

By Senators Crist, Brown-Waite and Cowin

20-172-98

1                                   A bill to be entitled  
 2           An act relating to the Florida Public Service  
 3           Commission; amending s. 350.01, F.S.; providing  
 4           for nonpartisan election of members of the  
 5           commission; providing for the initial election  
 6           of commissioners under this act; amending ss.  
 7           350.001, 350.04, 350.041, 350.043, 350.0605,  
 8           112.324, F.S., to conform; repealing s.  
 9           350.031, F.S., relating to the Florida Public  
 10          Service Commission Nominating Council;  
 11          providing an effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

14  
 15           Section 1. Section 350.01, Florida Statutes, is  
 16 amended to read:

17           (Substantial rewording of section. See s. 350.01,  
 18 F.S., for present text.)

19           350.01 Florida Public Service Commissioners;  
 20 election.--

21           (1) The Florida Public Service Commission shall  
 22 consist of five commissioners elected by the electors of this  
 23 state on a nonpartisan basis. The primary election for a seat  
 24 on the Florida Public Service Commission shall be held at the  
 25 first primary, and, if a runoff election is necessary, the  
 26 runoff election shall be held at the general election.

27           (2) Each seat on the Florida Public Service Commission  
 28 shall be designated by a number: one, two, three, four, or  
 29 five. A candidate for the office of Florida Public Service  
 30 Commissioner must qualify for a specific, numbered seat. The  
 31 term of office of Florida Public Service Commissioners is 4

1 years, beginning on the first Tuesday after the first Monday  
2 in January of the year succeeding the general election at  
3 which the commissioner is elected.

4 Section 2. Notwithstanding any other provision of law:

5 (1) The term of office of each person serving as a  
6 Florida Public Service Commissioner on January 1, 2001,  
7 expires on January 2, 2001.

8 (2) At the general election in 2000, five persons  
9 shall be elected to the office of Florida Public Service  
10 Commissioner. Candidates shall qualify in the manner provided  
11 by general law for candidates for statewide office, and the  
12 election shall be conducted in the manner provided by general  
13 law for elections for statewide office.

14 (3) The term of office of each person elected to an  
15 odd-numbered seat on the Florida Public Service Commission in  
16 the general election in 2000 is 4 years, beginning on January  
17 2, 2001; and the initial term of office of each person elected  
18 to an even-numbered seat on the Florida Public Service  
19 Commission in the general election in 2000 is 2 years,  
20 beginning on January 2, 2001, after which the term of office  
21 is 4 years.

22 Section 3. Subsection (7) of section 112.324, Florida  
23 Statutes, is amended to read:

24 112.324 Procedures on complaints of violations.--

25 (7) If, in cases pertaining to complaints other than  
26 complaints against impeachable officers or members of the  
27 Legislature, upon completion of a full and final investigation  
28 by the commission, the commission finds that there has been a  
29 violation of this part or of s. 8, Art. II of the State  
30 Constitution, it shall be the duty of the commission to report  
31 its findings and recommend appropriate action to the proper

1 disciplinary official or body as follows, and such official or  
2 body shall have the power to invoke the penalty provisions of  
3 this part, including the power to order the appropriate  
4 elections official to remove a candidate from the ballot for a  
5 violation of s. 112.3145 or s. 8(a) and (h), Art. II of the  
6 State Constitution:

7 (a) The President of the Senate and the Speaker of the  
8 House of Representatives, jointly, in any case concerning the  
9 Public Counsel, members of the Public Service Commission,  
10 ~~members of the Public Service Commission Nominating Council,~~  
11 the Auditor General, members of the Legislative Committee on  
12 Intergovernmental Relations, or members of the Advisory  
13 Council on Environmental Education.

14 (b) The Supreme Court, in any case concerning an  
15 employee of the judicial branch.

16 (c) The President of the Senate, in any case  
17 concerning an employee of the Senate; the Speaker of the House  
18 of Representatives, in any case concerning an employee of the  
19 House of Representatives; or the President and the Speaker,  
20 jointly, in any case concerning an employee of a committee of  
21 the Legislature whose members are appointed solely by the  
22 President and the Speaker or in any case concerning an  
23 employee of the Public Counsel, Public Service Commission,  
24 Auditor General, Legislative Committee on Intergovernmental  
25 Relations, or Advisory Council on Environmental Education.

26 (d) Except as otherwise provided by this part, the  
27 Governor, in the case of any other public officer, public  
28 employee, former public officer or public employee, candidate,  
29 or former candidate.

30 (e) The President of the Senate or the Speaker of the  
31 House of Representatives, whichever is applicable, in any case

1 concerning a former member of the Legislature who has violated  
2 a provision applicable to former members or whose violation  
3 occurred while a member of the Legislature.

4 Section 4. Section 350.001, Florida Statutes, is  
5 amended to read:

6 350.001 Legislative intent.--The Florida Public  
7 Service Commission has been and shall continue to be an arm of  
8 the legislative branch of government. ~~It is the desire of the~~  
9 ~~Legislature that the Governor participate in the appointment~~  
10 ~~process of commissioners to the Public Service Commission.~~  
11 ~~The Legislature accordingly delegates to the Governor a~~  
12 ~~limited authority with respect to the Public Service~~  
13 ~~Commission by authorizing him or her to participate in the~~  
14 ~~selection of members only from the list provided by the~~  
15 ~~Florida Public Service Commission Nominating Council in the~~  
16 ~~manner prescribed by s. 350.031.~~

17 Section 5. Section 350.04, Florida Statutes, is  
18 amended to read:

19 350.04 Qualifications of commissioners.--A  
20 commissioner may not, at the time of election ~~appointment~~ or  
21 during his or her term of office:

22 (1) Have any financial interest, other than ownership  
23 of shares in a mutual fund, in any business entity that ~~which~~,  
24 either directly or indirectly, owns or controls any public  
25 utility regulated by the commission, in any public utility  
26 regulated by the commission, or in any business entity that  
27 ~~which~~, either directly or indirectly, is an affiliate or  
28 subsidiary of any public utility regulated by the commission.

29 (2) Be employed by or engaged in any business activity  
30 with any business entity that ~~which~~, either directly or  
31 indirectly, owns or controls any public utility regulated by

1 the commission, by any public utility regulated by the  
2 commission, or by any business entity that ~~which~~, either  
3 directly or indirectly, is an affiliate or subsidiary of any  
4 public utility regulated by the commission.

5 Section 6. Subsections (1) and (3) of section 350.041,  
6 Florida Statutes, are amended to read:

7 350.041 Commissioners; standards of conduct.--

8 (1) STATEMENT OF INTENT.--In addition to the  
9 provisions of part III of chapter 112, which are applicable to  
10 public service commissioners by virtue of their being public  
11 ~~officers and full-time employees of the legislative branch of~~  
12 ~~government~~, the conduct of public service commissioners shall  
13 be governed by the standards of conduct provided in this  
14 section. Nothing shall prohibit the standards of conduct from  
15 being more restrictive than part III of chapter 112. Further,  
16 this section shall not be construed to contravene the  
17 restrictions of part III of chapter 112. In the event of a  
18 conflict between this section and part III of chapter 112, the  
19 more restrictive provision shall apply.

20 (3) The Commission on Ethics shall accept and  
21 investigate any alleged violations of this section pursuant to  
22 the procedures contained in ss. 112.322-112.3241. ~~The~~  
23 ~~Commission on Ethics shall provide the Governor and the~~  
24 ~~Florida Public Service Commission Nominating Council with a~~  
25 ~~report of its findings and recommendations.~~ The Governor is  
26 authorized to enforce the findings and recommendations of the  
27 Commission on Ethics, pursuant to part III of chapter 112. A  
28 public service commissioner ~~or a member of the Florida Public~~  
29 ~~Service Commission Nominating Council~~ may request an advisory  
30 opinion from the Commission on Ethics, pursuant to s.  
31 112.322(3)(a), regarding the standards of conduct or

1 prohibitions set forth in ss. ~~350.031~~, 350.04, 350.041, and  
2 350.042.

3 Section 7. Section 350.043, Florida Statutes, is  
4 amended to read:

5 350.043 Enforcement and interpretation.--Any violation  
6 of s. 350.031, s. 350.04, s. 350.041, s. 350.042, or s.  
7 350.0605 by a commissioner, former commissioner, or former  
8 employee, ~~or Public Service Commission Nominating Council~~  
9 ~~member~~ shall be punishable as provided in ss. 112.317 and  
10 112.324. The Commission on Ethics is hereby given the power  
11 and authority to investigate complaints of violation of this  
12 chapter in the manner provided in part III of chapter 112, as  
13 if this section were included in that part. A commissioner  
14 may request an advisory opinion from the Commission on Ethics  
15 as provided by s. 112.322(3)(a).

16 Section 8. Subsection (3) of section 350.0605, Florida  
17 Statutes, is amended to read:

18 350.0605 Former commissioners and employees;  
19 representation of clients before commission.--

20 (3) For a period of 2 years following termination of  
21 service on the commission, a former member may not accept  
22 employment by or compensation from a business entity which,  
23 directly or indirectly, owns or controls a public utility  
24 regulated by the commission, from a public utility regulated  
25 by the commission, from a business entity which, directly or  
26 indirectly, is an affiliate or subsidiary of a public utility  
27 regulated by the commission or is an actual business  
28 competitor of a local exchange company or public utility  
29 regulated by the commission and is otherwise exempt from  
30 regulation by the commission under ss. 364.02(7) and  
31 366.02(1), or from a business entity or trade association that

1 has been a party to a commission proceeding within the 2 years  
2 preceding the member's termination of service on the  
3 commission. This subsection applies only to members of the  
4 Florida Public Service Commission who are appointed, ~~or~~  
5 reappointed, or elected after May 10, 1993.

6 Section 9. Section 350.031, Florida Statutes, is  
7 repealed.

8 Section 10. Except for this section and section 2,  
9 which shall take effect upon becoming a law, this act shall  
10 take effect January 2, 2001.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

\*\*\*\*\*

SENATE SUMMARY

Provides that, beginning with the general election in 2000, members of the Florida Public Service Commission will be elected, rather than appointed, for 4-year, staggered terms. Abolishes the Florida Public Service Commission Nominating Council.