

By the Committees on Transportation and Economic Development  
Appropriations; Communications and Public Utilities; and  
Senators Constantine and Argenziano

606-2155-06

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 within the jurisdiction of the

12          Public Service Commission, to appear before

13          state and federal agencies to enhance terms and

14          conditions of utility and communications

15          services, and to analyze and report on pending

16          legislation relevant to utility and

17          communications services; providing an effective

18          date.

19

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

21

22           Section 1. Section 350.0611, Florida Statutes, is

23 amended to read:

24           350.0611 Public Counsel; duties and powers.--It shall

25 be the duty of the Public Counsel to provide legal

26 representation for the people of the state in proceedings

27 before the commission and in proceedings before counties

28 pursuant to s. 367.171(8) and to provide legal representation

29 to the State of Florida and its political subdivisions in

30 their capacity as consumers of communications services and

31 utility services. The Public Counsel shall have such powers as

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~~

31

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 that involve  
8 communications services, as that term is defined in s.  
9 202.11(2), and that are not within the jurisdiction of the  
10 Public Service Commission. If the Public Counsel believes the  
11 practice forming the basis of a complaint constitutes an  
12 unfair or deceptive trade practice or other unlawful practice  
13 as defined in s. 501.204, either standing on its own or when  
14 considered with other similar, actual practices or potentially  
15 systemic practices, the Public Counsel may appear in the name  
16 of the residents of the State of Florida to petition the  
17 Circuit Court of Leon County, or any other circuit court of  
18 the state in which the practice was identified, to enjoin the  
19 practice as an unfair and deceptive trade practice, and to  
20 petition for a judgment for actual damages for aggrieved  
21 consumers, for civil penalties of not more than \$10,000 for  
22 each willful unfair and deceptive trade practice or not more  
23 than \$15,000 for each willful unfair and deceptive trade  
24 practice that meets the criteria of s. 501.2077, and to  
25 recover attorney's fees and costs of investigation and court  
26 costs. Any moneys collected under this subsection, other than  
27 moneys recovered for consumer damages, shall be deposited as  
28 received into the General Revenue Fund unallocated.

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

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

18           Section 2. This act shall take effect upon becoming a  
19 law.

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21                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
22   COMMITTEE SUBSTITUTE FOR  
23   CS/Senator Bill 1542

24 The CS clarifies that the additional consumer protection  
25 authority is for complaints involving matters that are not  
26 within the jurisdiction of the Public Service Commission. The  
27 CS adds an enhanced civil penalty for willful unfair and  
28 deceptive trade practices involving a senior citizen or  
29 handicapped person. The CS also clarifies the standard for  
30 challenging a fee, changing the standard from a fee which the  
31 Public Counsel believes is "materially inimical" to the  
affordability of utility and communication services to one  
that the Public Counsel believes has a "substantially  
detrimental" impact on these services or to the price charged  
to customers.