

1 A bill to be entitled
2 An act relating to the Public Service
3 Commission; creating the Committee on Public
4 Service Commission Oversight as a standing
5 joint committee of the Legislature; providing
6 for its membership, powers, and duties;
7 amending s. 350.001, F.S.; requiring that the
8 commission perform its duties independently;
9 specifying that the Governor has no planning or
10 budgetary authority with respect to the
11 commission; specifying that the Governor and
12 the Department of Management Services have no
13 authority over the commission's employees;
14 amending s. 350.031, F.S.; authorizing the
15 Florida Public Service Commission Nominating
16 Council to make expenditures to advertise a
17 vacancy on the council or the commission;
18 requiring that the Committee on Public Service
19 Commission Oversight provide a nominee for
20 recommendation to the Governor for appointment
21 to the Public Service Commission; providing
22 procedures; amending s. 350.041, F.S.;
23 clarifying the prohibition against accepting
24 gifts with respect to its application to
25 commissioners attending conferences; requiring
26 that a penalty be imposed against a person who
27 gives a commissioner a prohibited gift;
28 requiring that commissioners avoid impropriety
29 and act in a manner that promotes confidence in
30 the commission; prohibiting a commissioner from
31 soliciting any thing of value, either directly

1 or indirectly, from any public utility, its
2 affiliate, or any party; amending s. 350.042,
3 F.S.; requiring that a penalty be imposed
4 against a person involved in a prohibited ex
5 parte communication with a commissioner;
6 amending s. 350.061, F.S.; requiring that the
7 Committee on Public Service Commission
8 Oversight rather than the Joint Legislative
9 Auditing Committee appoint the Public Counsel;
10 providing for biennial reconfirmation rather
11 than annual; requiring that the Public Counsel
12 perform his or her duties independently;
13 amending s. 350.0614, F.S.; requiring that the
14 Committee on Public Service Commission
15 Oversight rather than the Joint Legislative
16 Auditing Committee oversee expenditures of the
17 Public Counsel; amending s. 364.01, F.S.;
18 specifying the exclusive jurisdiction of the
19 Florida Public Service Commission to regulate
20 telecommunications companies; providing that
21 state laws governing business and consumer
22 protection be applied to communications
23 activities that are not regulated by the
24 commission; revising provisions governing the
25 exclusive jurisdiction of the commission;
26 creating s. 364.011, F.S.; specifying certain
27 services that are exempt from oversight by the
28 commission; creating s. 364.012, F.S.;
29 requiring the commission to coordinate with
30 federal agencies; providing that ch. 364, F.S.,
31 does not limit or modify certain duties of a

1 | local exchange carrier; creating s. 364.013,
2 | F.S.; requiring that broadband service remain
3 | free of state and local regulation; requiring
4 | that voice-over-Internet protocol remain free
5 | of regulation, except as specifically provided
6 | in ch. 364, F.S., or by federal law; amending
7 | s. 364.02, F.S.; defining the terms "broadband
8 | service" and "VoIP"; redefining the term
9 | "service"; amending s. 364.0361, F.S.;
10 | prohibiting a local government from regulating
11 | voice-over-Internet protocol regardless of the
12 | platform or provider; amending s. 364.10, F.S.;
13 | revising the income threshold for eligibility
14 | for Lifeline service; repealing s. 364.502,
15 | F.S., relating to video programming services;
16 | amending s. 364.335, F.S.; increasing to \$500
17 | from \$250 the maximum allowable filing fee for
18 | certification of telecommunications carriers;
19 | amending s. 364.336, F.S.; authorizing the
20 | Public Service Commission to establish a
21 | minimum fee of up to \$1,000; authorizing
22 | different fees for different types of services
23 | provided by telecommunications companies;
24 | amending ss. 196.012, 199.183, 212.08, 290.007,
25 | 350.0605, 364.602, and 489.103, F.S.;
26 | conforming cross-references; requiring
27 | providers to comply with certain laws; amending
28 | s. 364.051, F.S.; providing that damage to the
29 | equipment and facilities of a local exchange
30 | telecommunications as a result of a named
31 | tropical system constitutes a compelling

1 showing of changed circumstances to justify a
2 rate increase; allowing such companies to
3 petition for recovery of such costs and
4 expenses; requiring the Public Service
5 Commission to verify the intrastate costs and
6 expenses for repairing, restoring, or replacing
7 damaged lines, plants, or facilities; requiring
8 the commission to determine whether the
9 intrastate costs and expenses are reasonable;
10 requiring a company to exhaust any
11 storm-reserve funds prior to recovery from
12 customers; providing that the commission may
13 authorize adding an equal line-item charge per
14 access line for certain customers; providing
15 for a rate cap and providing the maximum number
16 of months the rate may be imposed; providing a
17 12-month limit for the application; allowing
18 recovery for more than one storm within the
19 limit; providing effective dates.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 364.01, Florida Statutes, is
24 amended to read:

25 364.01 Powers of commission, legislative intent.--

26 (1) The Florida Public Service Commission shall
27 exercise over and in relation to telecommunications companies
28 the powers conferred by this chapter.

29 (2) It is the legislative intent to give exclusive
30 jurisdiction in all matters set forth in this chapter to the
31 Florida Public Service Commission in regulating

1 telecommunications companies, and such preemption shall
2 supersede any local or special act or municipal charter where
3 any conflict of authority may exist. However, the provisions
4 of this chapter shall not affect the authority and powers
5 granted in s. 166.231(9) or s. 337.401.

6 (3) Communications activities that are not regulated
7 by the Florida Public Service Commission, including, but not
8 limited to, VoIP, wireless, and broadband, are subject to this
9 state's generally applicable business regulation and deceptive
10 trade practices and consumer protection laws, as enforced by
11 the appropriate state authority or through actions in the
12 judicial system. This chapter does not limit the availability
13 to any party of any remedy or defense under state or federal
14 antitrust laws. The Legislature finds that the competitive
15 provision of telecommunications services, including local
16 exchange telecommunications service, is in the public interest
17 and will provide customers with freedom of choice, encourage
18 the introduction of new telecommunications service, encourage
19 technological innovation, and encourage investment in
20 telecommunications infrastructure. The Legislature further
21 finds that the transition from the monopoly provision of local
22 exchange service to the competitive provision thereof will
23 require appropriate regulatory oversight to protect consumers
24 and provide for the development of fair and effective
25 competition, but nothing in this chapter shall limit the
26 availability to any party of any remedy under state or federal
27 antitrust laws. The Legislature further finds that changes in
28 regulations allowing increased competition in
29 telecommunications services could provide the occasion for
30 increases in the telecommunications workforce; therefore, it
31 is in the public interest that competition in

1 telecommunications services lead to a situation that enhances
2 the high-technological skills and the economic status of the
3 telecommunications workforce. The Legislature further finds
4 that the provision of voice-over-Internet protocol (VOIP) free
5 of unnecessary regulation, regardless of the provider, is in
6 the public interest.

7 (4) The commission shall exercise its exclusive
8 jurisdiction in order to:

9 (a) Protect the public health, safety, and welfare by
10 ensuring that basic local telecommunications services are
11 available to all consumers in the state at reasonable and
12 affordable prices.

13 (b) Encourage competition through flexible regulatory
14 treatment among providers of telecommunications services in
15 order to ensure the availability of the widest possible range
16 of consumer choice in the provision of all telecommunications
17 services.

18 (c) Protect the public health, safety, and welfare by
19 ensuring that monopoly services provided by telecommunications
20 companies continue to be subject to effective price, rate, and
21 service regulation.

22 (d) Promote competition by encouraging innovation and
23 investment in ~~new entrants into~~ telecommunications markets and
24 by allowing a transitional period in which new and emerging
25 technologies ~~entrants~~ are subject to a reduced ~~lesser~~ level of
26 regulatory oversight ~~than local exchange telecommunications~~
27 ~~companies~~.

28 (e) Encourage all providers of telecommunications
29 services to introduce new or experimental telecommunications
30 services free of unnecessary regulatory restraints.

31

1 (f) Eliminate any rules ~~or and/or~~ regulations which
2 will delay or impair the transition to competition.

3 (g) Ensure that all providers of telecommunications
4 services are treated fairly, by preventing anticompetitive
5 behavior and eliminating unnecessary regulatory restraint.

6 (h) Recognize the continuing emergence of a
7 competitive telecommunications environment through the
8 flexible regulatory treatment of competitive
9 telecommunications services, where appropriate, if doing so
10 does not reduce the availability of adequate basic local
11 telecommunications service to all citizens of the state at
12 reasonable and affordable prices, if competitive
13 telecommunications services are not subsidized by monopoly
14 telecommunications services, and if all monopoly services are
15 available to all competitors on a nondiscriminatory basis.

16 (i) Continue its historical role as a surrogate for
17 competition for monopoly services provided by local exchange
18 telecommunications companies.

19 Section 2. Section 364.011, Florida Statutes, is
20 created to read:

21 364.011 Exemptions from commission jurisdiction.--The
22 following services are exempt from oversight by the
23 commission, except to the extent delineated in this chapter or
24 specifically authorized by federal law:

25 (1) Intrastate interexchange telecommunications
26 services.

27 (2) Broadband services, regardless of the provider,
28 platform, or protocol.

29 (3) VoIP.

30 (4) Wireless telecommunications, including commercial
31 mobile radio service providers.

1 Section 3. Section 364.012, Florida Statutes, is
2 created to read:

3 364.012 Consistency with federal law.--

4 (1) In order to promote commission coordination with
5 federal policymakers and regulatory agencies, the commission
6 shall maintain continuous liaisons with appropriate federal
7 agencies whose policy decisions and rulemaking authority
8 affect those telecommunications companies over which the
9 commission has jurisdiction. The commission is encouraged to
10 participate in the proceedings of federal agencies in cases in
11 which the state's consumers may be affected and to convey the
12 commission's policy positions and information requirements in
13 order to achieve greater efficiency in regulation.

14 (2) This chapter does not limit or modify the duties
15 of a local exchange carrier to provide unbundled access to
16 network elements or the commission's authority to arbitrate
17 and enforce interconnection agreements to the extent that
18 those elements are required under 47 U.S.C. ss. 251 and 252,
19 and under any regulations issued by the Federal Communications
20 Commission at rates determined in accordance with the
21 standards established by the Federal Communications Commission
22 pursuant to 47 C.F.R. ss. 51.503-51.513, inclusive of any
23 successor regulation or successor forbearance of regulation.

24 Section 4. Section 364.013, Florida Statutes, is
25 created to read:

26 364.013 Emerging and advanced services.--Broadband
27 service and the provision of voice-over-Internet protocol
28 (VoIP) shall be free of state regulation, except as delineated
29 in this chapter or as specifically authorized by federal law,
30 regardless of the provider, platform, or protocol.

31

1 Section 5. Section 364.02, Florida Statutes, is
2 amended to read:

3 364.02 Definitions.--As used in this chapter:

4 (1) "Basic local telecommunications service" means
5 voice-grade, flat-rate residential, and flat-rate single-line
6 business local exchange services which provide dial tone,
7 local usage necessary to place unlimited calls within a local
8 exchange area, dual tone multifrequency dialing, and access to
9 the following: emergency services such as "911," all locally
10 available interexchange companies, directory assistance,
11 operator services, relay services, and an alphabetical
12 directory listing. For a local exchange telecommunications
13 company, ~~the such~~ term shall include any extended area service
14 routes, and extended calling service in existence or ordered
15 by the commission on or before July 1, 1995.

16 (2) "Broadband service" means any service that
17 consists of or includes the offering of the capability to
18 transmit or receive information at a rate that is not less
19 than 200 kilobits per second and either:

20 (a) Is used to provide access to the Internet; or

21 (b) Provides computer processing, information storage,
22 information content, or protocol conversion in combination
23 with the service.

24
25 The definition of broadband service does not include any
26 intrastate telecommunications services that have been tariffed
27 with the commission on or before January 1, 2005.

28 ~~(3)(2)~~ "Commercial mobile radio service provider"
29 means a commercial mobile radio service provider as defined by
30 and pursuant to 47 U.S.C. ss. 153(n) and 332(d).

31

1 ~~(4)~~(3) "Commission" means the Florida Public Service
2 Commission.

3 ~~(5)~~(4) "Competitive local exchange telecommunications
4 company" means any company certificated by the commission to
5 provide local exchange telecommunications services in this
6 state on or after July 1, 1995.

7 ~~(6)~~(5) "Corporation" includes a corporation, company,
8 association, or joint stock association.

9 ~~(7)~~(6) "Intrastate interexchange telecommunications
10 company" means any entity that provides intrastate
11 interexchange telecommunications services.

12 ~~(8)~~(7) "Local exchange telecommunications company"
13 means any company certificated by the commission to provide
14 local exchange telecommunications service in this state on or
15 before June 30, 1995.

16 ~~(9)~~(8) "Monopoly service" means a telecommunications
17 service for which there is no effective competition, either in
18 fact or by operation of law.

19 ~~(10)~~(9) "Nonbasic service" means any
20 telecommunications service provided by a local exchange
21 telecommunications company other than a basic local
22 telecommunications service, a local interconnection
23 arrangement described in s. 364.16, or a network access
24 service described in s. 364.163.

25 ~~(11)~~(10) "Operator service" includes, but is not
26 limited to, billing or completion of third-party,
27 person-to-person, collect, or calling card or credit card
28 calls through the use of a live operator or automated
29 equipment.

30 ~~(12)~~(11) "Operator service provider" means a person
31 who furnishes operator service through a call aggregator.

1 ~~(13)~~~~(12)~~ "Service" is to be construed in its broadest
2 and most inclusive sense. The term "service" does not include
3 broadband service or voice-over-Internet protocol service for
4 purposes of regulation by the commission. Nothing herein shall
5 affect the rights and obligations of any entity related to the
6 payment of switched network access rates or other intercarrier
7 compensation, if any, related to voice-over-Internet protocol
8 service. Notwithstanding s. 364.013 and the exemption of
9 services pursuant to this subsection, the commission may
10 arbitrate, enforce, or approve interconnection agreements, and
11 resolve disputes as provided by 47 U.S.C. ss. 251 and 252, or
12 any other applicable federal law or regulation. With respect
13 to the services exempted in this subsection, regardless of the
14 technology, the duties of a local exchange telecommunications
15 company are only those that the company is obligated to extend
16 or provide under applicable federal law and regulations.

17 ~~(14)~~~~(13)~~ "Telecommunications company" includes every
18 corporation, partnership, and person and their lessees,
19 trustees, or receivers appointed by any court whatsoever, and
20 every political subdivision in the state, offering two-way
21 telecommunications service to the public for hire within this
22 state by the use of a telecommunications facility. The term
23 "telecommunications company" does not include:

24 (a) An entity which provides a telecommunications
25 facility exclusively to a certificated telecommunications
26 company;

27 (b) An entity which provides a telecommunications
28 facility exclusively to a company which is excluded from the
29 definition of a telecommunications company under this
30 subsection;

31 (c) A commercial mobile radio service provider;

- 1 (d) A facsimile transmission service;
2 (e) A private computer data network company not
3 offering service to the public for hire;
4 (f) A cable television company providing cable service
5 as defined in 47 U.S.C. s. 522; or
6 (g) An intrastate interexchange telecommunications
7 company.

8
9 However, each commercial mobile radio service provider and
10 each intrastate interexchange telecommunications company shall
11 continue to be liable for any taxes imposed under ~~pursuant to~~
12 chapters 202, 203, and 212 and any fees assessed under
13 ~~pursuant to~~ ss. 364.025 and 364.336. Each intrastate
14 interexchange telecommunications company shall continue to be
15 subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285,
16 364.501, 364.603, and 364.604, shall provide the commission
17 with such current information as the commission deems
18 necessary to contact and communicate with the company, shall
19 continue to pay intrastate switched network access rates or
20 other intercarrier compensation to the local exchange
21 telecommunications company or the competitive local exchange
22 telecommunications company for the origination and termination
23 of interexchange telecommunications service, and shall reduce
24 its intrastate long distance toll rates in accordance with s.
25 364.163(2).

26 ~~(15)~~(14) "Telecommunications facility" includes real
27 estate, easements, apparatus, property, and routes used and
28 operated to provide two-way telecommunications service to the
29 public for hire within this state.

30 (16) "VoIP" means the voice-over-Internet protocol as
31 that term is defined in federal law.

1 Section 6. Section 364.0361, Florida Statutes, is
2 amended to read:

3 364.0361 Local government authority; nondiscriminatory
4 exercise.--A local government shall treat each
5 telecommunications company in a nondiscriminatory manner when
6 exercising its authority to grant franchises to a
7 telecommunications company or to otherwise establish
8 conditions or compensation for the use of rights-of-way or
9 other public property by a telecommunications company. A local
10 government may not directly or indirectly regulate the terms
11 and conditions, including, but not limited to, the operating
12 systems, qualifications, services, service quality, service
13 territory, and prices, applicable to or in connection with the
14 provision of any voice-over-Internet-protocol, regardless of
15 the provider, platform, or protocol, broadband or information
16 service. This section does not relieve a provider from any
17 obligations under s. 166.046 or s. 337.401.

18 Section 7. Paragraph (a) of subsection (3) of section
19 364.10, Florida Statutes, is amended to read:

20 364.10 Undue advantage to person or locality
21 prohibited; Lifeline service.--

22 (3)(a) Effective September 1, 2003, any local exchange
23 telecommunications company authorized by the commission to
24 reduce its switched network access rate under ~~pursuant to~~ s.
25 364.164 shall have tariffed and shall provide Lifeline service
26 to any otherwise eligible customer or potential customer who
27 meets an income eligibility test at 135 ~~125~~ percent or less of
28 the federal poverty income guidelines for Lifeline customers.
29 ~~The Such a~~ test for eligibility must augment, rather than
30 replace, the eligibility standards established by federal law
31 and based on participation in certain low-income assistance

1 programs. Each intrastate interexchange telecommunications
2 company shall, effective September 1, 2003, file a tariff
3 providing at a minimum the intrastate interexchange
4 telecommunications carrier's current Lifeline benefits and
5 exemptions to Lifeline customers who meet the income
6 eligibility test set forth in this subsection. The Office of
7 Public Counsel shall certify and maintain claims submitted by
8 a customer for eligibility under the income test authorized by
9 this subsection.

10 Section 8. Section 364.502, Florida Statutes, is
11 repealed.

12 Section 9. Subsection (1) of section 364.335, Florida
13 Statutes, is amended to read:

14 364.335 Application for certificate.--

15 (1) Each applicant for a certificate shall:

16 (a) Provide all information required by rule or order
17 of the commission, which may include a detailed inquiry into
18 the ability of the applicant to provide service, a detailed
19 inquiry into the territory and facilities involved, and a
20 detailed inquiry into the existence of service from other
21 sources within geographical proximity to the territory applied
22 for.

23 (b) File with the commission schedules showing all
24 rates for service of every kind furnished by it and all rules
25 and contracts relating to such service.

26 (c) File the application fee required by the
27 commission in an amount not to exceed ~~\$500~~\$250. Such fees
28 shall be deposited in accordance with s. 350.113.

29 (d) Submit an affidavit that the applicant has caused
30 notice of its application to be given to such persons and in
31 such manner as may be prescribed by commission rule.

1 Section 10. Section 364.336, Florida Statutes, is
2 amended to read:

3 364.336 Regulatory assessment fees.--Notwithstanding
4 any provisions of law to the contrary, each telecommunications
5 company licensed or operating under this chapter, for any part
6 of the preceding 6-month period, shall pay to the commission,
7 within 30 days following the end of each 6-month period, a fee
8 that may not exceed 0.25 percent annually of its gross
9 operating revenues derived from intrastate business, except,
10 for purposes of this section and the fee specified in s.
11 350.113(3), any amount paid to another telecommunications
12 company for the use of any telecommunications network shall be
13 deducted from the gross operating revenue for purposes of
14 computing the fee due. The commission shall by rule assess a
15 minimum fee in an amount up to \$1,000. The minimum amount may
16 vary depending on the type of service provided by the
17 telecommunications company, and shall, to the extent
18 practicable, be related to the cost of regulating such type of
19 company. Differences, if any, between the amount paid in any
20 6-month period and the amount actually determined by the
21 commission to be due shall, upon motion by the commission, be
22 immediately paid or refunded. Fees under this section may not
23 be less than \$50 annually. Such fees shall be deposited in
24 accordance with s. 350.113. The commission may by rule
25 establish criteria for payment of the regulatory assessment
26 fee on an annual basis rather than on a semiannual basis.

27 Section 11. Subsection (6) of section 196.012, Florida
28 Statutes, is amended to read:

29 196.012 Definitions.--For the purpose of this chapter,
30 the following terms are defined as follows, except where the
31 context clearly indicates otherwise:

1 (6) Governmental, municipal, or public purpose or
2 function shall be deemed to be served or performed when the
3 lessee under any leasehold interest created in property of the
4 United States, the state or any of its political subdivisions,
5 or any municipality, agency, special district, authority, or
6 other public body corporate of the state is demonstrated to
7 perform a function or serve a governmental purpose which could
8 properly be performed or served by an appropriate governmental
9 unit or which is demonstrated to perform a function or serve a
10 purpose which would otherwise be a valid subject for the
11 allocation of public funds. For purposes of the preceding
12 sentence, an activity undertaken by a lessee which is
13 permitted under the terms of its lease of real property
14 designated as an aviation area on an airport layout plan which
15 has been approved by the Federal Aviation Administration and
16 which real property is used for the administration, operation,
17 business offices and activities related specifically thereto
18 in connection with the conduct of an aircraft full service
19 fixed base operation which provides goods and services to the
20 general aviation public in the promotion of air commerce shall
21 be deemed an activity which serves a governmental, municipal,
22 or public purpose or function. Any activity undertaken by a
23 lessee which is permitted under the terms of its lease of real
24 property designated as a public airport as defined in s.
25 332.004(14) by municipalities, agencies, special districts,
26 authorities, or other public bodies corporate and public
27 bodies politic of the state, a spaceport as defined in s.
28 331.303(19), or which is located in a deepwater port
29 identified in s. 403.021(9)(b) and owned by one of the
30 foregoing governmental units, subject to a leasehold or other
31 possessory interest of a nongovernmental lessee that is deemed

1 to perform an aviation, airport, aerospace, maritime, or port
2 purpose or operation shall be deemed an activity that serves a
3 governmental, municipal, or public purpose. The use by a
4 lessee, licensee, or management company of real property or a
5 portion thereof as a convention center, visitor center, sports
6 facility with permanent seating, concert hall, arena, stadium,
7 park, or beach is deemed a use that serves a governmental,
8 municipal, or public purpose or function when access to the
9 property is open to the general public with or without a
10 charge for admission. If property deeded to a municipality by
11 the United States is subject to a requirement that the Federal
12 Government, through a schedule established by the Secretary of
13 the Interior, determine that the property is being maintained
14 for public historic preservation, park, or recreational
15 purposes and if those conditions are not met the property will
16 revert back to the Federal Government, then such property
17 shall be deemed to serve a municipal or public purpose. The
18 term "governmental purpose" also includes a direct use of
19 property on federal lands in connection with the Federal
20 Government's Space Exploration Program or spaceport activities
21 as defined in s. 212.02(22). Real property and tangible
22 personal property owned by the Federal Government or the
23 Florida Space Authority and used for defense and space
24 exploration purposes or which is put to a use in support
25 thereof shall be deemed to perform an essential national
26 governmental purpose and shall be exempt. "Owned by the
27 lessee" as used in this chapter does not include personal
28 property, buildings, or other real property improvements used
29 for the administration, operation, business offices and
30 activities related specifically thereto in connection with the
31 conduct of an aircraft full service fixed based operation

1 | which provides goods and services to the general aviation
2 | public in the promotion of air commerce provided that the real
3 | property is designated as an aviation area on an airport
4 | layout plan approved by the Federal Aviation Administration.
5 | For purposes of determination of "ownership," buildings and
6 | other real property improvements which will revert to the
7 | airport authority or other governmental unit upon expiration
8 | of the term of the lease shall be deemed "owned" by the
9 | governmental unit and not the lessee. Providing two-way
10 | telecommunications services to the public for hire by the use
11 | of a telecommunications facility, as defined in s. 364.02(15)
12 | ~~s. 364.02(14)~~, and for which a certificate is required under
13 | chapter 364 does not constitute an exempt use for purposes of
14 | s. 196.199, unless the telecommunications services are
15 | provided by the operator of a public-use airport, as defined
16 | in s. 332.004, for the operator's provision of
17 | telecommunications services for the airport or its tenants,
18 | concessionaires, or licensees, or unless the
19 | telecommunications services are provided by a public hospital.
20 | However, property that is being used to provide such
21 | telecommunications services on or before October 1, 1997,
22 | shall remain exempt, but such exemption expires October 1,
23 | 2004.

24 | Section 12. Paragraph (b) of subsection (1) of section
25 | 199.183, Florida Statutes, is amended to read:

26 | 199.183 Taxpayers exempt from annual and nonrecurring
27 | taxes.--

28 | (1) Intangible personal property owned by this state
29 | or any of its political subdivisions or municipalities shall
30 | be exempt from taxation under this chapter. This exemption
31 | does not apply to:

1 (b) Property related to the provision of two-way
2 telecommunications services to the public for hire by the use
3 of a telecommunications facility, as defined in s. 364.02(15)
4 ~~s. 364.02(14)~~, and for which a certificate is required under
5 chapter 364, when the ~~such~~ service is provided by any county,
6 municipality, or other political subdivision of the state. Any
7 immunity of any political subdivision of the state or other
8 entity of local government from taxation of the property used
9 to provide telecommunication services that is taxed as a
10 result of this paragraph is hereby waived. However, intangible
11 personal property related to the provision of ~~such~~
12 telecommunications services provided by the operator of a
13 public-use airport, as defined in s. 332.004, for the
14 operator's provision of telecommunications services for the
15 airport or its tenants, concessionaires, or licensees, and
16 intangible personal property related to the provision of ~~such~~
17 telecommunications services provided by a public hospital, are
18 exempt from taxation under this chapter.

19 Section 13. Subsection (6) of section 212.08, Florida
20 Statutes, is amended to read:

21 212.08 Sales, rental, use, consumption, distribution,
22 and storage tax; specified exemptions.--The sale at retail,
23 the rental, the use, the consumption, the distribution, and
24 the storage to be used or consumed in this state of the
25 following are hereby specifically exempt from the tax imposed
26 by this chapter.

27 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are
28 also exempt from the tax imposed by this chapter sales made to
29 the United States Government, a state, or any county,
30 municipality, or political subdivision of a state when payment
31 is made directly to the dealer by the governmental entity.

1 This exemption shall not inure to any transaction otherwise
2 taxable under this chapter when payment is made by a
3 government employee by any means, including, but not limited
4 to, cash, check, or credit card when that employee is
5 subsequently reimbursed by the governmental entity. This
6 exemption does not include sales of tangible personal property
7 made to contractors employed either directly or as agents of
8 any such government or political subdivision thereof when such
9 tangible personal property goes into or becomes a part of
10 public works owned by such government or political
11 subdivision. A determination whether a particular transaction
12 is properly characterized as an exempt sale to a government
13 entity or a taxable sale to a contractor shall be based on the
14 substance of the transaction rather than the form in which the
15 transaction is cast. The department shall adopt rules that
16 give special consideration to factors that govern the status
17 of the tangible personal property before its affixation to
18 real property. In developing these rules, assumption of the
19 risk of damage or loss is of paramount consideration in the
20 determination. This exemption does not include sales, rental,
21 use, consumption, or storage for use in any political
22 subdivision or municipality in this state of machines and
23 equipment and parts and accessories therefor used in the
24 generation, transmission, or distribution of electrical energy
25 by systems owned and operated by a political subdivision in
26 this state for transmission or distribution expansion.
27 Likewise exempt are charges for services rendered by radio and
28 television stations, including line charges, talent fees, or
29 license fees and charges for films, videotapes, and
30 transcriptions used in producing radio or television
31 broadcasts. The exemption provided in this subsection does not

1 include sales, rental, use, consumption, or storage for use in
2 any political subdivision or municipality in this state of
3 machines and equipment and parts and accessories therefor used
4 in providing two-way telecommunications services to the public
5 for hire by the use of a telecommunications facility, as
6 defined in s. 364.02(15) ~~s. 364.02(14)~~, and for which a
7 certificate is required under chapter 364, which facility is
8 owned and operated by any county, municipality, or other
9 political subdivision of the state. Any immunity of any
10 political subdivision of the state or other entity of local
11 government from taxation of the property used to provide
12 telecommunication services that is taxed as a result of this
13 section is hereby waived. However, the exemption provided in
14 this subsection includes transactions taxable under this
15 chapter which are for use by the operator of a public-use
16 airport, as defined in s. 332.004, in providing such
17 telecommunications services for the airport or its tenants,
18 concessionaires, or licensees, or which are for use by a
19 public hospital for the provision of such telecommunications
20 services.

21 Section 14. Subsection (8) of section 290.007, Florida
22 Statutes, is amended to read:

23 290.007 State incentives available in enterprise
24 zones.--The following incentives are provided by the state to
25 encourage the revitalization of enterprise zones:

26 (8) Notwithstanding any law to the contrary, the
27 Public Service Commission may allow public utilities and
28 telecommunications companies to grant discounts of up to 50
29 percent on tariffed rates for services to small businesses
30 located in an enterprise zone designated pursuant to s.
31 290.0065. Such discounts may be granted for a period not to

1 exceed 5 years. For purposes of this subsection, the term
2 "public utility" has the same meaning as in s. 366.02(1) and
3 the term "telecommunications company" has the same meaning as
4 in s. 364.02(14) ~~s. 364.02(13)~~.

5 Section 15. Subsection (3) of section 350.0605,
6 Florida Statutes, is amended to read:

7 350.0605 Former commissioners and employees;
8 representation of clients before commission.--

9 (3) For a period of 2 years following termination of
10 service on the commission, a former member may not accept
11 employment by or compensation from a business entity which,
12 directly or indirectly, owns or controls a public utility
13 regulated by the commission, from a public utility regulated
14 by the commission, from a business entity which, directly or
15 indirectly, is an affiliate or subsidiary of a public utility
16 regulated by the commission or is an actual business
17 competitor of a local exchange company or public utility
18 regulated by the commission and is otherwise exempt from
19 regulation by the commission under ss. 364.02(14) ~~364.02(13)~~
20 and 366.02(1), or from a business entity or trade association
21 that has been a party to a commission proceeding within the 2
22 years preceding the member's termination of service on the
23 commission. This subsection applies only to members of the
24 Florida Public Service Commission who are appointed or
25 reappointed after May 10, 1993.

26 Section 16. Subsection (4) of section 364.602, Florida
27 Statutes, is amended to read:

28 364.602 Definitions.--For purposes of this part:

29 (4) "Originating party" means any person, firm,
30 corporation, or other entity, including a telecommunications
31 company or a billing clearinghouse, that provides any

1 telecommunications service or information service to a
2 customer or bills a customer through a billing party, except
3 the term "originating party" does not include any entity
4 specifically exempted from the definition of
5 "telecommunications company" as provided in s. 364.02(14) ~~s.~~
6 ~~364.02(13)~~.

7 Section 17. Subsection (5) of section 489.103, Florida
8 Statutes, is amended to read:

9 489.103 Exemptions.--This part does not apply to:

10 (5) Public utilities, including special gas districts
11 as defined in chapter 189, telecommunications companies as
12 defined in s. 364.02(14) ~~s. 364.02(13)~~ and natural gas
13 transmission companies as defined in s. 368.103(4), on
14 construction, maintenance, and development work performed by
15 their employees, which work, including, but not limited to,
16 work on bridges, roads, streets, highways, or railroads, is
17 incidental to their business. The board shall define, by rule,
18 the term "incidental to their business" for purposes of this
19 subsection.

20 Section 18. This act may not be construed to limit the
21 rights of local government or the duties of providers of cable
22 service to comply with any and all requirements of federal,
23 state, or local law, including, but not limited to, 47 U.S.C.
24 541, s. 166.046 and s. 337.401.

25 Section 19. Subsection (4) of section 364.051, Florida
26 Statutes, is amended to read:

27 364.051 Price regulation.--

28 (4)(a) Notwithstanding ~~the provisions of~~ subsection
29 (2), any local exchange telecommunications company that
30 believes circumstances have changed substantially to justify
31 any increase in the rates for basic local telecommunications

1 services may petition the commission for a rate increase, but
2 the commission shall grant the ~~such~~ petition only after an
3 opportunity for a hearing and a compelling showing of changed
4 circumstances. The costs and expenses of any government
5 program or project required in part II ~~may shall~~ not be
6 recovered under this subsection unless the ~~such~~ costs and
7 expenses are incurred in the absence of a bid and subject to
8 carrier-of-last-resort obligations as provided for in part II.
9 The commission shall act upon the ~~any such~~ petition within 120
10 days after ~~of~~ its filing.

11 (b) For purposes of this section, evidence of damage
12 occurring to the lines, plants, or facilities of a local
13 exchange telecommunications company that is subject to the
14 carrier-of-last-resort obligations, which damage is the result
15 of a tropical system occurring after June 1, 2005, and named
16 by the National Hurricane Center, constitutes a compelling
17 showing of changed circumstances.

18 1. A company may file a petition to recover its
19 intrastate costs and expenses relating to repairing,
20 restoring, or replacing the lines, plants, or facilities
21 damaged by a named tropical system.

22 2. The commission shall verify the intrastate costs
23 and expenses submitted by the company in support of its
24 petition.

25 3. The company must show and the commission shall
26 determine whether the intrastate costs and expenses are
27 reasonable under the circumstances for the named tropical
28 system.

29 4. A company having a storm-reserve fund may recover
30 tropical-system-related costs and expenses from its customers
31

1 only in excess of any amount available in the storm-reserve
2 fund.

3 5. The commission may determine the amount of any
4 increase that the company may charge its customers, but the
5 charge per line item may not exceed 50 cents per month per
6 customer line for a period of not more than 12 months.

7 6. The commission may order the company to add an
8 equal line-item charge per access line to the billing
9 statement of the company's retail basic local
10 telecommunications service customers, its retail nonbasic
11 telecommunications service customers, and, to the extent the
12 commission determines appropriate, its wholesale loop
13 unbundled network element customers. At the end of the
14 collection period, the commission shall verify that the
15 collected amount does not exceed the amount authorized by the
16 order. If collections exceed the ordered amount, the
17 commission shall order the company to refund the excess.

18 7. In order to qualify for filing a petition under
19 this paragraph, a company with one million or more access
20 lines, but fewer than three million access lines, must have
21 tropical-system-related costs and expenses exceeding \$1.5
22 million, and a company with three million or more access lines
23 must have tropical-system-related costs and expenses of \$5
24 million or more. A company with fewer than one million access
25 lines is not required to meet a minimum damage threshold in
26 order to qualify to file a petition under this paragraph.

27 8. A company may file only one petition for storm
28 recovery in any 12-month period for the previous storm season,
29 but the application may cover damages from more than one named
30 tropical system.

31

1 This paragraph is not intended to adversely affect the
2 commission's consideration of any petition for an increase in
3 basic rates to recover costs related to storm damage which was
4 filed before the effective date of this act.

5 Section 20. Committee on Public Service Commission
6 Oversight; creation; membership; powers and duties.--

7 (1) There is created a standing joint committee of the
8 Legislature, designated the Committee on Public Service
9 Commission Oversight, and composed of twelve members appointed
10 as follows: six members of the Senate appointed by the
11 President of the Senate, two of whom must be members of the
12 minority party; and six members of the House of
13 Representatives appointed by the Speaker of the House of
14 Representatives, two of whom must be members of the minority
15 party. The terms of members shall be for 2 years and shall run
16 from the organization of one Legislature to the organization
17 of the next Legislature. The President shall appoint the chair
18 of the committee in even years and the vice chair in odd
19 years, and the Speaker of the House of Representatives shall
20 appoint the chair of the committee in odd years and the vice
21 chair in even years, from among the committee membership.
22 Vacancies shall be filled in the same manner as the original
23 appointment. Members shall serve without additional
24 compensation, but shall be reimbursed for expenses.

25 (2) The committee shall be governed by joint rules of
26 the Senate and the House of Representatives which shall remain
27 in effect until repealed or amended by concurrent resolution.

28 (3) The committee shall:

29 (a) Recommend to the Governor a nominee to fill a
30 vacancy on the Public Service Commission, as provided by
31 general law; and

1 (b) Appoint a Public Counsel as provided by general
2 law.

3 (4) The committee is authorized to file a complaint
4 with the Commission on Ethics alleging a violation of this
5 chapter by a commissioner, former commissioner, former
6 commission employee, or member of the Public Service
7 Commission Nominating Council.

8 (5) The committee will not have a permanent staff, but
9 the President of the Senate and the Speaker of the House of
10 Representatives shall select staff members from among existing
11 legislative staff, when and as needed.

12 Section 21. Section 350.001, Florida Statutes, is
13 amended to read:

14 350.001 Legislative intent.--The Florida Public
15 Service Commission has been and shall continue to be an arm of
16 the legislative branch of government. The Public Service
17 Commission shall perform its duties independently. The
18 Legislature declares and determines that the Public Service
19 Commission is under the legislative branch of government
20 within the intent expressed in chapter 216. The Executive
21 Office of the Governor or its successor is not authorized to
22 release or withhold funds appropriated to the Public Service
23 Commission, but the Committee on Public Service Commission
24 Oversight shall release or withhold funds appropriated to the
25 Public Service Commission as provided by law and the rules or
26 decisions of the Committee on Public Service Commission
27 Oversight. The Executive Office of the Governor, the
28 Department of Management Services, or any successor may not
29 determine the number, or fix the compensation, of employees of
30 the Public Service Commission and may not exercise any manner
31 of control over the employees of the Public Service

1 Commission. It is the desire of the Legislature that the
2 Governor participate in the appointment process of
3 commissioners to the Public Service Commission. The
4 Legislature accordingly delegates to the Governor a limited
5 authority with respect to the Public Service Commission by
6 authorizing him or her to participate in the selection of
7 members only ~~from the list provided by the Florida Public~~
8 ~~Service Commission Nominating Council~~ in the manner prescribed
9 by s. 350.031.

10 Section 22. Section 350.031, Florida Statutes, is
11 amended to read:

12 350.031 Florida Public Service Commission Nominating
13 Council.--

14 (1) There is created a Florida Public Service
15 Commission Nominating Council consisting of nine members. At
16 least one member of the council must be 60 years of age or
17 older. Three members, including one member of the House of
18 Representatives, shall be appointed by and serve at the
19 pleasure of the Speaker of the House of Representatives; three
20 members, including one member of the Senate, shall be
21 appointed by and serve at the pleasure of the President of the
22 Senate; and three members shall be selected and appointed by a
23 majority vote of the other six members of the council. All
24 terms shall be for 4 years except those members of the House
25 and Senate, who shall serve 2-year terms concurrent with the
26 2-year elected terms of House members. Vacancies on the
27 council shall be filled for the unexpired portion of the term
28 in the same manner as original appointments to the council. A
29 member may not be reappointed to the council, except for a
30 member of the House of Representatives or the Senate who may
31

1 | be appointed to two 2-year terms or a person who is appointed
2 | to fill the remaining portion of an unexpired term.

3 | (2)(a) No member or spouse shall be the holder of the
4 | stocks or bonds of any company, other than through ownership
5 | of shares in a mutual fund, regulated by the commission, or
6 | any affiliated company of any company regulated by the
7 | commission, or be an agent or employee of, or have any
8 | interest in, any company regulated by the commission or any
9 | affiliated company of any company regulated by the commission,
10 | or in any firm which represents in any capacity either
11 | companies which are regulated by the commission or affiliates
12 | of companies regulated by the commission. As a condition of
13 | appointment to the council, each appointee shall affirm to the
14 | Speaker and the President his or her qualification by the
15 | following certification: "I hereby certify that I am not a
16 | stockholder, other than through ownership of shares in a
17 | mutual fund, in any company regulated by the commission or in
18 | any affiliate of a company regulated by the commission, nor in
19 | any way, directly or indirectly, in the employment of, or
20 | engaged in the management of any company regulated by the
21 | commission or any affiliate of a company regulated by the
22 | commission, or in any firm which represents in any capacity
23 | either companies which are regulated by the commission or
24 | affiliates of companies regulated by the commission."

25 |
26 | This certification is made as condition to appointment to the
27 | Florida Public Service Commission Nominating Council.

28 | (b) A member of the council may be removed by the
29 | Speaker of the House of Representatives and the President of
30 | the Senate upon a finding by the Speaker and the President

31 |

1 that the council member has violated any provision of this
2 subsection or for other good cause.

3 (c) If a member of the council does not meet the
4 requirements of this subsection, the President of the Senate
5 or the Speaker of the House of Representatives, as
6 appropriate, shall appoint a legislative replacement.

7 (3) A majority of the membership of the council may
8 conduct any business before the council. All meetings and
9 proceedings of the council shall be staffed by the Office of
10 Legislative Services and shall be subject to the provisions of
11 ss. 119.07 and 286.011. Members of the council are entitled
12 to receive per diem and travel expenses as provided in s.
13 112.061, which shall be funded by the Florida Public Service
14 Regulatory Trust Fund. Applicants invited for interviews
15 before the council may, in the discretion of the council,
16 receive per diem and travel expenses as provided in s.
17 112.061, which shall be funded by the Florida Public Service
18 Regulatory Trust Fund. The council shall establish policies
19 and procedures to govern the process by which applicants are
20 nominated.

21 (4) The council may spend a nominal amount, not to
22 exceed \$10,000, to advertise a vacancy on the council, which
23 shall be funded by the Florida Public Service Regulatory Trust
24 Fund.

25 (5)(4) A person may not be nominated to the Committee
26 on Public Service Commission Oversight ~~Governor~~ until the
27 council has determined that the person is competent and
28 knowledgeable in one or more fields, which shall include, but
29 not be limited to: public affairs, law, economics,
30 accounting, engineering, finance, natural resource
31 conservation, energy, or another field substantially related

1 to the duties and functions of the commission. The commission
2 shall fairly represent the above-stated fields.

3 Recommendations of the council shall be nonpartisan.

4 ~~(6)(5)~~ It is the responsibility of the council to
5 nominate to the Committee on Public Service Commission
6 Oversight Governor not fewer than three persons for each
7 vacancy occurring on the Public Service Commission. The
8 council shall submit the recommendations to the committee
9 ~~Governor~~ by August 1 ~~October 1~~ of those years in which the
10 terms are to begin the following January, or within 60 days
11 after a vacancy occurs for any reason other than the
12 expiration of the term.

13 ~~(7)(6)~~ The Committee on Public Service Commission
14 Oversight Governor shall select from the list of nominees
15 provided by the nominating council one nominee for
16 recommendation to the Governor for appointment to the
17 commission. The recommendation must be provided to the
18 Governor within 45 days after receipt of the list of nominees.
19 ~~The committee shall make the recommendation fill a vacancy~~
20 ~~occurring on the Public Service Commission by appointment of~~
21 ~~one of the applicants nominated by the council only after a~~
22 background investigation of the recommended nominee such
23 ~~applicant~~ has been conducted by the Florida Department of Law
24 Enforcement. If the Governor rejects the recommendation or has
25 not made an appointment within 30 days after the receipt of
26 the recommendation by December 1 to fill a vacancy for a term
27 ~~to begin the following January~~, then the council shall
28 immediately initiate the nominating process in accordance with
29 this section. The council shall include in the process all new
30 applicants and all previous applicants for this vacancy. The
31 council must, within 30 days after the Governor's rejection of

1 the previous recommendation or failure to timely make an
 2 appointment, submit to the committee a list of no fewer than
 3 three persons for each vacancy. The committee must, within 30
 4 days after receipt, select one nominee for recommendation to
 5 the Governor for appointment to the commission. If the
 6 Governor rejects the recommendation or fails to make an
 7 appointment within 30 days after receipt of the
 8 recommendation, the council shall immediately initiate the
 9 nominating process again with the time periods applicable., by
 10 ~~majority vote, shall appoint by December 31 one person from~~
 11 ~~the applicants previously nominated to the Governor to fill~~
 12 ~~the vacancy. If the Governor has not made the appointment to~~
 13 ~~fill a vacancy occurring for any reason other than the~~
 14 ~~expiration of the term by the 60th day following receipt of~~
 15 ~~the nominations of the council, the council by majority vote~~
 16 ~~shall appoint within 30 days thereafter one person from the~~
 17 ~~applicants previously nominated to the Governor to fill the~~
 18 ~~vacancy.~~

19 ~~(8)(7)~~ Each appointment to the Public Service
 20 Commission shall be subject to confirmation by the Senate
 21 during the next regular session after the vacancy occurs. If
 22 the Senate refuses to confirm or rejects the Governor's
 23 appointment, the council shall initiate, in accordance with
 24 this section, the nominating process within 30 days.

25 Section 23. Subsection (2) of section 350.041, Florida
 26 Statutes, is amended to read:

27 350.041 Commissioners; standards of conduct.--

28 (2) STANDARDS OF CONDUCT.--

29 (a) A commissioner may not accept anything from any
 30 business entity which, either directly or indirectly, owns or
 31 controls any public utility regulated by the commission, from

1 any public utility regulated by the commission, or from any
2 business entity which, either directly or indirectly, is an
3 affiliate or subsidiary of any public utility regulated by the
4 commission. A commissioner may attend conferences and
5 associated meals and events that are generally available to
6 all conference participants without payment of any fees in
7 addition to the conference fee. Additionally, while attending
8 a conference, a commissioner may attend meetings, meals, or
9 events that are not sponsored, in whole or in part, by any
10 representative of any public utility regulated by the
11 commission and that are limited to commissioners only,
12 committee members, or speakers if the commissioner is a member
13 of a committee of the association of regulatory agencies that
14 organized the conference or is a speaker at the conference. It
15 is not a violation of this paragraph for a commissioner to
16 attend a conference for which conference participants who are
17 employed by a utility regulated by the commission have paid a
18 higher conference registration fee than the commissioner, or
19 to attend a meal or event that is generally available to all
20 conference participants without payment of any fees in
21 addition to the conference fee and that is sponsored, in whole
22 or in part, by a utility regulated by the commission. If,
23 during the course of an investigation by the Commission on
24 Ethics into an alleged violation of this paragraph,
25 allegations are made as to the identity of the person giving
26 or providing the prohibited gift, that person must be given
27 notice and an opportunity to participate in the investigation
28 and relevant proceedings to present a defense. If the
29 Commission on Ethics determines that the person gave or
30 provided a prohibited gift, the person may not appear before
31

1 the commission or otherwise represent anyone before the
2 commission for a period of 2 years.

3 (b) A commissioner may not accept any form of
4 employment with or engage in any business activity with any
5 business entity which, either directly or indirectly, owns or
6 controls any public utility regulated by the commission, any
7 public utility regulated by the commission, or any business
8 entity which, either directly or indirectly, is an affiliate
9 or subsidiary of any public utility regulated by the
10 commission.

11 (c) A commissioner may not have any financial
12 interest, other than shares in a mutual fund, in any public
13 utility regulated by the commission, in any business entity
14 which, either directly or indirectly, owns or controls any
15 public utility regulated by the commission, or in any business
16 entity which, either directly or indirectly, is an affiliate
17 or subsidiary of any public utility regulated by the
18 commission. If a commissioner acquires any financial interest
19 prohibited by this section during his or her term of office as
20 a result of events or actions beyond the commissioner's
21 control, he or she shall immediately sell such financial
22 interest or place such financial interest in a blind trust at
23 a financial institution. A commissioner may not attempt to
24 influence, or exercise any control over, decisions regarding
25 the blind trust.

26 (d) A commissioner may not accept anything from a
27 party in a proceeding currently pending before the commission.
28 If, during the course of an investigation by the Commission on
29 Ethics into an alleged violation of this paragraph,
30 allegations are made as to the identity of the person giving
31 or providing the prohibited gift, that person must be given

1 notice and an opportunity to participate in the investigation
2 and relevant proceedings to present a defense. If the
3 Commission on Ethics determines that the person gave or
4 provided a prohibited gift, the person may not appear before
5 the commission or otherwise represent anyone before the
6 commission for a period of 2 years.

7 (e) A commissioner may not serve as the representative
8 of any political party or on any executive committee or other
9 governing body of a political party; serve as an executive
10 officer or employee of any political party, committee,
11 organization, or association; receive remuneration for
12 activities on behalf of any candidate for public office;
13 engage on behalf of any candidate for public office in the
14 solicitation of votes or other activities on behalf of such
15 candidacy; or become a candidate for election to any public
16 office without first resigning from office.

17 (f) A commissioner, during his or her term of office,
18 may not make any public comment regarding the merits of any
19 proceeding under ss. 120.569 and 120.57 currently pending
20 before the commission.

21 (g) A commissioner may not conduct himself or herself
22 in an unprofessional manner at any time during the performance
23 of his or her official duties.

24 (h) A commissioner must avoid impropriety in all of
25 his or her activities and must act at all times in a manner
26 that promotes public confidence in the integrity and
27 impartiality of the commission.

28 (i) A commissioner may not directly or indirectly,
29 through staff or other means, solicit any thing of value from
30 any public utility regulated by the commission, or from any
31 business entity that, whether directly or indirectly, is an

1 affiliate or subsidiary of any public utility regulated by the
2 commission, or from any party appearing in a proceeding
3 considered by the commission in the last 2 years.

4 Section 24. Subsection (7) of section 350.042, Florida
5 Statutes, is amended to read:

6 350.042 Ex parte communications.--

7 (7)(a) It shall be the duty of the Commission on
8 Ethics to receive and investigate sworn complaints of
9 violations of this section pursuant to the procedures
10 contained in ss. 112.322-112.3241.

11 (b) If the Commission on Ethics finds that there has
12 been a violation of this section by a public service
13 commissioner, it shall provide the Governor and the Florida
14 Public Service Commission Nominating Council with a report of
15 its findings and recommendations. The Governor is authorized
16 to enforce the findings and recommendations of the Commission
17 on Ethics, pursuant to part III of chapter 112.

18 (c) If a commissioner fails or refuses to pay the
19 Commission on Ethics any civil penalties assessed pursuant to
20 the provisions of this section, the Commission on Ethics may
21 bring an action in any circuit court to enforce such penalty.

22 (d) If, during the course of an investigation by the
23 Commission on Ethics into an alleged violation of this
24 paragraph, allegations are made as to the identity of the
25 person who participated in the ex parte communication, that
26 person must be given notice and an opportunity to participate
27 in the investigation and relevant proceedings to present a
28 defense. If the Commission on Ethics determines that the
29 person participated in the ex parte communication, the person
30 may not appear before the commission or otherwise represent
31 anyone before the commission for a period of 2 years.

1 Section 25. Subsection (1) of section 350.061, Florida
2 Statutes, is amended to read:

3 350.061 Public Counsel; appointment; oath;
4 restrictions on Public Counsel and his or her employees.--

5 (1) The Committee on Public Service Commission
6 Oversight ~~Joint Legislative Auditing Committee~~ shall appoint a
7 Public Counsel by majority vote of the members of the
8 committee to represent the general public of Florida before
9 the Florida Public Service Commission. The Public Counsel
10 shall be an attorney admitted to practice before the Florida
11 Supreme Court and shall serve at the pleasure of the ~~Joint~~
12 ~~Legislative Auditing~~ Committee on Public Service Commission
13 Oversight, subject to biennial ~~annual~~ reconfirmation by the
14 committee. The Public Counsel shall perform his or her duties
15 independently. Vacancies in the office shall be filled in the
16 same manner as the original appointment.

17 Section 26. Subsection (2) of section 350.0614,
18 Florida Statutes, is amended to read:

19 350.0614 Public Counsel; compensation and expenses.--

20 (2) The Legislature ~~hereby~~ declares and determines
21 that the Public Counsel is under the legislative branch of
22 government within the intention of the legislation as
23 expressed in chapter 216, and no power shall be in the
24 Executive Office of the Governor or its successor to release
25 or withhold funds appropriated to it, but the same shall be
26 available for expenditure as provided by law and the rules or
27 decisions of the ~~Joint Auditing~~ Committee on Public Service
28 Commission Oversight.

29 Section 27. Except for sections 20 through 26, which
30 shall take effect October 1, 2005, the penalty provisions of
31 which and the provisions of which that create new standards of

1 | conduct apply to violations occurring on or after that date,
2 | this act shall take effect upon becoming a law.
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