

1 A bill to be entitled

2 An act relating to the Public Service Commission; amending
3 s. 350.01, F.S.; correcting cross-references; revising
4 provisions for terms of commissioners on the Public
5 Service Commission; revising a reference to the office of
6 hearing examiners; amending s. 350.011, F.S.; deleting
7 obsolete provisions relating to a transfer of certain
8 functions and duties to the Public Service Commission;
9 amending s. 350.012, F.S.; removing a provision for
10 governance of the Committee on Public Service Commission
11 Oversight; repealing s. 350.051, F.S., relating to
12 qualifications of the Chief Auditor of the commission;
13 amending s. 350.06, F.S.; deleting certain provisions
14 relating to the employment of reporters and furnishing of
15 transcripts by the commission; revising provisions for the
16 collection and accounting of fees for furnishing
17 transcripts and other documents or instruments; amending
18 s. 350.113, F.S.; removing limits on the amount of certain
19 regulatory fees; amending s. 350.117, F.S.; removing an
20 exception for railroads from certain audits by the
21 commission; repealing s. 350.80, F.S., relating to
22 regulation of certain coal slurry pipeline companies;
23 amending s. 361.08, F.S.; removing a provision for
24 consideration by the court of certain findings by the
25 commission relating to coal slurry pipeline companies, to
26 conform to changes made by the act; providing an effective
27 date.

28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54

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

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

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

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

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

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

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

55 (5) The primary duty of the chair is to serve as chief
56 administrative officer of the commission; however, the chair may
57 participate in any proceedings pending before the commission
58 when administrative duties and time permit. In order to
59 distribute the workload and expedite the commission's calendar,
60 the chair, in addition to other administrative duties, has
61 authority to assign the various proceedings pending before the
62 commission requiring hearings to two or more commissioners or to
63 the commission's staff ~~office~~ of hearing examiners under the
64 supervision of the office of general counsel. Only those
65 commissioners assigned to a proceeding requiring hearings are
66 entitled to participate in the final decision of the commission
67 as to that proceeding; provided, if only two commissioners are
68 assigned to a proceeding requiring hearings and cannot agree on
69 a final decision, the chair shall cast the deciding vote for
70 final disposition of the proceeding. If more than two
71 commissioners are assigned to any proceeding, a majority of the
72 members assigned shall constitute a quorum and a majority vote
73 of the members assigned shall be essential to final commission
74 disposition of those proceedings requiring actual participation
75 by the commissioners. If a commissioner becomes unavailable
76 after assignment to a particular proceeding, the chair shall
77 assign a substitute commissioner. In those proceedings assigned
78 to a hearing examiner, following the conclusion of the hearings,
79 the designated hearing examiner is responsible for preparing
80 recommendations for final disposition by a majority vote of the
81 commission. A petition for reconsideration shall be voted upon

82 | by those commissioners participating in the final disposition of
83 | the proceeding.

84 | Section 2. Section 350.011, Florida Statutes, is amended
85 | to read:

86 | 350.011 Florida Public Service Commission; jurisdiction;
87 | powers and duties.--The state regulatory agency heretofore known
88 | as the Florida Railroad and Public Utilities Commission or
89 | Florida Public Utilities Commission shall be known and hereafter
90 | called Florida Public Service Commission, and all rights,
91 | powers, duties, responsibilities, jurisdiction, and judicial
92 | powers now vested in said Railroad and Public Utilities
93 | Commission or said Florida Public Utilities Commission and the
94 | commissioners thereof are vested in the Florida Public Service
95 | Commission and the commissioners thereof. ~~Whenever reference is~~
96 | ~~made to the Florida Railroad and Public Utilities Commission or~~
97 | ~~Florida Public Utilities Commission and the commissioners~~
98 | ~~thereof in the laws of the state previously enacted or enacted~~
99 | ~~at this session of the Legislature, such reference shall be~~
100 | ~~construed to mean the Florida Public Service Commission and the~~
101 | ~~commissioners thereof and all appropriations for the use of said~~
102 | ~~Railroad and Public Utilities Commission or Florida Public~~
103 | ~~Utilities Commission and the members thereof for the biennium or~~
104 | ~~continuing in nature previously made or made at this session of~~
105 | ~~the Legislature, shall be construed to be for the use of said~~
106 | ~~Florida Public Service Commission and the commissioners thereof,~~
107 | ~~to be used for the purposes set out in the laws making said~~
108 | ~~appropriations; provided, however, the change in name of said~~

109 ~~regulatory agency shall in nowise affect any pending causes and~~
110 ~~proceedings, existing notices, orders, certificates, permits,~~
111 ~~licenses, or authorities previously granted or any action~~
112 ~~previously taken by the Florida Railroad and Public Utilities~~
113 ~~Commission or Florida Public Utilities Commission.~~

114 Section 3. Section 350.012, Florida Statutes, is amended
115 to read:

116 350.012 Committee on Public Service Commission Oversight;
117 creation; membership; powers and duties.--

118 (1) There is created a standing joint committee of the
119 Legislature, designated the Committee on Public Service
120 Commission Oversight, and composed of 12 members appointed as
121 follows: six members of the Senate appointed by the President of
122 the Senate, two of whom must be members of the minority party;
123 and six members of the House of Representatives appointed by the
124 Speaker of the House of Representatives, two of whom must be
125 members of the minority party. The terms of members shall be for
126 2 years and shall run from the organization of one Legislature
127 to the organization of the next Legislature. The President shall
128 appoint the chair of the committee in even-numbered years and
129 the vice chair in odd-numbered years, and the Speaker of the
130 House of Representatives shall appoint the chair of the
131 committee in odd-numbered years and the vice chair in even-
132 numbered years, from among the committee membership. Vacancies
133 shall be filled in the same manner as the original appointment.
134 Members shall serve without additional compensation, but shall
135 be reimbursed for expenses.

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

139 (2)~~(3)~~ The committee shall:

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

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

144 (3)~~(4)~~ The committee is authorized to file a complaint
 145 with the Commission on Ethics alleging a violation of this
 146 chapter by a commissioner, former commissioner, former
 147 commission employee, or member of the Public Service Commission
 148 Nominating Council.

149 (4)~~(5)~~ The committee will not have a permanent staff, but
 150 the President of the Senate and the Speaker of the House of
 151 Representatives shall select staff members from among existing
 152 legislative staff, when and as needed.

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

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

156 350.06 Place of meeting; expenditures; employment of
 157 personnel; records availability and fees.--

158 (3) The commissioners may employ clerical, technical, and
 159 professional personnel reasonably necessary for the performance
 160 of their duties and.~~The commissioners~~ may also employ one or
 161 more persons capable of stenographic court reporting, to be
 162 known as the official reporters of the commission,~~and fix the~~

163 ~~compensation of each not to exceed \$28,000 annually. The~~
164 ~~official reporters shall furnish only to the commission~~
165 ~~transcripts of all testimony taken by them, and the commission~~
166 ~~may make and sell certified copies of such testimony and charge~~
167 ~~therefor the same fees as are allowed clerks of the circuit~~
168 ~~courts of the state, subject to such rules and regulations as~~
169 ~~may be prescribed by the commission.~~

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

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

188 (5) ~~(6)~~ The commission shall make available to the public
189 counsel the original copy of all transcripts for use and study

190 in the commission offices. If the commission makes any copies of
191 transcripts for internal use and if the public counsel has so
192 requested in writing to the clerk of the commission ~~at the time~~
193 ~~of his or her intervention~~, the commission shall supply the
194 public counsel with a copy of the transcript at no charge. ~~In~~
195 ~~all other cases, the public counsel may obtain a copy of the~~
196 ~~transcript from the commission for the cost of reproduction.~~

197 (6)~~(7)~~ The commission shall collect for copying,
198 examining, comparing, correcting, verifying, certifying, or
199 furnishing orders, records, transcripts of testimony, papers, or
200 other instruments no more than the same fees that are allowed
201 clerks of the circuit courts of this state Florida. In cases
202 where the fee would amount to less than \$1, no fee shall be
203 charged.

204 (7)~~(8)~~ Copies of commission orders furnished to public
205 officials, newspapers, periodical publications, federal
206 agencies, state officials of other states, and parties to the
207 proceeding in which the order was entered and their attorneys
208 shall be without charge. However, the commission may in its
209 discretion charge fees for the furnishing of more than one copy
210 of any order to any of the foregoing.

211 (8)~~(9)~~ The commission shall keep accounting records ~~a book~~
212 in which all fees collected by it as provided for herein shall
213 be recorded, together with the amount and purpose for which
214 collected. The accounting records ~~This book~~ shall be a public
215 records record. ~~The commission shall prepare a statement of~~
216 ~~these fees in duplicate each month and remit one copy of the~~

217 ~~statement, together with all fees collected by it, to the Chief~~
218 ~~Financial Officer.~~ All moneys collected pursuant to this section
219 by the commission shall be deposited in the State Treasury to
220 the credit of the Florida Public Service Regulatory Trust Fund.

221 Section 6. Subsection (3) of section 350.113, Florida
222 Statutes, is amended to read:

223 350.113 Florida Public Service Regulatory Trust Fund;
224 moneys to be deposited therein.--

225 (3) Each regulated company under the jurisdiction of the
226 commission, which company was in operation for the preceding 6-
227 month period, shall pay to the commission within 30 days
228 following the end of each 6-month period, commencing June 30,
229 1977, a fee based upon the gross operating revenues for such
230 period ~~subject to the limitations of this subsection.~~ The fee
231 ~~fees~~ shall, to the extent practicable, be related to the cost of
232 regulating such type of regulated company. ~~and shall in no event~~
233 ~~be greater than:~~

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

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

240 ~~(c) For each "public utility" as defined in s. 366.02,~~
241 ~~one eighth of 1 percent of its gross operating revenues derived~~
242 ~~from intrastate business, excluding sales for resale between~~

243 ~~public utilities, municipal electric utilities, and rural~~
244 ~~electric cooperatives, or any combination thereof.~~

245 ~~(d) For each municipal electric utility and rural electric~~
246 ~~cooperative, one sixty-fourth of 1 percent of its gross~~
247 ~~operating revenues derived from intrastate business, excluding~~
248 ~~sales for resale between public utilities, municipal electric~~
249 ~~utilities, and rural electric cooperatives, or any combination~~
250 ~~thereof.~~

251 ~~(e) For each regulated company licensed under chapter 367,~~
252 ~~2.5 percent of its gross revenues derived from intrastate~~
253 ~~business.~~

254
255 Differences, if any, between the amount paid in any 6-month
256 period and the amount actually determined by the commission to
257 be due shall, upon notification by the commission, be
258 immediately paid or refunded. Each regulated company which is
259 subject to the jurisdiction of the commission, but which did not
260 operate under the commission's jurisdiction during the entire
261 preceding 6-month period, shall, within 30 days after the close
262 of the first 6-month period during which it commenced operations
263 under, or became subject to, the jurisdiction of the commission,
264 pay to the commission the prescribed fee based upon its gross
265 operating revenues derived from intrastate business during those
266 months or parts of months in which the regulated company did
267 operate during such 6-month period. In no event shall payments
268 under this section be less than \$25 annually.

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

271 350.117 Reports; audits.--

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

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

278 Section 9. Paragraph (d) of subsection (2) of section
 279 361.08, Florida Statutes, is amended to read:

280 361.08 Right of eminent domain to coal pipeline
 281 companies.--

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

296 operation, maintenance, repair, or replacement of coal slurry
297 and derivative plants, pipelines, pumping stations, and any
298 other installations and works incident thereto. The procedure to
299 condemn property or interest therein shall be exercised in the
300 manner set forth in chapters 73 and 74. In any condemnation
301 proceeding under this act, the circuit court shall restrict the
302 exercise of the right of eminent domain in the following
303 particulars:

304 ~~(d) The court, in any condemnation proceeding brought~~
305 ~~pursuant to this section, shall be bound by the findings of the~~
306 ~~Florida Public Service Commission on the general issues of~~
307 ~~economic and environmental feasibility as determined pursuant to~~
308 ~~s. 350.80.~~

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