

By Senator Argenziano

3-578-06

1 A bill to be entitled

2 An act relating to the Public Service

3 Commission; amending s. 350.001, F.S.; removing

4 legislative intent relating to the appointment

5 of members to the Public Service Commission;

6 amending s. 350.01, F.S.; providing that,

7 beginning with the general election of 2006,

8 commissioners shall be elected to serve on the

9 commission; removing provisions for appointing

10 members to the commission; providing that a

11 commissioner is elected to serve a 4-year term;

12 providing for a staggered election in 2006;

13 amending s. 350.012, F.S.; requiring the

14 Committee on Public Service Commission

15 Oversight to oversee the operations of the

16 commission; requiring the committee to report

17 to the Legislature at least once each year on

18 the activities of the commission; amending ss.

19 350.041, 350.042, 350.043, and 112.324, F.S.;

20 conforming provisions to changes made by the

21 act; repealing s. 350.031, F.S., relating to

22 the formation and duties of the Florida Public

23 Service Commission Nominating Council;

24 providing an effective date.

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

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28 Section 1. Section 350.001, Florida Statutes, is

29 amended to read:

30 350.001 Legislative intent.--The Florida Public

31 Service Commission has been and shall continue to be an arm of

1 the legislative branch of government. The Public Service
2 Commission shall perform its duties independently. ~~It is the~~
3 ~~desire of the Legislature that the Governor participate in the~~
4 ~~appointment process of commissioners to the Public Service~~
5 ~~Commission. The Legislature accordingly delegates to the~~
6 ~~Governor a limited authority with respect to the Public~~
7 ~~Service Commission by authorizing him or her to participate in~~
8 ~~the selection of members only in the manner prescribed by s.~~
9 ~~350.031.~~

10 Section 2. Section 350.01, Florida Statutes, is
11 amended to read:

12 350.01 Florida Public Service Commission; terms of
13 commissioners; vacancies; election and duties of chair;
14 quorum; proceedings.--

15 (1) The Florida Public Service Commission shall
16 consist of five commissioners ~~appointed pursuant to s.~~
17 ~~350.031.~~

18 (2) Each commissioner shall be elected for a term of 4
19 years, except that, at the 2006 general election, three
20 members shall be elected for a term of 4 years and two members
21 shall be elected for a term of 2 years. The term of office
22 shall begin on the second Tuesday following the general
23 election at which the commissioner is elected.

24 ~~(2)(a) Each commissioner serving on July 1, 1978,~~
25 ~~shall be permitted to remain in office until the completion of~~
26 ~~his or her current term. Upon the expiration of the term, a~~
27 ~~successor shall be appointed in the manner prescribed by s.~~
28 ~~350.031(3) and (4) for a 4 year term, except that the terms of~~
29 ~~the initial members appointed under this act shall be as~~
30 ~~follows:~~

1 ~~1. The vacancy created by the present term ending in~~
2 ~~January, 1981, shall be filled by appointment for a 4 year~~
3 ~~term and for 4 year terms thereafter; and~~

4 ~~2. The vacancies created by the two present terms~~
5 ~~ending in January, 1979, shall be filled by appointment for a~~
6 ~~3 year term and for 4 year terms thereafter.~~

7 ~~(b) Two additional commissioners shall be appointed in~~
8 ~~the manner prescribed by s. 350.031(3) and (4) for 4 year~~
9 ~~terms beginning the first Tuesday after the first Monday in~~
10 ~~January, 1979, and successors shall be appointed for 4 year~~
11 ~~terms thereafter.~~

12 ~~(3)(c)~~ Vacancies on the commission shall be filled by
13 election for the unexpired portion of the term as otherwise
14 provided by law for public officers in the same manner as
15 original appointments to the commission.

16 ~~(3) Any person serving on the commission who seeks to~~
17 ~~be appointed or reappointed shall file with the nominating~~
18 ~~council at least 180 days before the expiration of his or her~~
19 ~~term a statement that he or she desires to serve an additional~~
20 ~~term.~~

21 (4) One member of the commission shall be elected by
22 majority vote to serve as chair for a term of 2 years,
23 beginning with the second first Tuesday after the general
24 election first Monday in January 1979. A member may not serve
25 two consecutive terms as chair.

26 (5) The primary duty of the chair is to serve as chief
27 administrative officer of the commission; however, the chair
28 may participate in any proceedings pending before the
29 commission when administrative duties and time permit. In
30 order to distribute the workload and expedite the commission's
31 calendar, the chair, in addition to other administrative

1 duties, has authority to assign the various proceedings
2 pending before the commission requiring hearings to two or
3 more commissioners or to the commission's office of hearing
4 examiners under the supervision of the office of general
5 counsel. Only those commissioners assigned to a proceeding
6 requiring hearings are entitled to participate in the final
7 decision of the commission as to that proceeding; provided, if
8 only two commissioners are assigned to a proceeding requiring
9 hearings and cannot agree on a final decision, the chair shall
10 cast the deciding vote for final disposition of the
11 proceeding. If more than two commissioners are assigned to
12 any proceeding, a majority of the members assigned shall
13 constitute a quorum and a majority vote of the members
14 assigned shall be essential to final commission disposition of
15 those proceedings requiring actual participation by the
16 commissioners. If a commissioner becomes unavailable after
17 assignment to a particular proceeding, the chair shall assign
18 a substitute commissioner. In those proceedings assigned to a
19 hearing examiner, following the conclusion of the hearings,
20 the designated hearing examiner is responsible for preparing
21 recommendations for final disposition by a majority vote of
22 the commission. A petition for reconsideration shall be voted
23 upon by those commissioners participating in the final
24 disposition of the proceeding.

25 (6) A majority of the commissioners may determine that
26 the full commission shall sit in any proceeding. The public
27 counsel or a person regulated by the Public Service Commission
28 and substantially affected by a proceeding may file a petition
29 that the proceeding be assigned to the full commission. Within
30 15 days after ~~of~~ receipt by the commission of any petition or
31 application, the full commission shall dispose of the ~~such~~

1 petition by majority vote and render a written decision
2 thereon before ~~prior to~~ assignment of less than the full
3 commission to a proceeding. In disposing of the ~~such~~
4 petition, the commission shall consider the overall general
5 public interest and impact of the pending proceeding,
6 including, but not limited to, the following criteria: the
7 magnitude of a rate filing, including the number of customers
8 affected and the total revenues requested; the services
9 rendered to the affected public; the urgency of the requested
10 action; the needs of the consuming public and the utility;
11 value of service involved; the effect on consumer relations,
12 regulatory policies, conservation, economy, competition,
13 public health, and safety of the area involved. If the
14 petition is denied, the commission shall set forth the grounds
15 for denial.

16 (7) This section does not prohibit a commissioner,
17 designated by the chair, from conducting a hearing as provided
18 under ss. 120.569 and 120.57(1) and the rules of the
19 commission adopted pursuant thereto.

20 Section 3. Subsections (3) and (4) of section 350.012,
21 Florida Statutes, are amended to read:

22 350.012 Committee on Public Service Commission
23 Oversight; creation; membership; powers and duties.--

24 (3) The committee shall:

25 ~~(a) Recommend to the Governor nominees to fill a~~
26 ~~vacancy on the Public Service Commission, as provided by~~
27 ~~general law; and~~

28 (a)(b) Appoint a Public Counsel as provided by general
29 law; ~~and-~~

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1 (b) Provide general oversight of the commission and
2 report to the Legislature at least once each year on the
3 activities of the commission.

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

9 Section 4. Subsection (3) of section 350.041, Florida
10 Statutes, is amended to read:

11 350.041 Commissioners; standards of conduct.--

12 (3) The Commission on Ethics shall accept and
13 investigate any alleged violations of this section under
14 ~~pursuant to~~ the procedures contained in ss. 112.322-112.3241.
15 The Commission on Ethics shall provide the Governor and the
16 Committee on Public Service Commission Oversight Florida
17 ~~Public Service Commission Nominating Council~~ with a report of
18 its findings and recommendations. The Governor is authorized
19 to enforce the findings and recommendations of the Commission
20 on Ethics, under ~~pursuant to~~ part III of chapter 112. A public
21 service commissioner or a member of the Committee on Public
22 Service Commission Oversight Florida ~~Public Service Commission~~
23 ~~Nominating Council~~ may request an advisory opinion from the
24 Commission on Ethics, under ~~pursuant to~~ s. 112.322(3)(a),
25 regarding the standards of conduct or prohibitions set forth
26 in ss. ~~350.031,~~ 350.04, 350.041 and 350.042.

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

29 350.042 Ex parte communications.--

30 (7)(a) It ~~is shall be~~ the duty of the Commission on
31 Ethics to receive and investigate sworn complaints of

1 violations of this section under ~~pursuant to~~ the procedures
2 contained in ss. 112.322-112.3241.

3 (b) If the Commission on Ethics finds that there has
4 been a violation of this section by a public service
5 commissioner, it shall provide the Governor and the Committee
6 on Public Service Commission Oversight ~~Florida Public Service~~
7 ~~Commission Nominating Council~~ with a report of its findings
8 and recommendations. The Governor is authorized to enforce the
9 findings and recommendations of the Commission on Ethics,
10 under ~~pursuant to~~ part III of chapter 112.

11 (c) If a commissioner fails or refuses to pay the
12 Commission on Ethics any civil penalties assessed under
13 ~~pursuant to the provisions of~~ this section, the Commission on
14 Ethics may bring an action in any circuit court to enforce the
15 ~~such~~ penalty.

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

26 Section 6. Section 350.043, Florida Statutes, is
27 amended to read:

28 350.043 Enforcement and interpretation.--Any violation
29 of ~~s. 350.031~~, s. 350.04, s. 350.041, s. 350.042, or s.
30 350.0605 by a commissioner, former commissioner, or former
31 employee, ~~or Public Service Commission Nominating Council~~

1 ~~member~~ shall be punishable as provided in ss. 112.317 and
2 112.324. The Commission on Ethics may ~~is hereby given the~~
3 ~~power and authority to~~ investigate complaints of violation of
4 this chapter in the manner provided in part III of chapter
5 112, as if this section were included in that part. A
6 commissioner may request an advisory opinion from the
7 Commission on Ethics as provided by s. 112.322(3)(a).

8 Section 7. Paragraph (a) of subsection (8) of section
9 112.324, Florida Statutes, is amended to read:

10 112.324 Procedures on complaints of violations; public
11 records and meeting exemptions.--

12 (8) If, in cases pertaining to complaints other than
13 complaints against impeachable officers or members of the
14 Legislature, upon completion of a full and final investigation
15 by the commission, the commission finds that there has been a
16 violation of this part or of s. 8, Art. II of the State
17 Constitution, it shall be the duty of the commission to report
18 its findings and recommend appropriate action to the proper
19 disciplinary official or body as follows, and such official or
20 body shall have the power to invoke the penalty provisions of
21 this part, including the power to order the appropriate
22 elections official to remove a candidate from the ballot for a
23 violation of s. 112.3145 or s. 8(a) and (i), Art. II of the
24 State Constitution:

25 (a) The President of the Senate and the Speaker of the
26 House of Representatives, jointly, in any case concerning the
27 Public Counsel, members of the Public Service Commission,
28 ~~members of the Public Service Commission Nominating Council,~~
29 the Auditor General, the director of the Office of Program
30 Policy Analysis and Government Accountability, or members of
31 the Legislative Committee on Intergovernmental Relations.

1 Section 8. Section 350.031, Florida Statutes, is
2 repealed.
3 Section 9. This act shall take effect October 1, 2006.
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6 SENATE SUMMARY
7 Removes legislative intent relating to the appointment of
8 members to the Public Service Commission. Provides that,
9 beginning with the general election of 2006,
10 commissioners will be elected to serve on the commission.
11 Removes provisions relating to the appointment of members
12 to the commission. Requires the Committee on Public
13 Service Commission Oversight to oversee the operations of
14 the commission and to report to the Legislature at least
15 once each year on the activities of the commission.
16 Removes provisions relating to the appointment of members
17 to the commission. Eliminates the Florida Public Service
18 Nominating Council.
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