

By the Committee on Communications and Public Utilities; and  
Senator Constantine

579-1859-06

1                               A bill to be entitled  
2               An act relating to the Florida Public Service  
3               Commission; amending s. 350.01, F.S.;  
4               clarifying when a commissioner's term begins  
5               and ends; deleting obsolete provisions relating  
6               to the transition from an elected to an  
7               appointed commission and to an office of  
8               hearing examiners; amending s. 350.011, F.S.;  
9               deleting obsolete provisions relating to the  
10              regulation of railroads; amending s. 350.06,  
11              F.S.; deleting provisions governing the  
12              providing of transcripts to those who request  
13              them; amending s. 350.113, F.S.; deleting  
14              provisions governing the assessment of certain  
15              regulatory fees; amending s. 350.117, F.S.;  
16              deleting obsolete provisions exempting  
17              railroads from regulation; repealing s.  
18              350.051, F.S., relating to a Chief Auditor of  
19              the commission; repealing s. 350.80, F.S.,  
20              relating to the regulation of coal slurry  
21              pipelines; repealing s. 361.08, F.S., relating  
22              to granting eminent domain power to coal  
23              pipeline companies; providing an effective  
24              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 350.01, Florida Statutes, is  
29 amended to read:  
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1           350.01 Florida Public Service Commission; terms of  
2 commissioners; vacancies; election and duties of chair;  
3 quorum; proceedings.--

4           (1) The Florida Public Service Commission shall  
5 consist of five commissioners appointed pursuant to s.  
6 350.031.

7           (2)(a) The appointment shall be for a 4-year term,  
8 with the appointment beginning on January 2 of the year the  
9 term commences and ending 4 years later on January 1. Each  
10 ~~commissioner serving on July 1, 1978, shall be permitted to~~  
11 ~~remain in office until the completion of his or her current~~  
12 ~~term. Upon the expiration of the term, a successor shall be~~  
13 ~~appointed in the manner prescribed by s. 350.031(3) and (4)~~  
14 ~~for a 4 year term, except that the terms of the initial~~  
15 ~~members appointed under this act shall be as follows:~~

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

19           2. ~~The vacancies created by the two present terms~~  
20 ~~ending in January, 1979, shall be filled by appointment for a~~  
21 ~~3 year term and for 4 year terms thereafter.~~

22           ~~(b) Two additional commissioners shall be appointed in~~  
23 ~~the manner prescribed by s. 350.031(3) and (4) for 4 year~~  
24 ~~terms beginning the first Tuesday after the first Monday in~~  
25 ~~January, 1979, and successors shall be appointed for 4 year~~  
26 ~~terms thereafter.~~

27           ~~(b)(c)~~ Vacancies on the commission shall be filled for  
28 the unexpired portion of the term in the same manner as  
29 original appointments to the commission.

30           (3) Any person serving on the commission who seeks to  
31 be appointed or reappointed shall file with the nominating

1 council at least 180 days before the expiration of his or her  
2 term a statement that he or she desires to serve an additional  
3 term.

4 (4) One member of the commission shall be elected by  
5 majority vote to serve as chair for a term of 2 years,  
6 beginning with the first Tuesday after the first Monday in  
7 January 1979. A member may not serve two consecutive terms as  
8 chair.

9 (5) The primary duty of the chair is to serve as chief  
10 administrative officer of the commission; however, the chair  
11 may participate in any proceedings pending before the  
12 commission when administrative duties and time permit. In  
13 order to distribute the workload and expedite the commission's  
14 calendar, the chair, in addition to other administrative  
15 duties, has authority to assign the various proceedings  
16 pending before the commission requiring hearings to two or  
17 more commissioners or to ~~the commission's office of hearing~~  
18 examiners on the commission's staff who are under the  
19 supervision of the office of general counsel. Only those  
20 commissioners assigned to a proceeding requiring hearings are  
21 entitled to participate in the final decision of the  
22 commission as to that proceeding; provided, if only two  
23 commissioners are assigned to a proceeding requiring hearings  
24 and cannot agree on a final decision, the chair shall cast the  
25 deciding vote for final disposition of the proceeding. If  
26 more than two commissioners are assigned to any proceeding, a  
27 majority of the members assigned shall constitute a quorum and  
28 a majority vote of the members assigned shall be essential to  
29 final commission disposition of those proceedings requiring  
30 actual participation by the commissioners. If a commissioner  
31 becomes unavailable after assignment to a particular

1 | proceeding, the chair shall assign a substitute commissioner.  
2 | In those proceedings assigned to a hearing examiner, following  
3 | the conclusion of the hearings, the designated hearing  
4 | examiner is responsible for preparing recommendations for  
5 | final disposition by a majority vote of the commission. A  
6 | petition for reconsideration shall be voted upon by those  
7 | commissioners participating in the final disposition of the  
8 | proceeding.

9 |         (6) A majority of the commissioners may determine that  
10 | the full commission shall sit in any proceeding. The public  
11 | counsel or a person regulated by the Public Service Commission  
12 | and substantially affected by a proceeding may file a petition  
13 | that the proceeding be assigned to the full commission. Within  
14 | 15 days of receipt by the commission of any petition or  
15 | application, the full commission shall dispose of such  
16 | petition by majority vote and render a written decision  
17 | thereon prior to assignment of less than the full commission  
18 | to a proceeding. In disposing of such petition, the  
19 | commission shall consider the overall general public interest  
20 | and impact of the pending proceeding, including but not  
21 | limited to the following criteria: the magnitude of a rate  
22 | filing, including the number of customers affected and the  
23 | total revenues requested; the services rendered to the  
24 | affected public; the urgency of the requested action; the  
25 | needs of the consuming public and the utility; value of  
26 | service involved; the effect on consumer relations, regulatory  
27 | policies, conservation, economy, competition, public health,  
28 | and safety of the area involved. If the petition is denied,  
29 | the commission shall set forth the grounds for denial.

30 |         (7) This section does not prohibit a commissioner,  
31 | designated by the chair, from conducting a hearing as provided

1 | under ss. 120.569 and 120.57(1) and the rules of the  
2 | commission adopted pursuant thereto.

3 |       Section 2. Section 350.011, Florida Statutes, is  
4 | amended to read:

5 |       350.011 Florida Public Service Commission;  
6 | jurisdiction; powers and duties.--The state regulatory agency  
7 | heretofore known as the Florida Railroad and Public Utilities  
8 | Commission or Florida Public Utilities Commission shall be  
9 | known and hereafter called Florida Public Service Commission,  
10 | and all rights, powers, duties, responsibilities,  
11 | jurisdiction, and judicial powers now vested in said Railroad  
12 | and Public Utilities Commission or said Florida Public  
13 | Utilities Commission and the commissioners thereof are vested  
14 | in the Florida Public Service Commission and the commissioners  
15 | thereof. ~~Whenever reference is made to the Florida Railroad  
16 | and Public Utilities Commission or Florida Public Utilities  
17 | Commission and the commissioners thereof in the laws of the  
18 | state previously enacted or enacted at this session of the  
19 | Legislature, such reference shall be construed to mean the  
20 | Florida Public Service Commission and the commissioners  
21 | thereof and all appropriations for the use of said Railroad  
22 | and Public Utilities Commission or Florida Public Utilities  
23 | Commission and the members thereof for the biennium or  
24 | continuing in nature previously made or made at this session  
25 | of the Legislature, shall be construed to be for the use of  
26 | said Florida Public Service Commission and the commissioners  
27 | thereof, to be used for the purposes set out in the laws  
28 | making said appropriations; provided, however, the change in  
29 | name of said regulatory agency shall in nowise affect any  
30 | pending causes and proceedings, existing notices, orders,  
31 | certificates, permits, licenses, or authorities previously~~

1 ~~granted or any action previously taken by the Florida Railroad~~  
2 ~~and Public Utilities Commission or Florida Public Utilities~~  
3 ~~Commission.~~

4 Section 3. Section 350.06, Florida Statutes, is  
5 amended to read:

6 350.06 Place of meeting; expenditures; employment of  
7 personnel; records availability and fees.--

8 (1) The offices of said commissioners shall be in the  
9 vicinity of Tallahassee, but the commissioners may hold  
10 sessions anywhere in the state at their discretion.

11 (2) All sums of money authorized to be paid on account  
12 of said commissioners shall be paid out of the State Treasury  
13 only on the order of the Chief Financial Officer.

14 (3) The commissioners may employ clerical, technical,  
15 and professional personnel reasonably necessary for the  
16 performance of their duties, and. ~~The commissioners~~ may also  
17 employ one or more persons capable of stenographic court  
18 reporting, to be known as the official reporters of the  
19 commission, ~~and fix the compensation of each not to exceed~~  
20 ~~\$28,000 annually. The official reporters shall furnish only to~~  
21 ~~the commission transcripts of all testimony taken by them, and~~  
22 ~~the commission may make and sell certified copies of such~~  
23 ~~testimony and charge therefor the same fees as are allowed~~  
24 ~~clerks of the circuit courts of the state, subject to such~~  
25 ~~rules and regulations as may be prescribed by the commission.~~

26 (4) When needed, the commission may engage  
27 supplementary qualified reporters at their usual rate of  
28 compensation; however, the supplementary reporters shall  
29 furnish the commission the original certified transcripts of  
30 testimony taken by them, ~~but such reporters shall have the~~  
31 ~~right to sell copies of such transcripts subject to rules and~~

1 ~~regulations of the commission. The commission may make copies~~  
2 ~~of the transcripts for internal use without further~~  
3 ~~compensation. When supplementary reporters are unable to~~  
4 ~~provide copies within a reasonable time, the commission may,~~  
5 ~~upon request, sell copies at its usual rate and shall deposit~~  
6 ~~the proceeds in the Public Service Regulatory Trust Fund.~~

7 ~~(5) Upon request by the governing body of a municipal~~  
8 ~~or county government within 7 days after completion of the~~  
9 ~~transcript and its delivery to the commission, the commission~~  
10 ~~shall provide copies of the transcripts of testimony at the~~  
11 ~~cost of reproduction and mailing, but such copies need not be~~  
12 ~~certified unless specifically requested.~~

13 ~~(5)(6)~~ The commission shall make available to the  
14 public counsel the original copy of all transcripts for use  
15 and study in the commission offices. If the commission makes  
16 any copies of transcripts for internal use and if the public  
17 counsel has so requested in writing to the clerk of the  
18 commission ~~at the time of his or her intervention~~, the  
19 commission shall supply the public counsel with a copy of the  
20 transcript at no charge. ~~In all other cases, the public~~  
21 ~~counsel may obtain a copy of the transcript from the~~  
22 ~~commission for the cost of reproduction.~~

23 ~~(6)(7)~~ The commission shall collect for copying,  
24 examining, comparing, correcting, verifying, certifying, or  
25 furnishing orders, records, transcripts of testimony, papers,  
26 or other instruments no more than the same fees that are  
27 allowed clerks of the circuit courts of Florida. In cases  
28 where the fee would amount to less than \$1, no fee shall be  
29 charged.

30 ~~(7)(8)~~ Copies of commission orders furnished to public  
31 officials, newspapers, periodical publications, federal

1 agencies, state officials of other states, and parties to the  
2 proceeding in which the order was entered and their attorneys  
3 shall be without charge. However, the commission may in its  
4 discretion charge fees for the furnishing of more than one  
5 copy of any order to any of the foregoing.

6 ~~(8)(9)~~ The commission shall keep accounting records a  
7 ~~book~~ in which all fees collected by it as provided for herein  
8 shall be recorded, together with the amount and purpose for  
9 which collected. These records ~~This book~~ shall be a public  
10 record. ~~The commission shall prepare a statement of these fees~~  
11 ~~in duplicate each month and remit one copy of the statement,~~  
12 ~~together with all fees collected by it, to the Chief Financial~~  
13 ~~Officer.~~ All moneys collected pursuant to this section by the  
14 commission shall be deposited in the State Treasury to the  
15 credit of the Florida Public Service Regulatory Trust Fund.

16 Section 4. Subsection (3) of section 350.113, Florida  
17 Statutes, are amended to read:

18 350.113 Florida Public Service Regulatory Trust Fund;  
19 moneys to be deposited therein.--

20 (3) Each regulated company under the jurisdiction of  
21 the commission, which company was in operation for the  
22 preceding 6-month period, shall pay to the commission within  
23 30 days following the end of each 6-month period, commencing  
24 June 30, 1977, a fee based upon the gross operating revenues  
25 for such period subject to the limitations of this subsection.  
26 The fees shall, to the extent practicable, be related to the  
27 cost of regulating such type of regulated company, ~~and shall in~~  
28 ~~no event be greater than:~~

29 ~~(a) For each railroad operating under chapter 351,~~  
30 ~~one eighth of 1 percent of its gross operating revenues~~  
31 ~~derived from intrastate business.~~



1           ~~(b) For each telephone company licensed or operating~~  
2 ~~under chapter 364, one eighth of 1 percent of its gross~~  
3 ~~operating revenues derived from intrastate business.~~

4           ~~(c) For each "public utility" as defined in s. 366.02,~~  
5 ~~one eighth of 1 percent of its gross operating revenues~~  
6 ~~derived from intrastate business, excluding sales for resale~~  
7 ~~between public utilities, municipal electric utilities, and~~  
8 ~~rural electric cooperatives, or any combination thereof.~~

9           ~~(d) For each municipal electric utility and rural~~  
10 ~~electric cooperative, one sixty fourth of 1 percent of its~~  
11 ~~gross operating revenues derived from intrastate business,~~  
12 ~~excluding sales for resale between public utilities, municipal~~  
13 ~~electric utilities, and rural electric cooperatives, or any~~  
14 ~~combination thereof.~~

15           ~~(e) For each regulated company licensed under chapter~~  
16 ~~367, 2.5 percent of its gross revenues derived from intrastate~~  
17 ~~business.~~

18  
19 Differences, if any, between the amount paid in any 6-month  
20 period and the amount actually determined by the commission to  
21 be due shall, upon notification by the commission, be  
22 immediately paid or refunded. Each regulated company which is  
23 subject to the jurisdiction of the commission, but which did  
24 not operate under the commission's jurisdiction during the  
25 entire preceding 6-month period, shall, within 30 days after  
26 the close of the first 6-month period during which it  
27 commenced operations under, or became subject to, the  
28 jurisdiction of the commission, pay to the commission the  
29 prescribed fee based upon its gross operating revenues derived  
30 from intrastate business during those months or parts of  
31 months in which the regulated company did operate during such

1 6-month period. In no event shall payments under this section  
2 be less than \$25 annually.

3 Section 5. Section 350.117, Florida Statutes, is  
4 amended to read:

5 350.117 Reports; audits.--

6 (1) The commission may require such regular or  
7 emergency reports, including, but not limited to, financial  
8 reports, as the commission deems necessary to fulfill its  
9 obligations under the law.

10 (2) The commission may perform management and  
11 operation audits of any regulated company ~~except railroads~~.  
12 The commission may consider the results of such audits in  
13 establishing rates; however, the company shall not be denied  
14 due process as a result of the use of any such management or  
15 operation audit.

16 (3) As used in this section, "management and operation  
17 audit" means an appraisal, by a public accountant or other  
18 professional person, of management performance, including a  
19 testing of adherence to governing policy and profit  
20 capability; adequacy of operating controls and operating  
21 procedures; and relations with employees, customers, the  
22 trade, and the public generally.

23 Section 6. Section 350.051, Florida Statutes, is  
24 repealed.

25 Section 7. Section 350.80, Florida Statutes, is  
26 repealed.

27 Section 8. Section 361.08, Florida Statutes, is  
28 repealed.

29 Section 9. This act shall take effect upon becoming a  
30 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
SB 1872

The Committee Substitute for Senate Bill 1872 repeals s.  
361.08, F.S., which grants eminent domain power to coal  
pipeline companies.