

By the Committees on Communications and Public Utilities;
Communications and Public Utilities

579-05395A-08

20082212c1

1 A bill to be entitled
2 An act relating to the Public Service Commission; amending
3 s. 350.01, F.S.; conforming the beginning of a Public
4 Service Commissioner's term as chair with the beginning of
5 terms of commissioners; amending s. 350.012, F.S.;
6 renaming the Committee on Public Service Commission
7 Oversight, a standing joint committee of the Legislature,
8 as the "Committee on Public Counsel Oversight"; deleting
9 the committee's authority to recommend to the Governor
10 nominees to fill vacancies on the Public Service
11 Commission; deleting the committee's authority to file an
12 ethics complaint against a member, former member, or
13 former employee of the commission, or a member of the
14 Public Service Commission Nominating Council; amending s.
15 350.031, F.S.; increasing the number of members on the
16 council; requiring the President of the Senate and the
17 Speaker of the House of Representatives to appoint a chair
18 and vice chair to the council in alternating years;
19 requiring the council to submit recommendations for
20 vacancies on the Public Service Commission to the
21 Governor; requiring the council to nominate a minimum of
22 three persons for each vacancy; revising the date that
23 recommendations for vacancies must be submitted; providing
24 for the council to fill a vacancy on the commission if the
25 Governor fails to do so; authorizing a successor Governor
26 to recall an unconfirmed appointee under certain
27 circumstances; amending ss. 350.061 and 350.0614, F.S.,
28 relating to the appointment, oversight, and compensation
29 of the Public Counsel; conforming provisions to changes

579-05395A-08

20082212c1

30 made by the act; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Subsection (4) of section 350.01, Florida
35 Statutes, is amended to read:

36 350.01 Florida Public Service Commission; terms of
37 commissioners; vacancies; election and duties of chair; quorum;
38 proceedings.--

39 (4) One member of the commission shall be elected by
40 majority vote to serve as chair for a term of 2 years, beginning
41 on January 2 of the first year of the term ~~with the first Tuesday~~
42 ~~after the first Monday in January 1979~~. A member may not serve
43 two consecutive terms as chair.

44 Section 2. Section 350.012, Florida Statutes, is amended to
45 read:

46 350.012 Committee on Public Counsel ~~Service Commission~~
47 Oversight; creation; membership; powers and duties.--

48 (1) There is created a standing joint committee of the
49 Legislature, designated the Committee on Public Counsel ~~Service~~
50 ~~Commission~~ Oversight, and composed of 12 members appointed as
51 follows: six members of the Senate appointed by the President of
52 the Senate, two of whom must be members of the minority party;
53 and six members of the House of Representatives appointed by the
54 Speaker of the House of Representatives, two of whom must be
55 members of the minority party. The terms of members shall be for
56 2 years and shall run from the organization of one Legislature to
57 the organization of the next Legislature. The President shall
58 appoint the chair of the committee in even-numbered years and the

579-05395A-08

20082212c1

59 vice chair in odd-numbered years, and the Speaker of the House of
60 Representatives shall appoint the chair of the committee in odd-
61 numbered years and the vice chair in even-numbered years, from
62 among the committee membership. Vacancies shall be filled in the
63 same manner as the original appointment. Members shall serve
64 without additional compensation, but shall be reimbursed for
65 expenses.

66 (2) The committee shall:

67 ~~(a) Recommend to the Governor nominees to fill a vacancy on~~
68 ~~the Public Service Commission, as provided by general law; and~~

69 ~~(b) appoint a Public Counsel as provided by general law.~~

70 ~~(3) The committee is authorized to file a complaint with~~
71 ~~the Commission on Ethics alleging a violation of this chapter by~~
72 ~~a commissioner, former commissioner, former commission employee,~~
73 ~~or member of the Public Service Commission Nominating Council.~~

74 (3)~~(4)~~ The committee will not have a permanent staff, but
75 the President of the Senate and the Speaker of the House of
76 Representatives shall select staff members from among existing
77 legislative staff, when and as needed.

78 Section 3. Subsections (1), (5), (6), (7), and (8) of
79 section 350.031, Florida Statutes, are amended to read:

80 350.031 Florida Public Service Commission Nominating
81 Council.--

82 (1) There is created a Florida Public Service Commission
83 Nominating Council consisting of 12 ~~nine~~ members. At least one
84 member of the council must be 60 years of age or older. Six ~~Three~~
85 members, including three members ~~one member~~ of the House of
86 Representatives, one of whom must be a member of the minority
87 party, shall be appointed by and serve at the pleasure of the

579-05395A-08

20082212c1

88 Speaker of the House of Representatives. Six; ~~three~~ members,
89 including three members ~~one member~~ of the Senate, one of whom
90 must be a member of the minority party, shall be appointed by and
91 serve at the pleasure of the President of the Senate; ~~and three~~
92 ~~members shall be selected and appointed by a majority vote of the~~
93 ~~other six members of the council.~~ All terms shall be for 4 years
94 except those members of the House and Senate, who shall serve 2-
95 year terms concurrent with the 2-year elected terms of House
96 members. The President of the Senate shall appoint the chair of
97 the council in even-numbered years and the vice chair in odd-
98 numbered years, and the Speaker of the House of Representatives
99 shall appoint the chair of the council in odd-numbered years and
100 the vice chair in even-numbered years, from among the council
101 membership. Vacancies on the council shall be filled for the
102 unexpired portion of the term in the same manner as original
103 appointments to the council. A member may not be reappointed to
104 the council, except for a member of the House of Representatives
105 or the Senate who may be appointed to two 2-year terms or a
106 person who is appointed to fill the remaining portion of an
107 unexpired term.

108 (5) A person may not be nominated to the Governor Committee
109 ~~on Public Service Commission Oversight~~ until the council has
110 determined that the person is competent and knowledgeable in one
111 or more fields, which shall include, but not be limited to:
112 public affairs, law, economics, accounting, engineering, finance,
113 natural resource conservation, energy, or another field
114 substantially related to the duties and functions of the
115 commission. The commission shall fairly represent the above-

579-05395A-08

20082212c1

116 | stated fields. Recommendations of the council shall be
117 | nonpartisan.

118 | (6) It is the responsibility of the council to nominate to
119 | the Governor no fewer than three ~~Committee on Public Service~~
120 | ~~Commission Oversight six~~ persons for each vacancy occurring on
121 | the Public Service Commission. The council shall submit the
122 | recommendations to the Governor ~~committee~~ by September 15 ~~August~~
123 | ~~1~~ of those years in which the terms are to begin the following
124 | January, or within 60 days after a vacancy occurs for any reason
125 | other than the expiration of the term.

126 | (7) ~~The Committee on Public Service Commission Oversight~~
127 | ~~shall select from the list of nominees provided by the nominating~~
128 | ~~council three nominees for recommendation to the Governor for~~
129 | ~~appointment to the commission. The recommendations must be~~
130 | ~~provided to the Governor within 45 days after receipt of the list~~
131 | ~~of nominees.~~ The Governor shall fill a vacancy occurring on the
132 | Public Service Commission by appointment of one of the applicants
133 | nominated by the council ~~committee~~ only after a background
134 | investigation of such applicant has been conducted by the Florida
135 | Department of Law Enforcement. If the Governor has not made an
136 | appointment within 30 consecutive calendar days after the receipt
137 | of the recommendation, the council ~~committee~~, by majority vote,
138 | shall appoint, within 30 days after the expiration of the
139 | Governor's time to make an appointment, one person from the
140 | applicants previously nominated to the Governor to fill the
141 | vacancy.

142 | (8) Each appointment to the Public Service Commission shall
143 | be subject to confirmation by the Senate during the next regular
144 | session after the vacancy occurs. If the Senate refuses to

579-05395A-08

20082212c1

145 confirm or fails to consider ~~rejects~~ the Governor's appointment,
146 the council shall initiate, in accordance with this section, the
147 nominating process within 30 days.

148 (9) When the Governor makes an appointment and that
149 appointment has not been confirmed by the Senate before the
150 appointing Governor's term ends, a successor Governor may, within
151 30 days after taking office, recall the appointment and, prior to
152 the first day of the next regular session, make a replacement
153 appointment from the list provided to the previous Governor by
154 the council. Such an appointment is subject to confirmation by
155 the Senate at the next regular session following the creation of
156 the vacancy to which the appointments are being made. If the
157 replacement appointment is not timely made, or if the appointment
158 is not confirmed by the Senate for any reason, the council, by
159 majority vote, shall appoint, within 30 days after the
160 Legislature adjourns sine die, one person from the applicants
161 previously nominated to the Governor to fill the vacancy, and
162 this appointee is subject to confirmation by the Senate during
163 the next regular session following the appointment.

164 Section 4. Subsection (1) of section 350.061, Florida
165 Statutes, is amended to read:

166 350.061 Public Counsel; appointment; oath; restrictions on
167 Public Counsel and his or her employees.--

168 (1) The Committee on Public Counsel ~~Service Commission~~
169 Oversight shall appoint a Public Counsel by majority vote of the
170 members of the committee to represent the general public of
171 Florida before the Florida Public Service Commission. The Public
172 Counsel shall be an attorney admitted to practice before the
173 Florida Supreme Court and shall serve at the pleasure of the

579-05395A-08

20082212c1

174 Committee on Public Counsel ~~Service Commission~~ Oversight, subject
175 to biennial reconfirmation by the committee. The Public Counsel
176 shall perform his or her duties independently. Vacancies in the
177 office shall be filled in the same manner as the original
178 appointment.

179 Section 5. Subsection (2) of section 350.0614, Florida
180 Statutes, is amended to read:

181 350.0614 Public Counsel; compensation and expenses.--

182 (2) The Legislature declares and determines that the Public
183 Counsel is under the legislative branch of government within the
184 intention of the legislation as expressed in chapter 216, and no
185 power shall be in the Executive Office of the Governor or its
186 successor to release or withhold funds appropriated to it, but
187 the same shall be available for expenditure as provided by law
188 and the rules or decisions of the Committee on Public Counsel
189 ~~Service Commission~~ Oversight.

190 Section 6. This act shall take effect upon becoming a law.