

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/HB 1517

SPONSOR: House Committee on Utilities & Communications and Representative Arnall

SUBJECT: PSC Nominating Council

DATE: April 14, 2000 REVISED: 04/18/00 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Guthrie</u>	<u>RI</u>	<u>Fav/1 amendment</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill provides that the members of the Florida Public Service Commission Nominating Council serve at the pleasure of the appointing authority or the appointing authority's successor. It also limits service on the Council to one term.

The bill substantially amends section 350.031 of the Florida Statutes.

II. Present Situation:

Prior to 1978, members of the Florida Public Service Commission were elected. That year, the Legislature created an appointment process under which a nominating council recommends appointees to the Governor, who makes the appointment, which is subject to confirmation by the Senate. ch. 78-426, Laws of Florida, Senate Bill 7-D. The law established four-year terms for Commissioners and phased-in the new appointment process by providing that the commissioners serving on July 1, 1978, were to remain in office until the completion of their current terms, at which time successors were to be appointed under the new process, with some appointees to serving an initial term of only three years.

The Governor's appointment authority is established in s. 350.001, F.S. This section states that the Florida Public Service Commission has been and shall continue to be an arm of the legislative branch of government, but further states that it is the desire of the Legislature that the Governor participate in the appointment process of commissioners to the Public Service Commission. The statute delegates to the Governor limited authority with respect to the Public Service Commission by authorizing the Governor to select members only from a list provided by the Florida Public Service Commission Nominating Council in the manner prescribed by s. 350.031, F.S.

Section 350.031, F.S., creates the Florida Public Service Commission Nominating Council. The council has nine members, at least one of whom must be 60 years of age or older. Three members, including one member of the House of Representatives, are appointed by the Speaker of the

House; three members, including one member of the Senate, are appointed by the President of the Senate; and three members are selected and appointed by a majority vote of the other six members of the council. All terms are for 4 years, except those members of the House and Senate, who serve 2-year terms concurrent with the 2-year elected terms of House members. Vacancies on the council are filled for the unexpired portion of the term in the same manner as original appointments to the council.

Council members may not hold stocks or bonds of any company regulated by the commission other than through ownership of shares in a mutual fund; may not be an agent or employee of, or have any interest in, any company regulated by the commission; and may not be an agent or employee of, or have any interest in, any firm which represents in any capacity either companies that are regulated by the commission or affiliates of such companies. A member of the council may be removed by the Speaker of the House of Representatives and the President of the Senate upon a finding by the Speaker and the President that the council member has violated these restrictions or for other good cause. In such a case, the President of the Senate or the Speaker of the House of Representatives, as appropriate, may appoint a legislative replacement.

A majority of the membership of the council may conduct any business before the council. All meetings and proceedings of the council are staffed by the Office of Legislative Services and are subject to the open records and open meetings statutes. Members of the council are entitled to receive per diem and travel expenses, which are funded by the Florida Public Service Regulatory Trust Fund. Applicants invited for interviews before the council may, in the discretion of the council, receive per diem and travel expenses, also funded by the Florida Public Service Regulatory Trust Fund.

The council establishes the policies and procedures to govern the process by which applicants are nominated. Before the council may nominate a person, it must determine that the person is competent and knowledgeable in one or more fields including, but not be limited to: public affairs, law, economics, accounting, engineering, finance, natural resource conservation, energy, or another field substantially related to the duties and functions of the commission. The commission must represent fairly these enumerated fields. Nominations must be nonpartisan.

The council must nominate to the Governor not fewer than three persons for each vacancy occurring on the Public Service Commission. If a vacancy exists due to expiration of a term (which begin and end in January), the council must submit its nominations to the Governor by October 1 of the year preceding that expiration. If a vacancy occurs for any reason other than the expiration of the term, the council must submit the nominations to the Governor within 60 days after the vacancy occurs.

The Governor must fill a vacancy occurring on the Public Service Commission by appointment of one of the applicants nominated by the council. An appointment can be made only after a background investigation of the applicant has been conducted by the Florida Department of Law Enforcement. If the Governor has not made an appointment by December 1 to fill a vacancy for a term to begin the following January, then the council, by majority vote, is to appoint by December 31 one person from the applicants previously nominated to the Governor. If the Governor has not made the appointment to fill a vacancy occurring for any reason other than the expiration of the term by the 60th day following receipt of the nominations of the council, the council by majority

vote shall appoint within 30 days thereafter one person from the applicants previously nominated to the Governor.

Each appointment to the Public Service Commission is subject to confirmation by the Senate. If the Senate refuses to confirm or rejects the Governor's appointment, the council is to initiate the nominating process within 30 days.

III. Effect of Proposed Changes:

The bill provides that the members of the Florida Public Service Commission Nominating Council serve at the pleasure of the appointing authority or the appointing authority's successor.

The bill also limits service on the Council to one term, providing that the members of the Council are limited to one four-year term, except that members of the House and Senate shall serve no more than 2-year terms concurrent with the 2-year elected terms of House members.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Regulated Industries:

Provides that members of the Public Service Commission Nominating Council who are appointed by the Speaker of the House of Representatives or the President of the Senate serve at the pleasure of the respective appointing official. Provides that a council member may not be reappointed to the council, except for a member of the Legislature, who may be appointed to two 2-year terms, and a council member appointed to finish an unexpired term. Provides that the act applies to any person who is a member of the council on the effective date, which is upon becoming a law. (WITH TITLE AMENDMENT)

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
