

By Senator Fasano

11-1115-05

1 A bill to be entitled
 2 An act relating to the Florida Public Service
 3 Regulatory Trust Fund; amending s. 350.113,
 4 F.S.; providing for penalties and interest
 5 assessed and collected by the Florida Public
 6 Service Commission to be deposited into the
 7 trust fund rather than the General Revenue
 8 Fund; requiring that the commission submit to
 9 the Legislature proposed uses for the penalties
 10 and interest collected; providing that such
 11 uses may include promotional or educational
 12 activities to benefit consumers; amending ss.
 13 350.127, 364.285, 364.516, 366.095, 367.161,
 14 368.061, and 368.111, F.S., relating to
 15 penalties imposed by the commission; conforming
 16 provisions to changes made by the act;
 17 providing an effective date.

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

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 21 Section 1. Subsection (2) of section 350.113, Florida
 22 Statutes, is amended to read:

23 350.113 Florida Public Service Regulatory Trust Fund;
 24 moneys to be deposited therein.--

25 (2) All fees, licenses, and other charges collected by
 26 the commission shall be deposited in the State Treasury to the
 27 credit of the Florida Public Service Regulatory Trust Fund to
 28 be used in the operation of the commission as authorized by
 29 the Legislature; ~~however,~~ Penalties and interest assessed and
 30 collected by the commission shall also ~~not~~ be deposited in the
 31 trust fund and shall be used as appropriated by the

1 Legislature. The commission shall annually submit to the
2 Legislature proposed uses for the penalties and interest
3 collected which may include, in addition to operational costs,
4 promotional or educational activities for the benefit of
5 consumers ~~but shall be deposited in the General Revenue Fund.~~

6 The Florida Public Service Regulatory Trust Fund shall be
7 subject to the service charge imposed pursuant to chapter 215.

8 Section 2. Subsection (1) of section 350.127, Florida
9 Statutes, is amended to read:

10 350.127 Penalties; rules; execution of contracts.--

11 (1) The commission may impose upon any regulated
12 company that is found to have refused to comply with or
13 willfully violated any lawful rule or order of the commission,
14 or any statute administered by the commission, a penalty for
15 each such offense of not more than \$5,000, to be fixed,
16 imposed, and collected by the commission, or the commission
17 may, for any such violation, amend, suspend, or revoke any
18 certificate issued by the commission. Each day that such
19 refusal or violation continues shall constitute a separate
20 offense. Each penalty shall be a lien upon the real and
21 personal property of the regulated company, enforceable by the
22 commission as a statutory lien under chapter 85. The net
23 proceeds from the enforcement of any such lien shall be
24 deposited in the Florida Public Service Regulatory Trust
25 ~~General Revenue~~ Fund.

26 Section 3. Subsection (1) of section 364.285, Florida
27 Statutes, is amended to read:

28 364.285 Penalties.--

29 (1) The commission shall have the power to impose upon
30 any entity subject to its jurisdiction under this chapter
31 which is found to have refused to comply with or to have

1 willfully violated any lawful rule or order of the commission
2 or any provision of this chapter a penalty for each offense of
3 not more than \$25,000, which penalty shall be fixed, imposed,
4 and collected by the commission; or the commission may, for
5 any such violation, amend, suspend, or revoke any certificate
6 issued by it. Each day that such refusal or violation
7 continues constitutes a separate offense. Each penalty shall
8 be a lien upon the real and personal property of the entity,
9 enforceable by the commission as a statutory lien under
10 chapter 85. Collected penalties shall be deposited in the
11 Florida Public Service Regulatory Trust Fund ~~General Revenue~~
12 ~~Fund unallocated.~~

13 Section 4. Section 364.516, Florida Statutes, is
14 amended to read:

15 364.516 Penalties.--In the event that the provision of
16 advanced telecommunications services to a requesting eligible
17 facility pursuant to s. 364.515(5) or (6) is not performed by
18 the entity awarded the contract or by a carrier of last resort
19 or within the date specified in the solicitation, except in
20 those instances in which acts of God may have prevented the
21 bidder from completing the contract, the eligible facility or
22 the Department of Management Services may petition the
23 commission for an order enforcing the requirements. The
24 commission shall act upon such petition within 60 days and, in
25 the event the commission finds that the entity that has been
26 awarded the contract or the carrier of last resort has not
27 performed as specified in this part, the commission shall
28 order the entities to perform as required in the contract or
29 by this part. In the event the entity fails to comply with the
30 commission's order within 60 days, the commission shall impose
31 a fine on the bidding company or carrier of last resort of

1 \$25,000 per eligible facility specified in the contract. Any
2 fines collected under this section shall be deposited in the
3 Florida Public Service Regulatory Trust ~~General Revenue~~ Fund
4 to be allocated back to the specific requesting area where the
5 eligible facility is located to implement advanced
6 telecommunications services.

7 Section 5. Section 366.095, Florida Statutes, is
8 amended to read:

9 366.095 Penalties.--The commission shall have the
10 power to impose upon any entity subject to its jurisdiction
11 under this chapter that is found to have refused to comply
12 with or to have willfully violated any lawful rule or order of
13 the commission or any provision of this chapter a penalty for
14 each offense of not more than \$5,000, which penalty shall be
15 fixed, imposed, and collected by the commission. Collected
16 penalties shall be deposited in the Florida Public Service
17 Regulatory Trust Fund. Each day that such refusal or violation
18 continues shall constitute a separate offense. Each penalty
19 shall be a lien upon the real and personal property of the
20 entity, enforceable by the commission as a statutory lien
21 under chapter 85.

22 Section 6. Section 367.161, Florida Statutes, is
23 amended to read:

24 367.161 Penalties.--

25 (1) If any utility, by any authorized officer, agent,
26 or employee, knowingly refuses to comply with, or willfully
27 violates, any provision of this chapter or any lawful rule or
28 order of the commission, such utility shall incur a penalty
29 for each such offense of not more than \$5,000, to be fixed,
30 imposed, and collected by the commission. However, any
31 penalty assessed by the commission for a violation of s.

1 367.111(2) shall be reduced by any penalty assessed by any
2 other state agency for the same violation. Each day that such
3 refusal or violation continues constitutes a separate offense.
4 Each penalty shall be a lien upon the real and personal
5 property of the utility, enforceable by the commission as
6 statutory liens under chapter 85. The proceeds from the
7 enforcement of any such lien shall be deposited into the
8 Florida Public Service Regulatory Trust ~~General Revenue~~ Fund.

9 (2) The commission has the power to impose upon any
10 entity that is subject to its jurisdiction under this chapter
11 and that is found to have refused to comply with, or to have
12 willfully violated, any lawful rule or order of the commission
13 or any provision of this chapter a penalty for each offense of
14 not more than \$5,000, which penalty shall be fixed, imposed,
15 and collected by the commission; or the commission may, for
16 any such violation, amend, suspend, or revoke any certificate
17 of authorization issued by it. Each day that such refusal or
18 violation continues constitutes a separate offense. Each
19 penalty shall be a lien upon the real and personal property of
20 the entity, enforceable by the commission as a statutory lien
21 under chapter 85. The collected penalties shall be deposited
22 into the Florida Public Service Regulatory Trust Fund ~~General~~
23 ~~Revenue Fund unallocated~~.

24 Section 7. Subsection (2) of section 368.061, Florida
25 Statutes, is amended to read:

26 368.061 Penalty.--

27 (2) Any such civil penalty may be compromised by the
28 commissioners. In determining the amount of such penalty or
29 the amount agreed upon in compromise, the appropriateness of
30 such penalty to the size of the business of the person
31 charged, the gravity of the violation, and the good faith of

1 | the person charged in attempting to achieve compliance after
2 | notification of a violation shall be considered. Each penalty
3 | shall be a lien upon the real and personal property of said
4 | persons and enforceable by the commission as statutory liens
5 | under chapter 85, the proceeds of which shall be deposited in
6 | the Florida Public Service Regulatory Trust Fund ~~general~~
7 | ~~revenue fund of the state.~~

8 | Section 8. Section 368.111, Florida Statutes, is
9 | amended to read:

10 | 368.111 Penalties.--The commission shall have the
11 | power to impose upon any entity subject to its jurisdiction
12 | under ss. 368.101-368.112 which is found to have refused to
13 | comply with or to have willfully violated any lawful rule or
14 | order of the commission or any provision of ss.
15 | 368.101-368.112 a penalty for each offense of not more than
16 | \$5,000, which penalty shall be fixed, imposed, and collected
17 | by the commission. Collected penalties shall be deposited in
18 | the Florida Public Service Regulatory Trust Fund. Each day
19 | that such refusal or violation continues shall constitute a
20 | separate offense. Each penalty shall be a lien upon the real
21 | and personal property of the entity, enforceable by the
22 | commission as a statutory lien under chapter 85.

23 | Section 9. This act shall take effect July 1, 2005.

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26 | SENATE SUMMARY

27 | Requires that the penalties and interest assessed and
28 | collected by the Public Service Commission be deposited
29 | into the Florida Public Service Regulatory Trust Fund
30 | rather than the General Revenue Fund. Provides for moneys
31 | in the fund to be used for promotional or educational
activities to benefit consumers as well as for
operational costs.