

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) **Gannon** offered the following:

2 **Amendment (with title amendment)**

3 Between lines 124 and 125, insert:

4 Section 1. Section 350.061, Florida Statutes, is
5 transferred, renumbered as section 11.402, Florida Statutes, and
6 amended to read:

7 11.402 ~~350.061~~ Public Counsel; appointment; oath;
8 restrictions on Public Counsel and his or her employees.--

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

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16 annual reconfirmation by the committee. Vacancies in the office
17 shall be filled in the same manner as the original appointment.

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

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

34 Section 2. Section 350.0611, Florida Statutes, is
35 transferred, renumbered as section 11.403, Florida Statutes, and
36 amended to read:

37 11.403 ~~350.0611~~ Public Counsel; duties and powers.--It
38 shall be the duty of the Public Counsel to provide legal
39 representation for the people of the state in proceedings before
40 the Public Service Commission and the Office of Insurance
41 Regulation and in proceedings before counties pursuant to s.
42 367.171(8). The Public Counsel shall have such powers as are

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43 necessary to carry out the duties of his or her office,
44 including, but not limited to, the following specific powers:

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

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

54 (a) Rules governing residential property insurance; or

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

60
61 The Public Counsel may not stay any final order of the Office of
62 Insurance Regulation.

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

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70 | or the office, which shall be reviewable by summary procedure in
71 | the circuit courts of this state.†

72 | ~~(4)(2)~~ To have access to and use of all files, records,
73 | and data of the commission, ~~or~~ the counties, or the office
74 | available to any other attorney representing parties in a
75 | proceeding before the commission, ~~or~~ the counties, or the
76 | office.†

77 | ~~(5)(3)~~ In any proceeding in which he or she has
78 | participated as a party, to seek review of any determination,
79 | finding, or order of the commission, ~~or~~ the counties, or the
80 | office, or of any hearing examiner designated by the commission,
81 | ~~or~~ the counties, or the office, in the name of the state or its
82 | citizens.†

83 | ~~(6)(4)~~ To prepare and issue reports, recommendations, and
84 | proposed orders to the commission or office, the Governor, and
85 | the Legislature on any matter or subject within the jurisdiction
86 | of the commission or office, and to make such recommendations as
87 | he or she deems appropriate for legislation relative to
88 | commission or office procedures, rules, jurisdiction, personnel,
89 | and functions.†~~and~~

90 | ~~(7)(5)~~ To appear before other state agencies, federal
91 | agencies, and state and federal courts in connection with
92 | matters under the jurisdiction of the commission or office, in
93 | the name of the state or its citizens.

94 | Section 3. Section 350.0612, Florida Statutes, is
95 | transferred, renumbered as section 11.404, Florida Statutes, and
96 | amended to read:

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97 11.404 350.0612 Public Counsel; location.--The Public
98 Counsel shall maintain his or her office in Leon County ~~on the~~
99 ~~premises of the commission or, if suitable space there cannot be~~
100 ~~provided,~~ at such ~~other~~ place convenient to the offices of the
101 Public Service Commission or the Office of Insurance Regulation
102 ~~commissioners~~ as will enable him or her to carry out
103 expeditiously the duties and functions of his or her office.

104 Section 4. Section 350.0613, Florida Statutes, is
105 transferred, renumbered as section 11.405, Florida Statutes, and
106 amended to read:

107 11.405 350.0613 Public Counsel; employees; receipt of
108 pleadings.--The Joint Legislative Auditing Committee may
109 authorize the Public Counsel to employ clerical and technical
110 assistants whose qualifications, duties, and responsibilities
111 the committee shall from time to time prescribe. The committee
112 may from time to time authorize retention of the services of
113 additional attorneys, actuaries, economists, or experts to the
114 extent that the best interests of the people of the state will
115 be better served thereby, including the retention of expert
116 witnesses and other technical personnel for participation in
117 contested proceedings before the Public Service Commission or
118 Office of Insurance Regulation. The commission shall furnish the
119 Public Counsel with copies of the initial pleadings in all
120 proceedings before the commission. The office shall furnish the
121 Public Counsel with copies of all filings that relate to the
122 jurisdiction of the Public Counsel pursuant to s. 11.403(2).7
123 ~~and~~ If the Public Counsel intervenes as a party in any

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124 proceeding he or she shall be served with copies of all
125 subsequent pleadings, exhibits, and prepared testimony, if used.
126 Upon filing notice of intervention, the Public Counsel shall
127 serve all interested parties with copies of such notice and all
128 of his or her subsequent pleadings and exhibits.

129 Section 5. Section 350.0614, Florida Statutes, is
130 transferred, renumbered as section 11.406, Florida Statutes, and
131 amended to read:

132 11.406 ~~350.0614~~ Public Counsel; compensation and
133 expenses.--

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

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

146 (3) Neither the Executive Office of the Governor nor the
147 Department of Management Services or its successor shall have
148 power to determine the number, or fix the compensation, of the
149 employees of the Public Counsel or to exercise any manner of
150 control over them.

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151 Section 6. Paragraph (b) of subsection (1) of section
152 112.3145, Florida Statutes, is amended to read:

153 112.3145 Disclosure of financial interests and clients
154 represented before agencies.--

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

157 (b) "Specified state employee" means:

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

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

168 3. Each appointed secretary, assistant secretary, deputy
169 secretary, executive director, assistant executive director, or
170 deputy executive director of each state department, commission,
171 board, or council; unless otherwise provided, the division
172 director, assistant division director, deputy director, bureau
173 chief, and assistant bureau chief of any state department or
174 division; or any person having the power normally conferred upon
175 such persons, by whatever title.

176 4. The superintendent or institute director of a state
177 mental health institute established for training and research in

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178 the mental health field or the warden or director of any major
179 state institution or facility established for corrections,
180 training, treatment, or rehabilitation.

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

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

191 7. Each employee of the Commission on Ethics.
192

193 ===== T I T L E A M E N D M E N T =====

194 Remove line 2 and insert:

195 An act relating to property insurance; transferring,
196 renumbering, and amending ss. 350.061, 350.0611, 350.0612,
197 350.0613, and 350.0614, F.S.; authorizing the Public
198 Counsel to represent the general public before the Office
199 of Insurance Regulation; including certain proceedings
200 related to rules and rate filings for residential property
201 insurance; authorizing the Public Counsel to have access
202 to files of the office, to seek review of orders of the
203 office, and to issue reports, recommendations, and
204 proposed orders to the office; specifying where the Public

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HOUSE AMENDMENT

Bill No. HB 1937

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205 Counsel shall maintain his or her office; authorizing the
206 Joint Legislative Auditing Committee to authorize the
207 Public Counsel to employ certain types of employees;
208 requiring the Office of Insurance Regulation to provide
209 copies of certain filings to the Public Counsel; amending
210 s. 112.3145, F.S.; conforming a cross reference; creating
211 s.

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