

1                   A bill to be entitled  
 2           An act relating to the Public Service Commission; amending  
 3           s. 350.001, F.S.; removing legislative intent relating to  
 4           the appointment of members to the Public Service  
 5           Commission; amending s. 350.01, F.S.; providing that,  
 6           beginning with the general election of 2006, commissioners  
 7           shall be elected to serve on the commission; removing  
 8           provisions for appointing members to the commission;  
 9           providing that a commissioner is elected to serve a 4-year  
 10          term; providing for a staggered election in 2006; amending  
 11          s. 350.012, F.S.; requiring the Committee on Public  
 12          Service Commission Oversight to oversee the operations of  
 13          the commission; requiring the committee to report to the  
 14          Legislature at least once each year on the activities of  
 15          the commission; amending ss. 350.041, 350.042, 350.043,  
 16          and 112.324, F.S.; conforming provisions to changes made  
 17          by the act; repealing s. 350.031, F.S., relating to the  
 18          formation and duties of the Florida Public Service  
 19          Commission Nominating Council; providing an effective  
 20          date.

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

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 24           Section 1. Section 350.001, Florida Statutes, is amended  
 25   to read:

26           350.001 Legislative intent.--The Florida Public Service  
 27   Commission has been and shall continue to be an arm of the  
 28   legislative branch of government. The Public Service Commission

29 shall perform its duties independently. ~~It is the desire of the~~  
 30 ~~Legislature that the Governor participate in the appointment~~  
 31 ~~process of commissioners to the Public Service Commission. The~~  
 32 ~~Legislature accordingly delegates to the Governor a limited~~  
 33 ~~authority with respect to the Public Service Commission by~~  
 34 ~~authorizing him or her to participate in the selection of~~  
 35 ~~members only in the manner prescribed by s. 350.031.~~

36 Section 2. Section 350.01, Florida Statutes, is amended to  
 37 read:

38 350.01 Florida Public Service Commission; terms of  
 39 commissioners; vacancies; election and duties of chair; quorum;  
 40 proceedings.--

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

43 (2) Each commissioner shall be elected for a term of 4  
 44 years, except that, at the 2006 general election, three members  
 45 shall be elected for a term of 4 years and two members shall be  
 46 elected for a term of 2 years. The term of office shall begin on  
 47 the second Tuesday following the general election at which the  
 48 commissioner is elected.

49 ~~(2)(a) Each commissioner serving on July 1, 1978, shall be~~  
 50 ~~permitted to remain in office until the completion of his or her~~  
 51 ~~current term. Upon the expiration of the term, a successor shall~~  
 52 ~~be appointed in the manner prescribed by s. 350.031(3) and (4)~~  
 53 ~~for a 4-year term, except that the terms of the initial members~~  
 54 ~~appointed under this act shall be as follows:~~

55 ~~1. The vacancy created by the present term ending in~~  
 56 ~~January, 1981, shall be filled by appointment for a 4-year term~~

57 ~~and for 4-year terms thereafter; and~~

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

61 ~~(b) Two additional commissioners shall be appointed in the~~  
 62 ~~manner prescribed by s. 350.031(3) and (4) for 4-year terms~~  
 63 ~~beginning the first Tuesday after the first Monday in January,~~  
 64 ~~1979, and successors shall be appointed for 4-year terms~~  
 65 ~~thereafter.~~

66 ~~(3)(e) Vacancies on the commission shall be filled by~~  
 67 ~~election for the unexpired portion of the term or as otherwise~~  
 68 ~~provided by law for public officers in the same manner as~~  
 69 ~~original appointments to the commission.~~

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

74 (4) One member of the commission shall be elected by  
 75 majority vote to serve as chair for a term of 2 years, beginning  
 76 with the second first Tuesday after the general election first  
 77 ~~Monday in January 1979~~. A member may not serve two consecutive  
 78 terms as chair.

79 (5) The primary duty of the chair is to serve as chief  
 80 administrative officer of the commission; however, the chair may  
 81 participate in any proceedings pending before the commission  
 82 when administrative duties and time permit. In order to  
 83 distribute the workload and expedite the commission's calendar,  
 84 the chair, in addition to other administrative duties, has

85 authority to assign the various proceedings pending before the  
86 commission requiring hearings to two or more commissioners or to  
87 the commission's office of hearing examiners under the  
88 supervision of the office of general counsel. Only those  
89 commissioners assigned to a proceeding requiring hearings are  
90 entitled to participate in the final decision of the commission  
91 as to that proceeding; provided, if only two commissioners are  
92 assigned to a proceeding requiring hearings and cannot agree on  
93 a final decision, the chair shall cast the deciding vote for  
94 final disposition of the proceeding. If more than two  
95 commissioners are assigned to any proceeding, a majority of the  
96 members assigned shall constitute a quorum and a majority vote  
97 of the members assigned shall be essential to final commission  
98 disposition of those proceedings requiring actual participation  
99 by the commissioners. If a commissioner becomes unavailable  
100 after assignment to a particular proceeding, the chair shall  
101 assign a substitute commissioner. In those proceedings assigned  
102 to a hearing examiner, following the conclusion of the hearings,  
103 the designated hearing examiner is responsible for preparing  
104 recommendations for final disposition by a majority vote of the  
105 commission. A petition for reconsideration shall be voted upon  
106 by those commissioners participating in the final disposition of  
107 the proceeding.

108 (6) A majority of the commissioners may determine that the  
109 full commission shall sit in any proceeding. The public counsel  
110 or a person regulated by the Public Service Commission and  
111 substantially affected by a proceeding may file a petition that  
112 the proceeding be assigned to the full commission. Within 15

113 days after ~~of~~ receipt by the commission of any petition or  
 114 application, the full commission shall dispose of the ~~such~~  
 115 petition by majority vote and render a written decision thereon  
 116 before ~~prior to~~ assignment of less than the full commission to a  
 117 proceeding. In disposing of the ~~such~~ petition, the commission  
 118 shall consider the overall general public interest and impact of  
 119 the pending proceeding, including, but not limited to, the  
 120 following criteria: the magnitude of a rate filing, including  
 121 the number of customers affected and the total revenues  
 122 requested; the services rendered to the affected public; the  
 123 urgency of the requested action; the needs of the consuming  
 124 public and the utility; value of service involved; the effect on  
 125 consumer relations, regulatory policies, conservation, economy,  
 126 competition, public health, and safety of the area involved. If  
 127 the petition is denied, the commission shall set forth the  
 128 grounds for denial.

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

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

135 350.012 Committee on Public Service Commission Oversight;  
 136 creation; membership; powers and duties.--

137 (3) The committee shall:

138 ~~(a) Recommend to the Governor nominees to fill a vacancy~~  
 139 ~~on the Public Service Commission, as provided by general law;~~  
 140 ~~and~~

141            ~~(a)(b)~~ Appoint a Public Counsel as provided by general  
 142 law.

143            (b) Provide general oversight of the commission and report  
 144 to the Legislature at least once each year on the activities of  
 145 the commission.

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

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

153            350.041 Commissioners; standards of conduct.--

154            (3) The Commission on Ethics shall accept and investigate  
 155 any alleged violations of this section under ~~pursuant to~~ the  
 156 procedures contained in ss. 112.322-112.3241. The Commission on  
 157 Ethics shall provide the Governor and the Committee on Public  
 158 Service Commission Oversight ~~Florida Public Service Commission~~  
 159 ~~Nominating Council~~ with a report of its findings and  
 160 recommendations. The Governor is authorized to enforce the  
 161 findings and recommendations of the Commission on Ethics, under  
 162 ~~pursuant to~~ part III of chapter 112. A public service  
 163 commissioner or a member of the Committee on Public Service  
 164 Commission Oversight ~~Florida Public Service Commission~~  
 165 ~~Nominating Council~~ may request an advisory opinion from the  
 166 Commission on Ethics, under ~~pursuant to~~ s. 112.322(3)(a),  
 167 regarding the standards of conduct or prohibitions set forth in  
 168 ss. ~~350.031~~, 350.04, 350.041 and 350.042.

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

171 350.042 Ex parte communications.--

172 (7)(a) It is ~~shall be~~ the duty of the Commission on Ethics  
 173 to receive and investigate sworn complaints of violations of  
 174 this section under ~~pursuant to~~ the procedures contained in ss.  
 175 112.322-112.3241.

176 (b) If the Commission on Ethics finds that there has been  
 177 a violation of this section by a public service commissioner, it  
 178 shall provide the Governor and the Committee on Public Service  
 179 Commission Oversight ~~Florida Public Service Commission~~  
 180 ~~Nominating Council~~ with a report of its findings and  
 181 recommendations. The Governor is authorized to enforce the  
 182 findings and recommendations of the Commission on Ethics, under  
 183 ~~pursuant to~~ part III of chapter 112.

184 (c) If a commissioner fails or refuses to pay the  
 185 Commission on Ethics any civil penalties assessed under ~~pursuant~~  
 186 ~~to the provisions of~~ this section, the Commission on Ethics may  
 187 bring an action in any circuit court to enforce the ~~such~~  
 188 penalty.

189 (d) If, during the course of an investigation by the  
 190 Commission on Ethics into an alleged violation of this section,  
 191 allegations are made as to the identity of the person who  
 192 participated in the ex parte communication, that person must be  
 193 given notice and an opportunity to participate in the  
 194 investigation and relevant proceedings to present a defense. If  
 195 the Commission on Ethics determines that the person participated  
 196 in the ex parte communication, the person may not appear before

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

199 Section 6. Section 350.043, Florida Statutes, is amended  
 200 to read:

201 350.043 Enforcement and interpretation.--Any violation of  
 202 ~~s. 350.031~~, s. 350.04, s. 350.041, s. 350.042, or s. 350.0605 by  
 203 a commissioner, former commissioner, or former employee, ~~or~~  
 204 ~~Public Service Commission Nominating Council member~~ shall be  
 205 punishable as provided in ss. 112.317 and 112.324. The  
 206 Commission on Ethics may ~~is hereby given the power and authority~~  
 207 ~~to~~ investigate complaints of violation of this chapter in the  
 208 manner provided in part III of chapter 112, as if this section  
 209 were included in that part. A commissioner may request an  
 210 advisory opinion from the Commission on Ethics as provided by s.  
 211 112.322(3)(a).

212 Section 7. Paragraph (a) of subsection (8) of section  
 213 112.324, Florida Statutes, is amended to read:

214 112.324 Procedures on complaints of violations; public  
 215 records and meeting exemptions.--

216 (8) If, in cases pertaining to complaints other than  
 217 complaints against impeachable officers or members of the  
 218 Legislature, upon completion of a full and final investigation  
 219 by the commission, the commission finds that there has been a  
 220 violation of this part or of s. 8, Art. II of the State  
 221 Constitution, it shall be the duty of the commission to report  
 222 its findings and recommend appropriate action to the proper  
 223 disciplinary official or body as follows, and such official or  
 224 body shall have the power to invoke the penalty provisions of



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225 | this part, including the power to order the appropriate  
226 | elections official to remove a candidate from the ballot for a  
227 | violation of s. 112.3145 or s. 8(a) and (i), Art. II of the  
228 | State Constitution:

229 |       (a) The President of the Senate and the Speaker of the  
230 | House of Representatives, jointly, in any case concerning the  
231 | Public Counsel, members of the Public Service Commission,  
232 | ~~members of the Public Service Commission Nominating Council,~~ the  
233 | Auditor General, the director of the Office of Program Policy  
234 | Analysis and Government Accountability, or members of the  
235 | Legislative Committee on Intergovernmental Relations.

236 |       Section 8. Section 350.031, Florida Statutes, is repealed.

237 |       Section 9. This act shall take effect October 1, 2006.