an existing tariff, other
271 than an administrative change that does not substantially change
272 the meaning or operation of the tariff, must be approved by vote
273 of the commission.

274 Section 7. Subsection (2) of section 366.82, Florida
275 Statutes, is amended to read:

276 366.82 Definition; goals; plans; programs; annual reports;
277 energy audits.—

278 (2) The commission shall adopt appropriate goals for
279 increasing the efficiency of energy consumption and increasing
280 the development of demand-side renewable energy systems,
281 specifically including goals designed to increase the
282 conservation of expensive resources, such as petroleum fuels, to
283 reduce and control the growth rates of electric consumption, to
284 reduce the growth rates of weather-sensitive peak demand, and to
285 encourage development of demand-side renewable energy resources.
286 The commission may allow efficiency investments across
287 generation, transmission, and distribution as well as
288 efficiencies within the user base. Money received by a utility
289 for implementation of measures to encourage development of
290 demand-side renewable energy systems shall be used solely for

579-01679-15

2015288c1

291 such purpose.

292 Section 8. For the purpose of incorporating the amendment
293 made by this act to section 350.01, Florida Statutes, in a
294 reference thereto, paragraph (a) of subsection (1) of section
295 403.537, Florida Statutes, is reenacted to read:

296 403.537 Determination of need for transmission line; powers
297 and duties.—

298 (1) (a) Upon request by an applicant or upon its own motion,
299 the Florida Public Service Commission shall schedule a public
300 hearing, after notice, to determine the need for a transmission
301 line regulated by the Florida Electric Transmission Line Siting
302 Act, ss. 403.52-403.5365. The notice shall be published at least
303 21 days before the date set for the hearing and shall be
304 published by the applicant in at least one-quarter page size
305 notice in newspapers of general circulation, and by the
306 commission in the manner specified in chapter 120, by giving
307 notice to counties and regional planning councils in whose
308 jurisdiction the transmission line could be placed, and by
309 giving notice to any persons who have requested to be placed on
310 the mailing list of the commission for this purpose. Within 21
311 days after receipt of a request for determination by an
312 applicant, the commission shall set a date for the hearing. The
313 hearing shall be held pursuant to s. 350.01 within 45 days after
314 the filing of the request, and a decision shall be rendered
315 within 60 days after such filing.

316 Section 9. For the purpose of incorporating the amendment
317 made by this act to section 350.01, Florida Statutes, in a
318 reference thereto, paragraph (a) of subsection (1) of section
319 403.9422, Florida Statutes, is reenacted to read:

579-01679-15

2015288c1

320 403.9422 Determination of need for natural gas transmission
321 pipeline; powers and duties.—

322 (1) (a) Upon request by an applicant or upon its own motion,
323 the commission shall schedule a public hearing, after notice, to
324 determine the need for a natural gas transmission pipeline
325 regulated by ss. 403.9401-403.9425. Such notice shall be
326 published at least 45 days before the date set for the hearing
327 and shall be published in at least one-quarter page size in
328 newspapers of general circulation and in the Florida
329 Administrative Register, by giving notice to counties and
330 regional planning councils in whose jurisdiction the natural gas
331 transmission pipeline could be placed, and by giving notice to
332 any persons who have requested to be placed on the mailing list
333 of the commission for this purpose. Within 21 days after receipt
334 of a request for determination by an applicant, the commission
335 shall set a date for the hearing. The hearing shall be held
336 pursuant to s. 350.01 within 75 days after the filing of the
337 request, and a decision shall be rendered within 90 days after
338 such filing.

339 Section 10. For the purpose of incorporating the amendment
340 made by this act to sections 350.031, 350.041, and 350.042,
341 Florida Statutes, in a reference thereto, section 350.043,
342 Florida Statutes, is reenacted to read:

343 350.043 Enforcement and interpretation.—Any violation of s.
344 350.031, s. 350.04, s. 350.041, s. 350.042, or s. 350.0605 by a
345 commissioner, former commissioner, former employee, or Public
346 Service Commission Nominating Council member shall be punishable
347 as provided in ss. 112.317 and 112.324. The Commission on Ethics
348 is hereby given the power and authority to investigate

579-01679-15

2015288c1

349 complaints of violation of this chapter in the manner provided
350 in part III of chapter 112, as if this section were included in
351 that part. A commissioner may request an advisory opinion from
352 the Commission on Ethics as provided by s. 112.322(3)(a).

353 Section 11. This act shall take effect July 1, 2015.

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.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: SB 1022

INTRODUCER: Senator Gibson

SUBJECT: Wireless Communications Devices

DATE: April 6, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clift/Wiehle	Caldwell	CU	Favorable
2.			TR	
3.			ATD	
4.			FP	

I. Summary:

SB 1022 expands the current ban on texting while driving to prohibit:

- dialing, or talking or listening on, a wireless communications device for the purpose of interpersonal communication; and
- using a wireless device to view or post an electronic message or initiate a command to the internet.

The bill eliminates exemptions to the prohibition for motor vehicle operators who are:

- conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function, or
- conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.

The bill adds an exemption for conducting wireless interpersonal communication through the use of a hands-free electronic device. The term “hands-free electronic device” is defined.

The bill mandates that the Department of Highway Safety and Motor Vehicles and the Department of Transportation perform certain actions in order inform the public of the law.

The violation would remain enforceable only as a secondary offense.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Current Statute

Section 316.305, F.S., is the “Florida Ban on Texting While Driving Law.” It prohibits a person from operating a motor vehicle:

- While manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device; or
- While sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging.

The prohibition does not apply when a motor vehicle is stationary or is not being operated or to a motor vehicle operator who is:

- Performing official duties as an operator of an authorized emergency vehicle, a law enforcement or fire service professional, or an emergency medical services professional;
- Reporting an emergency or criminal or suspicious activity to law enforcement authorities;
- Receiving messages that are:
 - Related to the operation or navigation of the motor vehicle;
 - Safety-related information, including emergency, traffic, or weather alerts;
 - Data used primarily by the motor vehicle; or
 - Radio broadcasts;
- Using a device or system for navigation purposes;
- Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function;
- Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function; or
- Operating an autonomous vehicle¹ in autonomous mode.

Enforcement of the prohibition by state or local law enforcement agencies must be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of chapter 316, F.S., the “Florida Uniform Traffic Control Law”; chapter 320, F.S., relating to motor vehicle licenses; or chapter 322, F.S., relating to driver licenses.

A person who violates the prohibition commits a noncriminal traffic infraction, punishable as a nonmoving violation. A second or subsequent violation within 5 years after the date of a prior conviction commits a noncriminal traffic infraction.

¹ The term “autonomous vehicle” is defined by cross-reference to s. 316.003(90), F.S., which defines the term to mean any vehicle equipped with autonomous technology. The term “autonomous technology” means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator. The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistance, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

A user's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages may only be admissible as evidence in any proceeding in the event of a crash resulting in death or personal injury.

As used in this section, the term "wireless communications device" means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service² and that allows text communications.

Enforcement

As of January 12, 2015, Clerks of the Court had reported to the Department of Highway Safety and Motor Vehicles that a total of 2,061 citations related to texting while driving had been issued.

III. Effect of Proposed Changes:

SB 1022 expands the current ban on texting while driving to prohibit:

- dialing, or talking or listening on, a wireless communications device for the purpose of interpersonal communication; and
- using a wireless device to view or post an electronic message or initiate a command to the internet.

The bill eliminates exemptions to the prohibition for motor vehicle operators who are:

- conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function, or
- conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.

The bill adds an exemption for conducting wireless interpersonal communication through the use of a hands-free electronic device. The term "hands-free electronic device" is defined as a mobile electronic device that has an internal feature or function or that is equipped with an attachment or addition, whether or not permanently part of such mobile electronic device, by which a user engages in conversation without the use of either hand.

The bill amends the short title of S. 316.305, F.S., changing it from the "Florida Ban on Texting While Driving Law" to the "Florida Ban on Handheld Wireless Communications While Driving Law," and makes conforming changes throughout the statute.

² The term "communications service" is defined by cross-reference to s. 812.15(1)(d), F.S., which defines the term to mean any service lawfully provided for a charge or compensation by any cable system or by any radio, fiber optic, photooptical, electromagnetic, photoelectronic, satellite, microwave, data transmission, Internet-based, or wireless distribution network, system, or facility, including, but not limited to, any electronic, data, video, audio, Internet access, microwave, and radio communications, transmissions, signals, and services, and any such communications, transmissions, signals, and services lawfully provided for a charge or compensation, directly or indirectly by or through any of those networks, systems, or facilities.

The bill mandates that the Department of Highway Safety and Motor Vehicles provide an educational awareness campaign to inform the public about the Florida Ban on Handheld Wireless Communications while driving law. The bill also mandates that the Department of Transportation notify the public of the law via message boards and existing roadway signs.

The section would remain enforceable only as a secondary offense.

The bill provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An individual violating the prohibition would be subject to civil penalties and points being assigned to his or her driver license depending on whether the violation is a first offense or a second or subsequent offense.

C. Government Sector Impact:

The bill may generate an indeterminate amount of revenue for both state and local law enforcement agencies, depending on the number of violations issued by law enforcement officials and the frequency with which violators commit subsequent violations, thereby incurring larger penalties.

The Department of Highway and Motor Vehicles will incur indeterminate expenses as a result of the mandated educational awareness campaign.

The Department of Transportation may incur indeterminate expenses as a result of the mandated notification of the motoring public.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The statute provides exceptions to the prohibition which may make it difficult for law enforcement officers to determine whether an individual is in violation of the prohibition. Additionally, the statute forbids the use of billing records except “in the event of a crash resulting in death or personal injury.” These factors may make it difficult to enforce and prosecute the prohibition.

VIII. Statutes Affected:

This bill substantially amends section 316.305 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Gibson

9-00714-15

20151022__

1 A bill to be entitled
2 An act relating to wireless communications devices;
3 amending s. 316.305, F.S.; prohibiting a person from
4 operating a motor vehicle while dialing, or talking or
5 listening on, a wireless communications device for the
6 purpose of interpersonal communication or while using
7 a wireless communications device to view or post an
8 electronic message or initiate a command to the
9 Internet; revising the exceptions; defining the term
10 "hands-free electronic device"; requiring the
11 Department of Highway Safety and Motor Vehicles to
12 provide an educational awareness campaign that informs
13 the motoring public about the Florida Ban on Handheld
14 Wireless Communications While Driving Law; requiring
15 the Department of Transportation to notify the
16 motoring public about the Florida Ban on Handheld
17 Wireless Communications While Driving Law; conforming
18 provisions to changes made by the act; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 316.305, Florida Statutes, is amended to
24 read:

25 316.305 Wireless communications devices; prohibition.—

26 (1) This section may be cited as the "Florida Ban on
27 Handheld Wireless Communications ~~Texting~~ While Driving Law."

28 (2) It is the intent of the Legislature to:

29 (a) Improve roadway safety for all vehicle operators,

9-00714-15

20151022__

30 vehicle passengers, bicyclists, pedestrians, and other road
31 users.

32 (b) Prevent crashes related to the act of using a wireless
33 communications device ~~text messaging~~ while driving a motor
34 vehicle.

35 (c) Reduce injuries, deaths, property damage, health care
36 costs, health insurance rates, and automobile insurance rates
37 related to motor vehicle crashes.

38 (d) Authorize law enforcement officers to stop motor
39 vehicles and issue citations as a secondary offense to persons
40 who are using a wireless communications device ~~texting~~ while
41 driving.

42 (3) (a) A person may not operate a motor vehicle while:

43 1. Dialing, or talking or listening on, a wireless
44 communications device for the purpose of interpersonal
45 communication;

46 2. Manually typing or entering multiple letters, numbers,
47 symbols, or other characters into a wireless communications
48 device or while sending or reading data on such a device for the
49 purpose of nonvoice interpersonal communication, including, but
50 not limited to, communication methods known as texting, e-
51 mailing, and instant messaging; or

52 3. Using a wireless communications device to view or post
53 an electronic message or initiate a command to the Internet.

54
55 As used in this section, the term "wireless communications
56 device" means any handheld device that is used or capable of
57 being used in a handheld manner; ~~it~~ that is designed or intended
58 to receive interpersonal communication, ~~or~~ transmit text or

9-00714-15

20151022__

59 character-based messages, access or store data, or connect to
60 the Internet or any communications service as defined in s.
61 812.15; and that allows text communications. For the purposes of
62 this paragraph, a motor vehicle that is stationary is not being
63 operated and is not subject to the prohibition in this
64 paragraph.

65 (b) Paragraph (a) does not apply to a motor vehicle
66 operator who is:

67 1. Performing official duties as an operator of an
68 authorized emergency vehicle as defined in s. 322.01, a law
69 enforcement or fire service professional, or an emergency
70 medical services professional.

71 2. Reporting an emergency or criminal or suspicious
72 activity to law enforcement authorities.

73 3. Receiving messages that are:

74 a. Related to the operation or navigation of the motor
75 vehicle;

76 b. Safety-related information, including emergency,
77 traffic, or weather alerts;

78 c. Data used primarily by the motor vehicle; or

79 d. Radio broadcasts.

80 4. Using a device or system for navigation purposes.

81 ~~5. Conducting wireless interpersonal communication that~~
82 ~~does not require manual entry of multiple letters, numbers, or~~
83 ~~symbols, except to activate, deactivate, or initiate a feature~~
84 ~~or function.~~

85 ~~6. Conducting wireless interpersonal communication that~~
86 ~~does not require reading text messages, except to activate,~~
87 ~~deactivate, or initiate a feature or function.~~

9-00714-15

20151022__

88 5.7. Operating an autonomous vehicle, as defined in s.
89 316.003, in autonomous mode.

90 6. Conducting wireless interpersonal communication through
91 the use of a hands-free electronic device. The term "hands-free
92 electronic device" means a mobile electronic device that has an
93 internal feature or function or that is equipped with an
94 attachment or addition, whether or not permanently part of such
95 mobile electronic device, by which a user engages in
96 conversation without the use of either hand.

97 (c) Only in the event of a crash resulting in death or
98 personal injury, a user's billing records for a wireless
99 communications device or the testimony of or written statements
100 from appropriate authorities receiving such communications
101 ~~messages~~ may be admissible as evidence in any proceeding to
102 determine whether a violation of paragraph (a) has been
103 committed.

104 (4) (a) Any person who violates paragraph (3) (a) commits a
105 noncriminal traffic infraction, punishable as a nonmoving
106 violation as provided in chapter 318.

107 (b) Any person who commits a second or subsequent violation
108 of paragraph (3) (a) within 5 years after the date of a prior
109 conviction for a violation of paragraph (3) (a) commits a
110 noncriminal traffic infraction, punishable as a moving violation
111 as provided in chapter 318.

112 (5) Enforcement of this section by state or local law
113 enforcement agencies must be accomplished only as a secondary
114 action when an operator of a motor vehicle has been detained for
115 a suspected violation of another provision of this chapter,
116 chapter 320, or chapter 322.

9-00714-15

20151022__

117 (6) The Department of Highway Safety and Motor Vehicles
118 must provide an educational awareness campaign informing the
119 motoring public about the Florida Ban on Handheld Wireless
120 Communications While Driving Law. The Department of
121 Transportation must notify the motoring public via message
122 boards or existing roadway signs about the Florida Ban on
123 Handheld Wireless Communications While Driving Law.

124 Section 2. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Criminal Justice, *Vice Chair*
Military and Veterans Affairs, Space, and
Domestic Security, *Vice Chair*
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development
Communications, Energy, and Public Utilities
Rules
Joint Legislative Auditing Committee

SENATOR AUDREY GIBSON
9th District

March 10, 2015

Senator Denise Grimsley, Chair
Committee on Communications, Energy, and Public Utilities
337 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

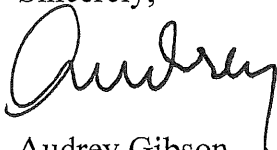
Chair Grimsley: 

I respectfully request that SB 1022, relating to wireless communication, be placed on the next committee agenda.

SB 1022, prohibits a person from operating a motor vehicle while dialing, or talking or listening on, a wireless communications device for the purpose of interpersonal communication. It also requires the Department of Transportation to notify the motoring public about the Florida Ban on Handheld Wireless Communications While Driving Law.

Thank you for your time and consideration.

Sincerely,



Audrey Gibson
State Senator
District 9

REPLY TO:

- 101 E. Union Street, Suite 104, Jacksonville, Florida 32202 (904)359-2553 FAX: (904) 359-2532
- 205 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5009

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD



4/7/15

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting).

288

Bill Number (if applicable)

291948

Amendment Barcode (if applicable)

Topic

Securitization Amendment

Name

Don Moyle

Job Title

Address

118 N. Gadsden St

Street

Phone

City

Tallahassee FL

State

Zip

Email

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

FLA. INDUSTRIAL POWER USERS GROUP FIPUG

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

S 200
Meeting Date

Bill Number (if applicable)

291948

Amendment Barcode (if applicable)

Topic Energy - PSC Reform

Name Susan Glickman

Job Title Florida Director

Address PO Box 310

Phone 727-7429003

Street

Indian Rocks Bch FL 33785

Email SUC

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Southern Alliance for Clean Energy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/7/15

Meeting Date

Bill Number (if applicable)

Topic SB 288

Amendment Barcode (if applicable)

Name J.R. Kelly

Job Title Public Counselor

Address 14 W. Madison St. Suite 812

Phone 488-9330

Street

City

State

Zip

Tallahassee FL 32309

Email kelly.jr@leg.state.fl

45

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/21/15
Meeting Date

288
Bill Number (if applicable)

Topic UTILITIES REG.

Amendment Barcode (if applicable)

Name JACK MCRAY

Job Title _____

Address 200 W. COLLEGE ST., # 304
Street

Phone 950-577-5187

TLH FL 32301
City State Zip

Email jmcra@aar.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/28/14

Meeting Date

288

Bill Number (if applicable)

Topic PSC Reform

Amendment Barcode (if applicable)

Name Susan Clickman

Job Title Florida Director

Address PO Box 310

Phone 727-7429003

Street Indian Rock

Email susan@

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Clean energy or

Representing Southern Alliance for Clean Energy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/7/15

Meeting Date

1022

Bill Number (if applicable)

Topic Wireless Communication Devices

Amendment Barcode (if applicable)

Name Laura Cantwell

Job Title

Address 400 Carlton Pkwy, Suite 100

Phone 850-570-2110

Street

St. Petersburg

City

FL

State

33714

Zip

Email lcantwell@aarp.org

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing AARP

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/7/15

Meeting Date

1022

Bill Number (if applicable)

Topic Wireless Communication Devices

Amendment Barcode (if applicable)

Name H. Lee Moffitt

Job Title Attorney at Law

Address 3227 NW perimeter Road

Phone 813 760-5712

Street

Palm City

FL

34990

Email MrSpeaker@aol.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AAA Auto Clubs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: SB 301

Case:

Type:

Caption: Senate Committee on Communication, Energy, and Public Utilities

Judge:

Started: 4/7/2015 4:01:51 PM

Ends: 4/7/2015 4:36:38 PM **Length:** 00:34:48

4:04:13 PM Meeting Called to order by Senator Grimsley
4:04:18 PM Roll Call
4:04:37 PM Tab 1 CSSB 288
4:04:43 PM Senator Latvala on the bill
4:07:00 PM Amendment barcode 307024
4:07:08 PM Senator Latvala on the amendment
4:07:27 PM Closing comments
4:08:02 PM Amendment adopted
4:08:12 PM Amendment 291948
4:08:20 PM Senator Latvala on the amendment
4:15:09 PM Question from Senator Dean
4:16:02 PM Response from Senator Latvala
4:16:41 PM Followup from Senator Dean
4:18:10 PM Response from Senator Latvala
4:18:29 PM Followup from Senator Dean
4:19:30 PM Response from Senator Latvala
4:20:37 PM Followup from Senator Dean
4:21:08 PM Response from Senator Latvala
4:21:42 PM John Moyle Representing Florida Industrial Power Users Group
4:25:13 PM Susan Glickman representing the Southern Alliance for Clean Energy
4:27:55 PM Comments from Senator Latvala
4:29:40 PM Comments from Public Counsel, Mr. Kelly
4:31:06 PM Closing comments from Senator Latvala
4:31:51 PM Amendment adopted
4:31:58 PM CSSB 288
4:32:17 PM Susan Glickman representing Southern Alliance for Clean Energy
4:34:24 PM waive close
4:34:26 PM roll call
4:34:46 PM CSSB 288 reported favorably
4:34:51 PM Tab 2 SB 1022
4:34:56 PM Senator Gibson on the bill
4:35:35 PM Laura Cantwell representing AARP waives in support
4:35:57 PM Lee Moffitt representing AAA Auto Club waives in support
4:36:10 PM closing comments from senator Gibson
4:36:13 PM roll call
4:36:26 PM SB 1022 reported favorably
4:36:32 PM meeting adjourned