

A bill to be entitled

An act relating to the Public Counsel; amending s. 350.012, F.S.; deleting power of the Committee on Public Service Commission Oversight to appoint a Public Counsel; amending s. 350.061, F.S.; transferring responsibility for appointing the Public Counsel from the Committee on Public Service Commission Oversight to the Attorney General; amending s. 350.0613, F.S.; providing authority of the Department of Legal Affairs with respect to employees of the Public Counsel and their qualifications and to the retention of attorneys and experts; amending s. 350.0614, F.S.; deleting a declaration that the Public Counsel is part of the legislative branch; providing duties of the Department of Legal Affairs with respect to allocation of salaries and expenses of the Public Counsel and his or her employees; amending s. 112.324, F.S.; prescribing authority of the Attorney General in cases reported by the Commission on Ethics regarding the Public Counsel or an employee thereof; providing an effective date.

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

Section 1. Subsection (3) of section 350.012, Florida Statutes, is amended to read:

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

(3) The committee shall+

~~(a)~~ recommend to the Governor nominees to fill a vacancy

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29 on the Public Service Commission, as provided by general law,
 30 and

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

32 Section 2. Subsection (1) of section 350.061, Florida
 33 Statutes, is amended to read:

34 350.061 Public Counsel; appointment; oath; restrictions on
 35 Public Counsel and his or her employees.--

36 (1) The Attorney General ~~Committee on Public Service~~
 37 ~~Commission Oversight~~ shall appoint a Public Counsel by majority
 38 ~~vote of the members of the committee~~ to represent the general
 39 public of Florida before the Florida Public Service Commission.
 40 The Public Counsel must ~~shall~~ be an attorney admitted to
 41 practice before the Florida Supreme Court and shall serve at the
 42 pleasure of the Attorney General ~~Committee on Public Service~~
 43 ~~Commission Oversight, subject to biennial reconfirmation by the~~
 44 ~~committee~~. The Public Counsel shall perform his or her duties
 45 independently. Vacancies in the office shall be filled in the
 46 same manner as the original appointment.

47 Section 3. Section 350.0613, Florida Statutes, is amended
 48 to read:

49 350.0613 Public Counsel; employees; receipt of
 50 pleadings.--The Department of Legal Affairs ~~committee~~ may
 51 authorize the Public Counsel to employ clerical and technical
 52 assistants whose qualifications, duties, and responsibilities
 53 the department ~~committee~~ shall from time to time prescribe. The
 54 department ~~committee~~ may from time to time authorize retention
 55 of the services of additional attorneys or experts to the extent
 56 that the best interests of the people of the state will be

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57 better served thereby, including the retention of expert
58 witnesses and other technical personnel for participation in
59 contested proceedings before the commission. The commission
60 shall furnish the Public Counsel with copies of the initial
61 pleadings in all proceedings before the commission, and if the
62 Public Counsel intervenes as a party in any proceeding he or she
63 shall be served with copies of all subsequent pleadings,
64 exhibits, and prepared testimony, if used. Upon filing notice of
65 intervention, the Public Counsel shall serve all interested
66 parties with copies of such notice and all of his or her
67 subsequent pleadings and exhibits.

68 Section 4. Section 350.0614, Florida Statutes, is amended
69 to read:

70 350.0614 Public Counsel; compensation and expenses.--

71 (1) The salaries and expenses of the Public Counsel and
72 his or her employees shall be allocated by the Department of
73 Legal Affairs ~~committee~~ only from moneys appropriated to the
74 Public Counsel by the Legislature.

75 ~~(2) The Legislature declares and determines that the~~
76 ~~Public Counsel is under the legislative branch of government~~
77 ~~within the intention of the legislation as expressed in chapter~~
78 ~~216, and no power shall be in the Executive Office of the~~
79 ~~Governor or its successor to release or withhold funds~~
80 ~~appropriated to it, but the same shall be available for~~
81 ~~expenditure as provided by law and the rules or decisions of the~~
82 ~~Committee on Public Service Commission Oversight.~~

83 (2)(3) Neither the Executive Office of the Governor nor
84 the Department of Management Services or its successor shall

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85 have power to determine the number, or fix the compensation, of
 86 the employees of the Public Counsel or to exercise any manner of
 87 control over them.

88 Section 5. Subsection (8) of section 112.324, Florida
 89 Statutes, is amended to read:

90 112.324 Procedures on complaints of violations; public
 91 records and meeting exemptions.--

92 (8) If, in cases pertaining to complaints other than
 93 complaints against impeachable officers or members of the
 94 Legislature, upon completion of a full and final investigation
 95 by the commission, the commission finds that there has been a
 96 violation of this part or of s. 8, Art. II of the State
 97 Constitution, it shall be the duty of the commission to report
 98 its findings and recommend appropriate action to the proper
 99 disciplinary official or body as follows, and such official or
 100 body shall have the power to invoke the penalty provisions of
 101 this part, including the power to order the appropriate
 102 elections official to remove a candidate from the ballot for a
 103 violation of s. 112.3145 or s. 8(a) and (i), Art. II of the
 104 State Constitution:

105 (a) The President of the Senate and the Speaker of the
 106 House of Representatives, jointly, in any case concerning ~~the~~
 107 ~~Public Counsel~~, members of the Public Service Commission,
 108 members of the Public Service Commission Nominating Council, the
 109 Auditor General, the director of the Office of Program Policy
 110 Analysis and Government Accountability, or members of the
 111 Legislative Committee on Intergovernmental Relations.

112 (b) The Supreme Court, in any case concerning an employee

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113 of the judicial branch.

114 (c) The President of the Senate, in any case concerning an
115 employee of the Senate; the Speaker of the House of
116 Representatives, in any case concerning an employee of the House
117 of Representatives; or the President and the Speaker, jointly,
118 in any case concerning an employee of a committee of the
119 Legislature whose members are appointed solely by the President
120 and the Speaker or in any case concerning an employee of the
121 ~~Public Counsel~~, Public Service Commission, Auditor General,
122 Office of Program Policy Analysis and Government Accountability,
123 or Legislative Committee on Intergovernmental Relations.

124 (d) Except as otherwise provided by this part, the
125 Governor, in the case of any other public officer, public
126 employee, former public officer or public employee, candidate,
127 or former candidate.

128 (e) The President of the Senate or the Speaker of the
129 House of Representatives, whichever is applicable, in any case
130 concerning a former member of the Legislature who has violated a
131 provision applicable to former members or whose violation
132 occurred while a member of the Legislature.

133 (f) The Attorney General, in any case concerning the
134 Public Counsel or an employee of the Public Counsel.

135 Section 6. This act shall take effect January 1, 2007.