

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Gannon offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 421 and 422, insert:

5
6 Section 7. Section 350.061, Florida Statutes, is
7 transferred, renumbered as section 11.402, Florida Statutes, and
8 amended to read:

9 11.402 ~~350.061~~ Public Counsel; appointment; oath;
10 restrictions on Public Counsel and his or her employees.--

11 (1) The Joint Legislative Auditing Committee shall appoint
12 a Public Counsel by majority vote of the members of the
13 committee to represent the general public of Florida before the
14 Florida Public Service Commission and the Office of Insurance
15 Regulation. The Public Counsel shall be an attorney admitted to

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16 | practice before the Florida Supreme Court and shall serve at the
17 | pleasure of the Joint Legislative Auditing Committee, subject to
18 | annual reconfirmation by the committee. Vacancies in the office
19 | shall be filled in the same manner as the original appointment.

20 | (2) The Public Counsel shall take and subscribe to the
21 | oath of office required of state officers by the State
22 | Constitution.

23 | (3) No officer or full-time employee of the Public Counsel
24 | shall actively engage in any other business or profession; serve
25 | as the representative of any political party or on any executive
26 | committee or other governing body thereof; serve as an
27 | executive, officer, or employee of any political party,
28 | committee, organization, or association; receive remuneration
29 | for activities on behalf of any candidate for public office; or
30 | engage on behalf of any candidate for public office in the
31 | solicitation of votes or other activities in behalf of such
32 | candidacy. Neither the Public Counsel nor any employee of the
33 | Public Counsel shall become a candidate for election to public
34 | office unless he or she shall first resign from his or her
35 | office or employment.

36 | Section 8. Section 350.0611, Florida Statutes, is
37 | transferred, renumbered as section 11.403, Florida Statutes, and
38 | amended to read:

39 | 11.403 ~~350.0611~~ Public Counsel; duties and powers.--It
40 | shall be the duty of the Public Counsel to provide legal
41 | representation for the people of the state in proceedings before
42 | the Public Service Commission and the Office of Insurance

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43 Regulation and in proceedings before counties pursuant to s.
44 367.171(8). The Public Counsel shall have such powers as are
45 necessary to carry out the duties of his or her office,
46 including, but not limited to, the following specific powers:

47 (1) To recommend to the Public Service Commission or the
48 counties, by petition, the commencement of any proceeding or
49 action or to appear, in the name of the state or its citizens,
50 in any proceeding or action before the commission or the
51 counties.

52 (2) To recommend to the Office of Insurance Regulation, by
53 petition, the commencement of, and to appear in the name of the
54 state or its citizens in, any proceeding or action before the
55 office relating to:

56 (a) Rules governing residential property insurance; or

57 (b) Rate filings for residential property insurance which,
58 pursuant to standards determined by the office, request an
59 average statewide rate increase of 10 percent or greater as
60 compared to the current rates in effect or the rates in effect
61 12 months prior to the proposed effective date.

62
63 The Public Counsel may not stay any final order of the Office of
64 Insurance Regulation.

65 (3) To and urge in any proceeding or action to which he or
66 she is a party ~~therein~~ any position that ~~which~~ he or she deems
67 to be in the public interest, whether consistent or inconsistent
68 with positions previously adopted by the commission, ~~or~~ the
69 counties, or the office, and utilize therein all forms of

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70 discovery available to attorneys in civil actions generally,
71 subject to protective orders of the commission, ~~or~~ the counties,
72 or the office, which shall be reviewable by summary procedure in
73 the circuit courts of this state.†

74 ~~(4)(2)~~ To have access to and use of all files, records,
75 and data of the commission, ~~or~~ the counties, or the office
76 available to any other attorney representing parties in a
77 proceeding before the commission, ~~or~~ the counties, or the
78 office.†

79 ~~(5)(3)~~ In any proceeding in which he or she has
80 participated as a party, to seek review of any determination,
81 finding, or order of the commission, ~~or~~ the counties, or the
82 office, or of any hearing examiner designated by the commission,
83 ~~or~~ the counties, or the office, in the name of the state or its
84 citizens.†

85 ~~(6)(4)~~ To prepare and issue reports, recommendations, and
86 proposed orders to the commission or office, the Governor, and
87 the Legislature on any matter or subject within the jurisdiction
88 of the commission or office, and to make such recommendations as
89 he or she deems appropriate for legislation relative to
90 commission or office procedures, rules, jurisdiction, personnel,
91 and functions.† ~~and~~

92 ~~(7)(5)~~ To appear before other state agencies, federal
93 agencies, and state and federal courts in connection with
94 matters under the jurisdiction of the commission or office, in
95 the name of the state or its citizens.

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96 Section 9. Section 350.0612, Florida Statutes, is
97 transferred, renumbered as section 11.404, Florida Statutes, and
98 amended to read:

99 11.404 350.0612 Public Counsel; location.--The Public
100 Counsel shall maintain his or her office in Leon County ~~on the~~
101 ~~premises of the commission or, if suitable space there cannot be~~
102 ~~provided,~~ at such ~~other~~ place convenient to the offices of the
103 Public Services Commission or the Office of Insurance Regulation
104 ~~commissioners~~ as will enable him or her to carry out
105 expeditiously the duties and functions of his or her office.

106 Section 10. Section 350.0613, Florida Statutes, is
107 transferred, renumbered as section 11.405, Florida Statutes, and
108 amended to read:

109 11.405 350.0613 Public Counsel; employees; receipt of
110 pleadings.--The Joint Legislative Auditing Committee may
111 authorize the Public Counsel to employ clerical and technical
112 assistants whose qualifications, duties, and responsibilities
113 the committee shall from time to time prescribe. The committee
114 may from time to time authorize retention of the services of
115 additional attorneys, actuaries, economists, or experts to the
116 extent that the best interests of the people of the state will
117 be better served thereby, including the retention of expert
118 witnesses and other technical personnel for participation in
119 contested proceedings before the Public Service Commission or
120 Office of Insurance Regulation. The commission shall furnish the
121 Public Counsel with copies of the initial pleadings in all
122 proceedings before the commission. The office shall furnish the

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123 Public Counsel with copies of all filings that relate to the
124 jurisdiction of the Public Counsel pursuant to s. 11.403(2).
125 ~~and~~ If the Public Counsel intervenes as a party in any
126 proceeding he or she shall be served with copies of all
127 subsequent pleadings, exhibits, and prepared testimony, if used.
128 Upon filing notice of intervention, the Public Counsel shall
129 serve all interested parties with copies of such notice and all
130 of his or her subsequent pleadings and exhibits.

131 Section 11. Section 350.0614, Florida Statutes, is
132 transferred, renumbered as section 11.406, Florida Statutes, and
133 amended to read:

134 11.406 ~~350.0614~~ Public Counsel; compensation and
135 expenses.--

136 (1) The salaries and expenses of the Public Counsel and
137 his or her employees shall be allocated by the committee only
138 from moneys appropriated to the Public Counsel by the
139 Legislature.

140 (2) The Legislature hereby declares and determines that
141 the Public Counsel is under the legislative branch of government
142 within the intention of the legislation as expressed in chapter
143 216, and no power shall be in the Executive Office of the
144 Governor or its successor to release or withhold funds
145 appropriated to it, but the same shall be available for
146 expenditure as provided by law and the rules or decisions of the
147 Joint Auditing Committee.

148 (3) Neither the Executive Office of the Governor nor the
149 Department of Management Services or its successor shall have

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150 power to determine the number, or fix the compensation, of the
151 employees of the Public Counsel or to exercise any manner of
152 control over them.

153 Section 12. Paragraph (b) of subsection (1) of section
154 112.3145, Florida Statutes, is amended to read:

155 112.3145 Disclosure of financial interests and clients
156 represented before agencies.--

157 (1) For purposes of this section, unless the context
158 otherwise requires, the term:

159 (b) "Specified state employee" means:

160 1. Public counsel created by chapter 11 ~~350~~, an assistant
161 state attorney, an assistant public defender, a full-time state
162 employee who serves as counsel or assistant counsel to any state
163 agency, the Deputy Chief Judge of Compensation Claims, a judge
164 of compensation claims, an administrative law judge, or a
165 hearing officer.

166 2. Any person employed in the office of the Governor or in
167 the office of any member of the Cabinet if that person is exempt
168 from the Career Service System, except persons employed in
169 clerical, secretarial, or similar positions.

170 3. Each appointed secretary, assistant secretary, deputy
171 secretary, executive director, assistant executive director, or
172 deputy executive director of each state department, commission,
173 board, or council; unless otherwise provided, the division
174 director, assistant division director, deputy director, bureau
175 chief, and assistant bureau chief of any state department or

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176 | division; or any person having the power normally conferred upon
177 | such persons, by whatever title.

178 | 4. The superintendent or institute director of a state
179 | mental health institute established for training and research in
180 | the mental health field or the warden or director of any major
181 | state institution or facility established for corrections,
182 | training, treatment, or rehabilitation.

183 | 5. Business managers, purchasing agents having the power
184 | to make any purchase exceeding the threshold amount provided for
185 | in s. 287.017 for CATEGORY ONE, finance and accounting
186 | directors, personnel officers, or grants coordinators for any
187 | state agency.

188 | 6. Any person, other than a legislative assistant exempted
189 | by the presiding officer of the house by which the legislative
190 | assistant is employed, who is employed in the legislative branch
191 | of government, except persons employed in maintenance, clerical,
192 | secretarial, or similar positions.

193 | 7. Each employee of the Commission on Ethics.

194 |

195 |

196 | ===== T I T L E A M E N D M E N T =====

197 | Remove lines 48 and 49, and insert:

198 |

199 | alternative hurricane deductibles; transferring,
200 | renumbering, and amending ss. 350.061, 350.0611, 350.0612,
201 | 350.0613, and 350.0614, F.S.; authorizing the Public
202 | Counsel to represent the general public before the Office

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203 of Insurance Regulation; including certain proceedings
204 related to rules and rate filings for residential property
205 insurance; authorizing the Public Counsel to have access
206 to files of the office, to seek review of orders of the
207 office, to issue reports, recommendations, and proposed
208 orders to the office; specifying where the Public Counsel
209 shall maintain his or her office; authorizing the Joint
210 Legislative Auditing Committee to authorize the Public
211 Counsel to employ certain types of employees; requiring
212 the Office of Insurance Regulation to provide copies of
213 certain filings to the Public Counsel; amending s.
214 112.3145, F.S.; conforming a cross-reference; providing
215 effective dates.

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