

ENROLLED

HB 7237, Engrossed 2

2006 Legislature

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.

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

Section 1. Paragraphs (a) and (b) of subsection (2), subsection (3), 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.

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55 (3) Any person serving on the commission who seeks to be
56 appointed or reappointed shall file with the nominating council
57 at least 210 ~~180~~ days before the expiration of his or her term a
58 statement that he or she desires to serve an additional term.

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

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82 | to a hearing examiner, following the conclusion of the hearings,
 83 | the designated hearing examiner is responsible for preparing
 84 | recommendations for final disposition by a majority vote of the
 85 | commission. A petition for reconsideration shall be voted upon
 86 | by those commissioners participating in the final disposition of
 87 | the proceeding.

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

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

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

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

120 | 350.012 Committee on Public Service Commission Oversight;
121 | creation; membership; powers and duties.--

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

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136 | numbered years, from among the committee membership. Vacancies
 137 | shall be filled in the same manner as the original appointment.
 138 | Members shall serve without additional compensation, but shall
 139 | be reimbursed for expenses.

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

143 | (2)~~(3)~~ The committee shall:

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

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

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

153 | (4)~~(5)~~ The committee will not have a permanent staff, but
 154 | the President of the Senate and the Speaker of the House of
 155 | Representatives shall select staff members from among existing
 156 | legislative staff, when and as needed.

157 | Section 4. Section 350.051, Florida Statutes, is repealed.

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

160 | 350.06 Place of meeting; expenditures; employment of
 161 | personnel; records availability and fees.--

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

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

186 ~~(5) Upon request by the governing body of a municipal or~~
 187 ~~county government within 7 days after completion of the~~
 188 ~~transcript and its delivery to the commission, the commission~~

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189 ~~shall provide copies of the transcripts of testimony at the cost~~
190 ~~of reproduction and mailing, but such copies need not be~~
191 ~~certified unless specifically requested.~~

192 (5)~~(6)~~ The commission shall make available to the public
193 counsel the original copy of all transcripts for use and study
194 in the commission offices. If the commission makes any copies of
195 transcripts for internal use and if the public counsel has so
196 requested in writing to the clerk of the commission ~~at the time~~
197 ~~of his or her intervention~~, the commission shall supply the
198 public counsel with a copy of the transcript at no charge. ~~In~~
199 ~~all other cases, the public counsel may obtain a copy of the~~
200 ~~transcript from the commission for the cost of reproduction.~~

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

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

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215 ~~(8)-(9)~~ The commission shall keep accounting records ~~a book~~
 216 in which all fees collected by it as provided for herein shall
 217 be recorded, together with the amount and purpose for which
 218 collected. The accounting records ~~This book~~ shall be a public
 219 records record. ~~The commission shall prepare a statement of~~
 220 ~~these fees in duplicate each month and remit one copy of the~~
 221 ~~statement, together with all fees collected by it, to the Chief~~
 222 ~~Financial Officer.~~ All moneys collected pursuant to this section
 223 by the commission shall be deposited in the State Treasury to
 224 the credit of the Florida Public Service Regulatory Trust Fund.

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

227 350.113 Florida Public Service Regulatory Trust Fund;
 228 moneys to be deposited therein.--

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

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

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

244 ~~(c) For each "public utility" as defined in s. 366.02,~~
245 ~~one eighth of 1 percent of its gross operating revenues derived~~
246 ~~from intrastate business, excluding sales for resale between~~
247 ~~public utilities, municipal electric utilities, and rural~~
248 ~~electric cooperatives, or any combination thereof.~~

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

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

258
259 Differences, if any, between the amount paid in any 6-month
260 period and the amount actually determined by the commission to
261 be due shall, upon notification by the commission, be
262 immediately paid or refunded. Each regulated company which is
263 subject to the jurisdiction of the commission, but which did not
264 operate under the commission's jurisdiction during the entire
265 preceding 6-month period, shall, within 30 days after the close
266 of the first 6-month period during which it commenced operations
267 under, or became subject to, the jurisdiction of the commission,

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268 pay to the commission the prescribed fee based upon its gross
 269 operating revenues derived from intrastate business during those
 270 months or parts of months in which the regulated company did
 271 operate during such 6-month period. In no event shall payments
 272 under this section be less than \$25 annually.

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

275 350.117 Reports; audits.--

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

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

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

284 361.08 Right of eminent domain to coal pipeline
 285 companies.--

286 (2) Any corporation, partnership, joint venture,
 287 association, or other legal entity organized under the laws of
 288 this state, or under the laws of any other state and qualified
 289 to do business in this state, for the purpose of supplying any
 290 electric utility or utilities; any city, town, or village or the
 291 inhabitants thereof; or any community with coal or its
 292 derivatives and any mixture and combination thereof by pipeline,
 293 and for the purpose of serving as a common carrier operating or
 294 proposing to operate a pipeline or pipelines for transporting or

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295 delivering coal or its derivatives or any mixture or combination
296 thereof, shall have the right of eminent domain, for the purpose
297 of acquiring title, easements, rights-of-way, or other rights or
298 interests in property, necessary to acquire and take private
299 property which is or may be needed for the construction,
300 operation, maintenance, repair, or replacement of coal slurry
301 and derivative plants, pipelines, pumping stations, and any
302 other installations and works incident thereto. The procedure to
303 condemn property or interest therein shall be exercised in the
304 manner set forth in chapters 73 and 74. In any condemnation
305 proceeding under this act, the circuit court shall restrict the
306 exercise of the right of eminent domain in the following
307 particulars:

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

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