

By the Committee on Communications and Public Utilities; and
Senators Constantine and Argenziano

579-1858-06

1 A bill to be entitled
2 An act relating to the Public Counsel; amending
3 s. 350.0611, F.S.; providing additional
4 authority to the Public Counsel, including the
5 authority to provide legal representation to,
6 and to appear on behalf of, the state and its
7 political subdivisions as consumers of
8 communications services and utility services,
9 to receive, investigate, and take legal action
10 upon complaints involving communications
11 services not regulated by the Public Service
12 Commission, to appear before state and federal
13 agencies to enhance terms and conditions of
14 utility and communications services, and to
15 analyze and report on pending legislation
16 relevant to utility and communications
17 services; providing an effective date.

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

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21 Section 1. Section 350.0611, Florida Statutes, is
22 amended to read:

23 350.0611 Public Counsel; duties and powers.--It shall
24 be the duty of the Public Counsel to provide legal
25 representation for the people of the state in proceedings
26 before the commission and in proceedings before counties
27 pursuant to s. 367.171(8) and to provide legal representation
28 to the State of Florida and its political subdivisions in
29 their capacity as consumers of communications services and
30 utility services. The Public Counsel shall have such powers as
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1 are necessary to carry out the duties of his or her office,
2 including, but not limited to, the following specific powers:

3 (1) To recommend to the commission or the counties, by
4 petition, the commencement of any proceeding or action or to
5 appear, in the name of the state or its citizens, in any
6 proceeding or action before the commission or the counties and
7 urge therein any position which he or she deems to be in the
8 public interest, whether consistent or inconsistent with
9 positions previously adopted by the commission or the
10 counties, and utilize therein all forms of discovery available
11 to attorneys in civil actions generally, subject to protective
12 orders of the commission or the counties which shall be
13 reviewable by summary procedure in the circuit courts of this
14 state.†

15 (2) To have access to and use of all files, records,
16 and data of the commission or the counties available to any
17 other attorney representing parties in a proceeding before the
18 commission or the counties.†

19 (3) In any proceeding in which he or she has
20 participated as a party, to seek review of any determination,
21 finding, or order of the commission or the counties, or of any
22 hearing examiner designated by the commission or the counties,
23 in the name of the state or its citizens.†

24 (4) To prepare and issue reports, recommendations, and
25 proposed orders to the commission, the Governor, and the
26 Legislature on any matter or subject within the jurisdiction
27 of the commission, and to make such recommendations as he or
28 she deems appropriate for legislation relative to commission
29 procedures, rules, jurisdiction, personnel, and functions.†

30 ~~and~~

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1 (5) To appear before other state agencies, federal
2 agencies, and state and federal courts in connection with
3 matters under the jurisdiction of the commission, in the name
4 of the state or its citizens, and on behalf of the State of
5 Florida and its political subdivisions in their capacity as
6 consumers of communications services and utility services.

7 (6) To receive and investigate complaints concerning
8 communications services, as that term is defined in s.
9 202.11(2), involving quality of service, consumer contract
10 disputes, and other matters not regulated by the Public
11 Service Commission. If the Public Counsel believes the
12 practice forming the basis of a complaint constitutes an
13 unfair or deceptive trade practice or other unlawful practice
14 as defined in s. 501.204, either standing on its own or when
15 considered with other similar, actual practices or potentially
16 systemic practices, the Public Counsel may appear in the name
17 of the residents of the State of Florida to petition the
18 Circuit Court of Leon County, or any other circuit court of
19 the state in which the practice was identified, to enjoin the
20 practice as an unfair and deceptive trade practice, and to
21 petition for a judgment for actual damages for aggrieved
22 consumers, for civil penalties of not more than \$10,000 for
23 each willful unfair and deceptive trade practice, and to
24 recover attorney's fees and costs of investigation and court
25 costs. Any moneys collected under this subsection, other than
26 moneys recovered for consumer damages, shall be deposited as
27 received into the General Revenue Fund unallocated.

28 (7) To appear before state and federal agencies,
29 including, but not limited to, the Florida Public Service
30 Commission, the Department of Environmental Protection, the
31 Department of Community Affairs, the Federal Energy Regulatory

1 Commission, the Federal Communications Commission, and the
2 Federal Trade Commission, in the name of the state or its
3 residents, and on behalf of the State of Florida and its
4 political subdivisions in their capacity as consumers of
5 communications services and utility services, for any purpose
6 that in the discretion of the Public Counsel would enhance
7 terms and conditions of utility and communications services
8 afforded to the residents of the State of Florida or to the
9 state or its political subdivisions as consumers or would lead
10 to more affordable rates charged by utility and communications
11 providers. The Public Counsel may also challenge any fee, tax,
12 or other assessment levied by any state or federal authority
13 which the Public Counsel believes materially inimical to the
14 affordability of utility and communications provided to
15 Florida residents or to the State of Florida as a consumer.

16 (8) To analyze all pending legislation during each
17 legislative session which is relevant to the provision of
18 utility and communications services in the state and prepare
19 and submit to the President of the Senate and the Speaker of
20 the House of Representatives, as well as the substantive
21 committees, periodic reports that include, but need not be
22 limited to, the likely effect of pending legislation on
23 conditions of service and the affordability of rates charged
24 for utility and communications services provided in the state.

25 Section 2. This act shall take effect upon becoming a
26 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 1542

The Committee Substitute for Senate Bill 1542 authorizes the Public Counsel to:

-represent the state and its political subdivisions in their capacity as communications services and utility services consumers;

-receive, investigate, and take legal action upon complaints involving communications services not regulated by the Public Service Commission;

-appear before state and federal agencies to enhance terms and conditions of utility and communications services; and

-analyze and report on pending legislation relevant to the utility and communications services.