

CHAMBER ACTION

1 The Commerce Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5
6 A bill to be entitled

7 An act relating to the Public Service Commission; amending
8 s. 350.01, F.S.; correcting cross-references; revising
9 provisions for terms of commissioners on the Public
10 Service Commission; revising a reference to the office of
11 hearing examiners; amending s. 350.011, F.S.; deleting
12 obsolete provisions relating to a transfer of certain
13 functions and duties to the Public Service Commission;
14 amending s. 350.012, F.S.; removing a provision for
15 governance of the Committee on Public Service Commission
16 Oversight; repealing s. 350.051, F.S., relating to
17 qualifications of the Chief Auditor of the commission;
18 amending s. 350.06, F.S.; deleting certain provisions
19 relating to the employment of reporters and furnishing of
20 transcripts by the commission; revising provisions for the
21 collection and accounting of fees for furnishing
22 transcripts and other documents or instruments; amending
23 s. 350.113, F.S.; removing limits on the amount of certain

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24 regulatory fees; amending s. 350.117, F.S.; removing an
 25 exception for railroads from certain audits by the
 26 commission; repealing s. 350.80, F.S., relating to
 27 regulation of certain coal slurry pipeline companies;
 28 amending s. 361.08, F.S.; removing a provision for
 29 consideration by the court of certain findings by the
 30 commission relating to coal slurry pipeline companies, to
 31 conform to changes made by the act; providing an effective
 32 date.

33

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

35

36 Section 1. Paragraphs (a) and (b) of subsection (2) and
 37 subsection (5) of section 350.01, Florida Statutes, are amended
 38 to read:

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

42 (2) (a) Each commissioner serving on July 1, 1978, shall be
 43 permitted to remain in office until the completion of his or her
 44 current term. Upon the expiration of the term, a successor shall
 45 be appointed in the manner prescribed by s. 350.031(5), (6), ~~(3)~~
 46 and (7) ~~(4)~~ for a 4-year term, except that the terms of the
 47 initial members appointed under this act shall be as follows:

48 1. The vacancy created by the present term ending in
 49 January, 1981, shall be filled by appointment for a 4-year term
 50 and for 4-year terms thereafter; and

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

54 (b) Two additional commissioners shall be appointed in the
55 manner prescribed by s. 350.031 (5), (6), ~~(3)~~ and (7) ~~(4)~~ for 4-
56 year terms beginning the first Tuesday after the first Monday in
57 January, 1979, and successors shall be appointed for 4-year
58 terms thereafter with each term beginning on January 2 of the
59 year the term commences and ending 4 years later on January 1.

60 (5) The primary duty of the chair is to serve as chief
61 administrative officer of the commission; however, the chair may
62 participate in any proceedings pending before the commission
63 when administrative duties and time permit. In order to
64 distribute the workload and expedite the commission's calendar,
65 the chair, in addition to other administrative duties, has
66 authority to assign the various proceedings pending before the
67 commission requiring hearings to two or more commissioners or to
68 the commission's staff ~~office~~ of hearing examiners under the
69 supervision of the office of general counsel. Only those
70 commissioners assigned to a proceeding requiring hearings are
71 entitled to participate in the final decision of the commission
72 as to that proceeding; provided, if only two commissioners are
73 assigned to a proceeding requiring hearings and cannot agree on
74 a final decision, the chair shall cast the deciding vote for
75 final disposition of the proceeding. If more than two
76 commissioners are assigned to any proceeding, a majority of the
77 members assigned shall constitute a quorum and a majority vote
78 of the members assigned shall be essential to final commission

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79 disposition of those proceedings requiring actual participation
80 by the commissioners. If a commissioner becomes unavailable
81 after assignment to a particular proceeding, the chair shall
82 assign a substitute commissioner. In those proceedings assigned
83 to a hearing examiner, following the conclusion of the hearings,
84 the designated hearing examiner is responsible for preparing
85 recommendations for final disposition by a majority vote of the
86 commission. A petition for reconsideration shall be voted upon
87 by those commissioners participating in the final disposition of
88 the proceeding.

89 Section 2. Section 350.011, Florida Statutes, is amended
90 to read:

91 350.011 Florida Public Service Commission; jurisdiction;
92 powers and duties.--The state regulatory agency heretofore known
93 as the Florida Railroad and Public Utilities Commission or
94 Florida Public Utilities Commission shall be known and hereafter
95 called Florida Public Service Commission, and all rights,
96 powers, duties, responsibilities, jurisdiction, and judicial
97 powers now vested in said Railroad and Public Utilities
98 Commission or said Florida Public Utilities Commission and the
99 commissioners thereof are vested in the Florida Public Service
100 Commission and the commissioners thereof. ~~Whenever reference is~~
101 ~~made to the Florida Railroad and Public Utilities Commission or~~
102 ~~Florida Public Utilities Commission and the commissioners~~
103 ~~thereof in the laws of the state previously enacted or enacted~~
104 ~~at this session of the Legislature, such reference shall be~~
105 ~~construed to mean the Florida Public Service Commission and the~~
106 ~~commissioners thereof and all appropriations for the use of said~~

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107 ~~Railroad and Public Utilities Commission or Florida Public~~
 108 ~~Utilities Commission and the members thereof for the biennium or~~
 109 ~~continuing in nature previously made or made at this session of~~
 110 ~~the Legislature, shall be construed to be for the use of said~~
 111 ~~Florida Public Service Commission and the commissioners thereof,~~
 112 ~~to be used for the purposes set out in the laws making said~~
 113 ~~appropriations; provided, however, the change in name of said~~
 114 ~~regulatory agency shall in nowise affect any pending causes and~~
 115 ~~proceedings, existing notices, orders, certificates, permits,~~
 116 ~~licenses, or authorities previously granted or any action~~
 117 ~~previously taken by the Florida Railroad and Public Utilities~~
 118 ~~Commission or Florida Public Utilities Commission.~~

119 Section 3. Section 350.012, Florida Statutes, is amended
 120 to read:

121 350.012 Committee on Public Service Commission Oversight;
 122 creation; membership; powers and duties.--

123 (1) There is created a standing joint committee of the
 124 Legislature, designated the Committee on Public Service
 125 Commission Oversight, and composed of 12 members appointed as
 126 follows: six members of the Senate appointed by the President of
 127 the Senate, two of whom must be members of the minority party;
 128 and six members of the House of Representatives appointed by the
 129 Speaker of the House of Representatives, two of whom must be
 130 members of the minority party. The terms of members shall be for
 131 2 years and shall run from the organization of one Legislature
 132 to the organization of the next Legislature. The President shall
 133 appoint the chair of the committee in even-numbered years and
 134 the vice chair in odd-numbered years, and the Speaker of the

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135 House of Representatives shall appoint the chair of the
136 committee in odd-numbered years and the vice chair in even-
137 numbered years, from among the committee membership. Vacancies
138 shall be filled in the same manner as the original appointment.
139 Members shall serve without additional compensation, but shall
140 be reimbursed for expenses.

141 ~~(2) The committee shall be governed by joint rules of the~~
142 ~~Senate and the House of Representatives which shall remain in~~
143 ~~effect until repealed or amended by concurrent resolution.~~

144 (2)~~(3)~~ The committee shall:

145 (a) Recommend to the Governor nominees to fill a vacancy
146 on the Public Service Commission, as provided by general law;
147 and

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

149 (3)~~(4)~~ The committee is authorized to file a complaint
150 with the Commission on Ethics alleging a violation of this
151 chapter by a commissioner, former commissioner, former
152 commission employee, or member of the Public Service Commission
153 Nominating Council.

154 (4)~~(5)~~ The committee will not have a permanent staff, but
155 the President of the Senate and the Speaker of the House of
156 Representatives shall select staff members from among existing
157 legislative staff, when and as needed.

158 Section 4. Section 350.051, Florida Statutes, is repealed.

159 Section 5. Subsections (3) through (9) of section 350.06,
160 Florida Statutes, are amended to read:

161 350.06 Place of meeting; expenditures; employment of
162 personnel; records availability and fees.--

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163 (3) The commissioners may employ clerical, technical, and
164 professional personnel reasonably necessary for the performance
165 of their duties and. ~~The commissioners may also employ one or~~
166 ~~more persons capable of stenographic court reporting, to be~~
167 ~~known as the official reporters of the commission, and fix the~~
168 ~~compensation of each not to exceed \$28,000 annually. The~~
169 ~~official reporters shall furnish only to the commission~~
170 ~~transcripts of all testimony taken by them, and the commission~~
171 ~~may make and sell certified copies of such testimony and charge~~
172 ~~therefor the same fees as are allowed clerks of the circuit~~
173 ~~courts of the state, subject to such rules and regulations as~~
174 ~~may be prescribed by the commission.~~

175 (4) When needed, the commission may engage supplementary
176 qualified reporters at their usual rate of compensation;
177 however, the supplementary reporters shall furnish the
178 commission the original certified transcripts of testimony taken
179 by them, ~~but such reporters shall have the right to sell copies~~
180 ~~of such transcripts subject to rules and regulations of the~~
181 ~~commission. The commission may make copies of the transcripts~~
182 ~~for internal use without further compensation. When~~
183 ~~supplementary reporters are unable to provide copies within a~~
184 ~~reasonable time, the commission may, upon request, sell copies~~
185 ~~at its usual rate and shall deposit the proceeds in the Public~~
186 ~~Service Regulatory Trust Fund.~~

187 (5) ~~Upon request by the governing body of a municipal or~~
188 ~~county government within 7 days after completion of the~~
189 ~~transcript and its delivery to the commission, the commission~~
190 ~~shall provide copies of the transcripts of testimony at the cost~~

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191 ~~of reproduction and mailing, but such copies need not be~~
192 ~~certified unless specifically requested.~~

193 (5)~~(6)~~ The commission shall make available to the public
194 counsel the original copy of all transcripts for use and study
195 in the commission offices. If the commission makes any copies of
196 transcripts for internal use and if the public counsel has so
197 requested in writing to the clerk of the commission ~~at the time~~
198 ~~of his or her intervention~~, the commission shall supply the
199 public counsel with a copy of the transcript at no charge. ~~In~~
200 ~~all other cases, the public counsel may obtain a copy of the~~
201 ~~transcript from the commission for the cost of reproduction.~~

202 (6)~~(7)~~ The commission shall collect for copying,
203 examining, comparing, correcting, verifying, certifying, or
204 furnishing orders, records, transcripts of testimony, papers, or
205 other instruments no more than the same fees that are allowed
206 clerks of the circuit courts of this state ~~Florida~~. In cases
207 where the fee would amount to less than \$1, no fee shall be
208 charged.

209 (7)~~(8)~~ Copies of commission orders furnished to public
210 officials, newspapers, periodical publications, federal
211 agencies, state officials of other states, and parties to the
212 proceeding in which the order was entered and their attorneys
213 shall be without charge. However, the commission may in its
214 discretion charge fees for the furnishing of more than one copy
215 of any order to any of the foregoing.

216 (8)~~(9)~~ The commission shall keep accounting records ~~a book~~
217 in which all fees collected by it as provided for herein shall
218 be recorded, together with the amount and purpose for which

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219 | collected. The accounting records ~~This book~~ shall be a public
220 | records record. ~~The commission shall prepare a statement of~~
221 | ~~these fees in duplicate each month and remit one copy of the~~
222 | ~~statement, together with all fees collected by it, to the Chief~~
223 | ~~Financial Officer.~~ All moneys collected pursuant to this section
224 | by the commission shall be deposited in the State Treasury to
225 | the credit of the Florida Public Service Regulatory Trust Fund.

226 | Section 6. Subsection (3) of section 350.113, Florida
227 | Statutes, is amended to read:

228 | 350.113 Florida Public Service Regulatory Trust Fund;
229 | moneys to be deposited therein.--

230 | (3) Each regulated company under the jurisdiction of the
231 | commission, which company was in operation for the preceding 6-
232 | month period, shall pay to the commission within 30 days
233 | following the end of each 6-month period, commencing June 30,
234 | 1977, a fee based upon the gross operating revenues for such
235 | period ~~subject to the limitations of this subsection.~~ The fee
236 | ~~fees~~ shall, to the extent practicable, be related to the cost of
237 | regulating such type of regulated company. ~~and shall in no event~~
238 | ~~be greater than:~~

239 | ~~(a) For each railroad operating under chapter 351, one~~
240 | ~~eighth of 1 percent of its gross operating revenues derived from~~
241 | ~~intrastate business.~~

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

245 | ~~(c) For each "public utility" as defined in s. 366.02,~~
246 | ~~one-eighth of 1 percent of its gross operating revenues derived~~

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247 ~~from intrastate business, excluding sales for resale between~~
248 ~~public utilities, municipal electric utilities, and rural~~
249 ~~electric cooperatives, or any combination thereof.~~

250 ~~(d) For each municipal electric utility and rural electric~~
251 ~~cooperative, one sixty fourth of 1 percent of its gross~~
252 ~~operating revenues derived from intrastate business, excluding~~
253 ~~sales for resale between public utilities, municipal electric~~
254 ~~utilities, and rural electric cooperatives, or any combination~~
255 ~~thereof.~~

256 ~~(e) For each regulated company licensed under chapter 367,~~
257 ~~2.5 percent of its gross revenues derived from intrastate~~
258 ~~business.~~

259
260 Differences, if any, between the amount paid in any 6-month
261 period and the amount actually determined by the commission to
262 be due shall, upon notification by the commission, be
263 immediately paid or refunded. Each regulated company which is
264 subject to the jurisdiction of the commission, but which did not
265 operate under the commission's jurisdiction during the entire
266 preceding 6-month period, shall, within 30 days after the close
267 of the first 6-month period during which it commenced operations
268 under, or became subject to, the jurisdiction of the commission,
269 pay to the commission the prescribed fee based upon its gross
270 operating revenues derived from intrastate business during those
271 months or parts of months in which the regulated company did
272 operate during such 6-month period. In no event shall payments
273 under this section be less than \$25 annually.

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274 Section 7. Subsection (2) of section 350.117, Florida
275 Statutes, is amended to read:

276 350.117 Reports; audits.--

277 (2) The commission may perform management and operation
278 audits of any regulated company ~~except railroads~~. The commission
279 may consider the results of such audits in establishing rates;
280 however, the company shall not be denied due process as a result
281 of the use of any such management or operation audit.

282 Section 8. Section 350.80, Florida Statutes, is repealed.

283 Section 9. Paragraph (d) of subsection (2) of section
284 361.08, Florida Statutes, is amended to read:

285 361.08 Right of eminent domain to coal pipeline
286 companies.--

287 (2) Any corporation, partnership, joint venture,
288 association, or other legal entity organized under the laws of
289 this state, or under the laws of any other state and qualified
290 to do business in this state, for the purpose of supplying any
291 electric utility or utilities; any city, town, or village or the
292 inhabitants thereof; or any community with coal or its
293 derivatives and any mixture and combination thereof by pipeline,
294 and for the purpose of serving as a common carrier operating or
295 proposing to operate a pipeline or pipelines for transporting or
296 delivering coal or its derivatives or any mixture or combination
297 thereof, shall have the right of eminent domain, for the purpose
298 of acquiring title, easements, rights-of-way, or other rights or
299 interests in property, necessary to acquire and take private
300 property which is or may be needed for the construction,
301 operation, maintenance, repair, or replacement of coal slurry

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302 and derivative plants, pipelines, pumping stations, and any
303 other installations and works incident thereto. The procedure to
304 condemn property or interest therein shall be exercised in the
305 manner set forth in chapters 73 and 74. In any condemnation
306 proceeding under this act, the circuit court shall restrict the
307 exercise of the right of eminent domain in the following
308 particulars:

309 ~~(d) The court, in any condemnation proceeding brought~~
310 ~~pursuant to this section, shall be bound by the findings of the~~
311 ~~Florida Public Service Commission on the general issues of~~
312 ~~economic and environmental feasibility as determined pursuant to~~
313 ~~s. 350.80.~~

314 Section 10. This act shall take effect July 1, 2006.