

By the Committees on General Government Appropriations;
Communications and Public Utilities; Communications and Public
Utilities

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

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30 appointee under certain circumstances; amending ss.
31 350.061 and 350.0614, F.S., relating to the appointment,
32 oversight, and compensation of the Public Counsel;
33 conforming provisions to changes made by the act;
34 providing an effective date.
35

36 Be It Enacted by the Legislature of the State of Florida:
37

38 Section 1. Subsections (3) and (4) of section 350.01,
39 Florida Statutes, are amended to read:

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

43 (3) Any person serving on the commission who seeks to be
44 appointed or reappointed shall file with the nominating council
45 no later than June 1 prior to the year in which his or her term
46 expires ~~at least 210 days before the expiration of his or her~~
47 ~~term~~ a statement that he or she desires to serve an additional
48 term.

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

54 Section 2. Section 350.012, Florida Statutes, is amended to
55 read:

56 350.012 Committee on Public Counsel ~~Service Commission~~
57 Oversight; creation; membership; powers and duties.--

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58 (1) There is created a standing joint committee of the
59 Legislature, designated the Committee on Public Counsel Service
60 ~~Commission~~ Oversight, and composed of 12 members appointed as
61 follows: six members of the Senate appointed by the President of
62 the Senate, two of whom must be members of the minority party;
63 and six members of the House of Representatives appointed by the
64 Speaker of the House of Representatives, two of whom must be
65 members of the minority party. The terms of members shall be for
66 2 years and shall run from the organization of one Legislature to
67 the organization of the next Legislature. The President shall
68 appoint the chair of the committee in even-numbered years and the
69 vice chair in odd-numbered years, and the Speaker of the House of
70 Representatives shall appoint the chair of the committee in odd-
71 numbered years and the vice chair in even-numbered years, from
72 among the committee membership. Vacancies shall be filled in the
73 same manner as the original appointment. Members shall serve
74 without additional compensation, but shall be reimbursed for
75 expenses.

76 (2) The committee shall:

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

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

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

84 (3)~~(4)~~ The committee will not have a permanent staff, but
85 the President of the Senate and the Speaker of the House of

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86 Representatives shall select staff members from among existing
87 legislative staff, when and as needed.

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

90 350.031 Florida Public Service Commission Nominating
91 Council.--

92 (1) There is created a Florida Public Service Commission
93 Nominating Council consisting of 12 ~~nine~~ members. At least one
94 member of the council must be 60 years of age or older. Six ~~Three~~
95 members, including three members ~~one member~~ of the House of
96 Representatives, one of whom must be a member of the minority
97 party, shall be appointed by and serve at the pleasure of the
98 Speaker of the House of Representatives. Six; ~~three~~ members,
99 including three members ~~one member~~ of the Senate, one of whom
100 must be a member of the minority party, shall be appointed by and
101 serve at the pleasure of the President of the Senate; ~~and three~~
102 ~~members shall be selected and appointed by a majority vote of the~~
103 ~~other six members of the council.~~ All terms shall be for 4 years
104 except those members of the House and Senate, who shall serve 2-
105 year terms concurrent with the 2-year elected terms of House
106 members. However, to establish staggered terms, all terms ongoing
107 on July 1, 2008, shall continue until and shall expire on January
108 2, 2009, and new appointments shall be made for terms to begin on
109 that date, with each appointing officer to appoint one
110 nonlegislator member to a 1-year term, three legislator members
111 to 2-year terms, one nonlegislator member to a 3-year term, and
112 one nonlegislator member to a 4-year term. The President of the
113 Senate shall appoint the chair of the council in even-numbered
114 years and the vice chair in odd-numbered years, and the Speaker

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115 of the House of Representatives shall appoint the chair of the
116 council in odd-numbered years and the vice chair in even-numbered
117 years, from among the council membership. Vacancies on the
118 council shall be filled for the unexpired portion of the term in
119 the same manner as original appointments to the council. A member
120 may not be reappointed to the council, except for a member of the
121 House of Representatives or the Senate who may be appointed to
122 two 2-year terms or a person who is appointed to fill the
123 remaining portion of an unexpired term.

124 (5) A person may not be nominated to the Governor ~~Committee~~
125 ~~on Public Service Commission Oversight~~ until the council has
126 determined that the person is competent and knowledgeable in one
127 or more fields, which shall include, but not be limited to:
128 public affairs, law, economics, accounting, engineering, finance,
129 natural resource conservation, energy, or another field
130 substantially related to the duties and functions of the
131 commission. The commission shall fairly represent the above-
132 stated fields. Recommendations of the council shall be
133 nonpartisan.

134 (6) It is the responsibility of the council to nominate to
135 the Governor no fewer than three ~~Committee on Public Service~~
136 ~~Commission Oversight~~ ~~six~~ persons for each vacancy occurring on
137 the Public Service Commission. The council shall submit the
138 recommendations to the Governor ~~committee~~ by September 15 ~~August~~
139 ~~1~~ of those years in which the terms are to begin the following
140 January, or within 60 days after a vacancy occurs for any reason
141 other than the expiration of the term.

142 (7) ~~The Committee on Public Service Commission Oversight~~
143 ~~shall select from the list of nominees provided by the nominating~~

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144 ~~council three nominees for recommendation to the Governor for~~
145 ~~appointment to the commission. The recommendations must be~~
146 ~~provided to the Governor within 45 days after receipt of the list~~
147 ~~of nominees.~~ The Governor shall fill a vacancy occurring on the
148 Public Service Commission by appointment of one of the applicants
149 nominated by the council ~~committee~~ only after a background
150 investigation of such applicant has been conducted by the Florida
151 Department of Law Enforcement. If the Governor has not made an
152 appointment within 30 consecutive calendar days after the receipt
153 of the recommendation, the council ~~committee~~, by majority vote,
154 shall appoint, within 30 days after the expiration of the
155 Governor's time to make an appointment, one person from the
156 applicants previously nominated to the Governor to fill the
157 vacancy.

158 (8) Each appointment to the Public Service Commission shall
159 be subject to confirmation by the Senate during the next regular
160 session after the vacancy occurs. If the Senate refuses to
161 confirm or fails to consider ~~rejects~~ the Governor's appointment,
162 the council shall initiate, in accordance with this section, the
163 nominating process within 30 days.

164 (9) When the Governor makes an appointment and that
165 appointment has not been confirmed by the Senate before the
166 appointing Governor's term ends, a successor Governor may, within
167 30 days after taking office, recall the appointment and, prior to
168 the first day of the next regular session, make a replacement
169 appointment from the list provided to the previous Governor by
170 the council. Such an appointment is subject to confirmation by
171 the Senate at the next regular session following the creation of
172 the vacancy to which the appointments are being made. If the

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173 replacement appointment is not timely made, or if the appointment
174 is not confirmed by the Senate for any reason, the council, by
175 majority vote, shall appoint, within 30 days after the
176 Legislature adjourns sine die, one person from the applicants
177 previously nominated to the Governor to fill the vacancy, and
178 this appointee is subject to confirmation by the Senate during
179 the next regular session following the appointment.

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

182 350.061 Public Counsel; appointment; oath; restrictions on
183 Public Counsel and his or her employees.--

184 (1) The Committee on Public Counsel ~~Service Commission~~
185 Oversight shall appoint a Public Counsel by majority vote of the
186 members of the committee to represent the general public of
187 Florida before the Florida Public Service Commission. The Public
188 Counsel shall be an attorney admitted to practice before the
189 Florida Supreme Court and shall serve at the pleasure of the
190 Committee on Public Counsel ~~Service Commission~~ Oversight, subject
191 to biennial reconfirmation by the committee. The Public Counsel
192 shall perform his or her duties independently. Vacancies in the
193 office shall be filled in the same manner as the original
194 appointment.

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

197 350.0614 Public Counsel; compensation and expenses.--

198 (2) The Legislature declares and determines that the Public
199 Counsel is under the legislative branch of government within the
200 intention of the legislation as expressed in chapter 216, and no
201 power shall be in the Executive Office of the Governor or its

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202 successor to release or withhold funds appropriated to it, but
203 the same shall be available for expenditure as provided by law
204 and the rules or decisions of the Committee on Public Counsel
205 ~~Service Commission~~ Oversight.

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