

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Gannon offered the following:

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3 **Amendment (with title amendment)**

4 Between lines 112 and 113, insert:

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

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

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

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16 | pleasure of the Joint Legislative Auditing Committee, subject to
17 | annual reconfirmation by the committee. Vacancies in the office
18 | shall be filled in the same manner as the original appointment.

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

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

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

38 | 11.403 ~~350.0611~~ Public Counsel; duties and powers.--It
39 | shall be the duty of the Public Counsel to provide legal
40 | representation for the people of the state in proceedings before
41 | the Public Service Commission and the Office of Insurance
42 | Regulation and in proceedings before counties pursuant to s.

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

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

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

55 (a) Rules governing residential property insurance; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

152 Section 6. Paragraph (b) of subsection (1) of section
153 112.3145, Florida Statutes, is amended to read:

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

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

158 (b) "Specified state employee" means:

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

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

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

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

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

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

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

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

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

195 | Remove line 6 and insert:
196 | An act relating to property insurance; transferring,
197 | renumbering, and amending ss. 350.061, 350.0611, 350.0612,
198 | 350.0613, and 350.0614, F.S.; authorizing the Public
199 | Counsel to represent the general public before the Office
200 | of Insurance Regulation; including certain proceedings
201 | related to rules and rate filings for residential property

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202 insurance; authorizing the Public Counsel to have access
203 to files of the office, to seek review of orders of the
204 office, and to issue reports, recommendations, and
205 proposed orders to the office; specifying where the Public
206 Counsel shall maintain his or her office; authorizing the
207 Joint Legislative Auditing Committee to authorize the
208 Public Counsel to employ certain types of employees;
209 requiring the Office of Insurance Regulation to provide
210 copies of certain filings to the Public Counsel; amending
211 s. 112.3145, F.S.; conforming a cross reference; creating
212 s.

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