

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7237 CS PCB UT 06-01 Public Service Commission  
**SPONSOR(S):** Utilities & Telecommunications Committee and Littlefield  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1872

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Utilities & Telecommunications Committee	12 Y, 0 N	Cater	Holt
1) Finance & Tax Committee	6 Y, 0 N	Noriega	Diez-Arguelles
2) Commerce Council	14 Y, 0 N, w/CS	Cater	Randle
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

---

**SUMMARY ANALYSIS**

In a recent operational audit of the Florida Public Service Commission (PSC or Commission), the Auditor General reported that there were several obsolete provisions in Chapter 350, F.S., which governs the PSC. The Auditor General also reported that the regulatory assessment fee rates in s. 350.113(3), F.S., are inconsistent with the rates used in industry-specific statutes.

The bill deletes obsolete language contained in Chapter 350, F.S., relating to: 1) the regulation of railroads, 2) the position of Chief Auditor, 3) maximum regulatory assessment fees, 4) other obsolete administrative language, and 5) coal slurry pipelines.

The bill clarifies the beginning and ending dates of the term for newly appointed Commissioners.

The bill deletes a provision requiring the Committee on Public Service Commission Oversight be governed by the joint rules of the Senate and House of Representatives.

The bill does not appear to have a fiscal impact and has an effective date of July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill removes obsolete statutory language relating to the PSC, and repeals its authority over coal slurry pipelines. The bill also deletes regulatory assessment fee rates in Chapter 350, F.S., which are inconsistent with industry-specific statutes.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

In September 2005, the Auditor General issued an operational audit report on the PSC, report Number 2006-021, entitled *Public Service Commission Regulatory Audits and Personnel Administration*. One of the findings in this report was that some of the sections of Chapter 350, F.S., relating to the railroad industry, the position of Chief Internal Auditor, and maximum regulatory assessment fee rates, were no longer reflective of current Commission practices. Despite the fact that the Commission's jurisdiction over the railroad industry ended with the industry's deregulation in 1985, ss. 350.011, 350.113(3)(a), and 350.117(2), F.S., continue to include references or requirements applicable to the railroad industry. Additionally, s. 350.051, F.S., specifies the qualifications of the Chief Auditor and designates that the Chief Auditor is the director of the Commission's accounting department. However, the PSC's current organizational structure does not include an accounting department. The functions formerly performed by the Director of the Accounting Department are now performed by the Chief of the Bureau of Auditing and do not need statutory reference.

Finally, s. 350.113(3), F.S., sets out regulatory assessment fee maximums for the telecommunications, gas, and water and wastewater industries that are inconsistent with the assessment fee maximums specified in the industry-specific statutes (ss. 364.336, 366.14(2) and (3), and 367.145(1), F.S., respectively). The Auditor General's report recommended that these statutes be amended to eliminate outdated or inappropriate requirements and eliminate regulatory assessment fee maximums that are inconsistent with the more recent industry-specific statutes.

##### **Proposed Changes**

The bill makes the statutory changes recommended in the Auditor General's report, and corrects cross-references related to the appointment of Commissioners in s. 350.031, F.S.

##### **Section 1**

The bill amends provisions in s. 350.01, F.S., relating to appointment of Commissioners and hearing examiners. The bill clarifies that the term for a Public Service Commissioner begins on January 2<sup>nd</sup> of the year the term commences and ends on January 1<sup>st</sup> four years later. The bill deletes a reference to "the commission's office of hearing examiners" as the PSC no longer has such an office, but instead has staff attorneys who serve as hearing examiners.

##### **Section 2**

The bill amends s. 350.011, F.S., deleting references to the transition from the "Florida Railroad and Public Utilities Commission" to the "Florida Public Service Commission." The original title dates to the creation of the Chapter in 1897.

##### **Section 3**

The bill amends s. 350.012(2) F.S., relating to the Committee on Public Service Commission Oversight. This provision provides that the committee is governed by the joint rules of the Senate and the House or Representatives. Following the deletion of this provision the committee will operate under the rules of the chamber of the chair (Senate in even-numbered years and House or Representatives in odd-numbered years).

#### **Section 4**

The bill repeals s. 350.051, F.S., which designates the Commission's Chief Auditor as the director of the accounting department. The PSC no longer has this department.

#### **Section 5**

The bill amends s. 350.06, F.S., deleting obsolete provisions relating to the Commission's official reporters. These provisions contain an obsolete salary cap, conflicting provisions on fees for copies of transcripts, and requires a report that is not needed for internal fiscal controls. The bill also changes the Commission's fees for copying, certifying, or providing orders, transcripts and similar documents to the same fees that are allowed to be charged by the clerks of the circuit courts. These fees are to be no more than those of the court clerks.

#### **Section 6**

The bill amends s. 350.113(3), F.S., to delete provisions for maximum regulatory assessment fees that conflict with the maximum set forth in the industry-specific statutes, and to delete a reference to railroads. These changes were recommended as part of the Auditor General's report.

#### **Section 7**

The bill amends s. 350.117(2), F.S., to delete a reference to the regulation of railroads.

#### **Section 8**

The bill repeals s. 350.80, F.S., which provides for the Commission's regulation of coal slurry pipelines. No coal slurry pipeline has ever been proposed in Florida. According to PSC staff, instead of using such pipelines to bring coal into Florida from coal-producing states to generate electricity, two 500 kilovolt (kV) electric transmission lines were constructed to bring in coal-based electricity from the state of Georgia under long-term contracts. Additionally, a footnote to this statute states that "Section 5, ch. 79-236, provides that '[t]his act shall take effect when every state in which the coal slurry pipeline will pass en route to Florida has enacted laws granting eminent domain authority to coal slurry pipeline companies or other entities operating or proposing to operate a coal slurry pipeline, and when the appropriate governmental authority has guaranteed in writing to the Public Service Commission that a continuous source of water shall be available for use in said coal slurry pipeline.'" Georgia has never granted eminent domain authority, so this section never became effective.

#### **Section 9**

The bill amends s. 361.08(2), F.S., to delete subsection (d) on condemnation proceedings on coal slurry pipelines as contemplated in s. 350.80, F.S., which is to be repealed in Section 7 of the bill.

#### **Section 10**

This act shall take effect July 1, 2006.

### **C. SECTION DIRECTORY:**

Section 1. Amends s. 350.01, F.S., relating to the term of Florida Public Service Commissioners, and Commission proceedings.

Section 2. Amends s. 350.011, F.S., relating to the jurisdiction, powers and duties of the Florida Public Service Commission.

Section 3. Amends s. 350.012, F.S., relating to the creation, membership, powers and duties of the Committee on Public Service Commission Oversight.

- Section 4. Repeals s. 350.051, F.S., relating to the Commission's Chief Auditor.
- Section 5. Amends s. 350.06, F.S., relating to the Commission's place of meeting, expenditures, employment of personnel, records availability and fees.
- Section 6. Amends s. 350.113(3), F.S., relating to the Florida Public Service Commission Regulatory Trust Fund.
- Section 7. Amends s. 350.117(2), F.S., relating to reports and audits.
- Section 8. Repeals s. 350.80, F.S., relating to the regulation of coal slurry pipelines.
- Section 9. Amends s. 361.08(2), F.S., relating to the right of eminent domain to coal pipeline companies.
- Section 10. Provides an effective date of July 1, 2006.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that counties and municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On April 18, 2006, the Commerce Council adopted one amendment. This amendment deleted a provision requiring the Committee on Public Service Commission Oversight be governed by the joint rules of the Senate and the House of Representatives.