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1 A bill to be entitled  
2 An act relating to reorganization of the Public Service  
3 Commission; amending s. 20.121, F.S.; establishing the  
4 Office of Regulatory Staff within the Financial Services  
5 Commission; requiring the executive director of the Office  
6 of Regulatory Staff to meet specified requirements;  
7 providing that the executive director's appointment is  
8 subject to Senate confirmation; amending s. 112.324, F.S.;  
9 revising provisions for disposition of ethics complaints  
10 against the Public Counsel and employees of the Public  
11 Counsel; amending s. 186.801, F.S.; directing the  
12 commission to request assistance from the Office of  
13 Regulatory Staff to make a preliminary study of certain  
14 site plans submitted to the commission by electric  
15 utilities; amending s. 350.001, F.S.; revising legislative  
16 intent; amending s. 350.011, F.S.; prohibiting certain  
17 acts by commissioners and commission staff; repealing s.  
18 350.012, F.S., relating to the creation and organization  
19 of the Committee on Public Counsel Oversight; amending s.  
20 350.031, F.S.; revising requirements for nomination by the  
21 Public Service Commission Nominating Council for  
22 appointment to the commission; creating s. 350.035, F.S.;  
23 prohibiting attempts by certain persons to sway the  
24 judgment of commissioners; providing for the Commission on  
25 Ethics to investigate complaints of violations pursuant to  
26 specified procedures; amending s. 350.04, F.S.; providing  
27 requirements for nomination by the Public Service  
28 Commission Nominating Council for appointment to the

29 | commission; requiring commissioners to complete a course  
30 | of study developed by the executive director and general  
31 | counsel of the Office of Regulatory Staff; requiring  
32 | commissioners to complete continuing education; providing  
33 | training requirements for commissioners and commission  
34 | employees; requiring certifications of compliance to be  
35 | provided to the Legislature; amending s. 350.041, F.S.;  
36 | revising legislative intent; revising standards of conduct  
37 | for commissioners; revising provisions for investigation  
38 | and reports by the Commission on Ethics of alleged  
39 | violations; authorizing commission employees and the  
40 | executive director of the Office of Regulatory Staff to  
41 | request opinions from the Commission on Ethics; amending  
42 | s. 350.042, F.S.; revising provisions for communications  
43 | concerning agency action proceedings and proceedings under  
44 | specified provisions; providing for application of such  
45 | provisions to commission employees; revising restrictions  
46 | on such communications by commissioners and commission  
47 | employees; defining the term "ex parte communication";  
48 | providing a civil penalty; amending s. 350.06, F.S.;  
49 | revising provisions for the offices of the commission,  
50 | payment of moneys, and employment of personnel; amending  
51 | s. 350.0605, F.S.; restricting employment of a former  
52 | executive director or former employee of the Office of  
53 | Regulatory Staff; amending s. 350.061, F.S.; providing for  
54 | appointment of the Public Counsel by, and service of the  
55 | Public Counsel at the pleasure of, the Attorney General;  
56 | amending ss. 350.0613 and 350.0614, F.S.; providing powers

57 | and duties of the Attorney General regarding the Public  
58 | Counsel and his or her employees to conform provisions to  
59 | the transfer of the Public Counsel; creating s. 350.071,  
60 | F.S.; creating the Office of Regulatory Staff within the  
61 | Financial Services Commission; providing for the office to  
62 | be considered a party of record in all proceedings before  
63 | the Public Service Commission; requiring the commission to  
64 | notify the office of certain proceedings; providing  
65 | purpose of the office; defining the term "public  
66 | interest"; providing that the office is subject to certain  
67 | provisions governing ex parte communications; creating s.  
68 | 350.072, F.S.; providing for an executive director and  
69 | employees of the office; providing duties and  
70 | responsibilities of the executive director; providing for  
71 | submission of a budget to the Financial Services  
72 | Commission; providing for the location, internal  
73 | administration, and operation of the office; creating s.  
74 | 350.073, F.S.; providing for appointment, term,  
75 | qualifications, and salary of the executive director of  
76 | the office; providing for application of specified  
77 | provisions for standards of conduct; creating s. 350.074,  
78 | F.S.; providing duties of the office; authorizing the  
79 | office to intervene in certain proceedings; requiring the  
80 | office to provide an annual report to the Legislature;  
81 | directing the commission and the office to establish  
82 | procedures by which the office may elect not to  
83 | participate as a party in certain matters; creating s.  
84 | 350.075, F.S.; authorizing the office to access certain

85 books and records; amending s. 350.113, F.S.; revising  
86 authorized uses of the Florida Public Service Regulatory  
87 Trust Fund; amending s. 350.117, F.S.; authorizing the  
88 office to require reports; requiring a copy of any report  
89 provided to the commission to be provided to the office;  
90 authorizing the commission to request that the office  
91 perform management and operation audits of any regulated  
92 company; repealing s. 350.121, F.S., relating to  
93 commission inquiries and the confidentiality of business  
94 material; creating s. 350.122, F.S.; requiring persons  
95 testifying before the Public Service Commission to  
96 disclose certain financial and fiduciary relationships;  
97 providing that a determination by the commission that a  
98 violation occurred constitutes agency action for which a  
99 hearing may be sought; amending s. 364.016, F.S.;  
100 authorizing the office to assess a telecommunications  
101 company for certain travel costs; amending s. 364.02,  
102 F.S.; defining the term "office" as used in provisions  
103 relating to telecommunications companies; amending s.  
104 364.15, F.S.; revising provisions authorizing the  
105 commission to compel changes to a telecommunications  
106 facility; amending s. 364.183, F.S.; providing that the  
107 office shall have access to certain records of a  
108 telecommunications company and may require a  
109 telecommunications company to file records, reports, or  
110 other data; specifying limitations on the authority of the  
111 commission to access records; providing for the office to  
112 maintain confidentiality; amending s. 364.185, F.S.;

113 providing powers of the office to investigate and inspect  
114 telecommunications companies; removing such powers from  
115 the commission; amending s. 364.335, F.S.; revising the  
116 authority of the commission to institute a proceeding to  
117 determine whether the grant of a certificate of need  
118 concerning construction, operation, or control of a  
119 telecommunications facility is in the public interest;  
120 amending s. 364.3376, F.S.; providing for the office to  
121 conduct certain investigations; amending s. 364.3381,  
122 F.S.; revising the authority of the commission to  
123 investigate allegations of certain anticompetitive  
124 practices; amending s. 364.37, F.S.; revising the  
125 authority of the commission to make such order and  
126 prescribe such terms and conditions with respect to  
127 controversies concerning territory to be served by a  
128 telecommunications facility; amending s. 366.02, F.S.;  
129 defining the term "office" as used in provisions relating  
130 to public utilities; amending s. 366.05, F.S.; authorizing  
131 the office to make certain purchases for examinations and  
132 testing; providing that the office shall have access to  
133 certain records and may require records, reports, or other  
134 data; specifying limitations on the authority of the  
135 commission to access records; authorizing the office to  
136 assess a public utility for certain travel costs; amending  
137 ss. 366.06, 366.07, 366.071, and 366.076, F.S.; removing  
138 authority of the commission to initiate certain  
139 proceedings or take certain actions upon its own motion;  
140 amending s. 366.08, F.S.; providing powers of the office

141 to investigate public utilities; removing such powers from  
142 the commission; amending s. 366.093, F.S.; providing  
143 powers of the office to have access to records; specifying  
144 limitations on the authority of the commission to access  
145 records; providing for the office to maintain  
146 confidentiality; amending s. 366.82, F.S.; revising the  
147 authority of the commission to require modifications or  
148 additions to a utility's plans and programs; amending s.  
149 367.021, F.S.; defining the term "office" as used in  
150 provisions relating to water and wastewater utilities;  
151 amending s. 367.045, F.S.; requiring a water or wastewater  
152 utility to provide notice to the office when it applies  
153 for an initial or amended certificate of authorization;  
154 providing for an objection and a request for a public  
155 hearing by the office; requiring the commission to give  
156 notice of certain actions upon petition of the office;  
157 amending s. 367.081, F.S.; revising the authority of the  
158 commission to fix rates of water and wastewater utilities  
159 or implement changes of such rates; amending s. 367.0814,  
160 F.S.; providing for a water or wastewater utility to  
161 request and obtain assistance from the office for the  
162 purpose of changing its rates and charges; revising the  
163 authority of the commission to authorize interim rates;  
164 directing the commission to request from the office any  
165 information necessary to complete a status report;  
166 amending ss. 367.0817, 367.082, 367.0822, and 367.083,  
167 F.S.; revising authority of the commission to initiate  
168 certain proceedings or take certain actions upon its own

169 motion; amending s. 367.101, F.S.; providing that the  
170 commission shall, upon request, direct the office to  
171 investigate agreements or proposals for charges and  
172 conditions for service availability and report the  
173 results; amending s. 367.121, F.S.; revising powers of the  
174 commission; providing powers of the office; amending s.  
175 367.122, F.S.; providing for the office to test meters;  
176 amending s. 367.145, F.S.; revising provisions for use of  
177 certain regulatory fees; amending s. 367.156, F.S.;  
178 providing powers of the office to have access to records;  
179 specifying limitations on the authority of the commission  
180 to access records; providing for the office to maintain  
181 confidentiality; amending s. 367.171, F.S.; revising  
182 provisions for jurisdiction of certain cases involving a  
183 utility that becomes subject to county regulation;  
184 amending s. 368.05, F.S., relating to gas transmission and  
185 distribution facilities; prohibiting the commission from  
186 initiating proceedings under specified provisions on its  
187 own motion; specifying limitations on the authority of the  
188 commission to access records; amending s. 368.061, F.S.;  
189 revising provisions for compromise of a civil penalty;  
190 revising the authority of the commission to initiate  
191 injunction proceedings; amending s. 368.103, F.S.;  
192 defining the term "office" as used in the "Natural Gas  
193 Transmission Pipeline Intrastate Regulatory Act";  
194 amending ss. 368.106 and 368.107, F.S.; revising the  
195 authority of the commission to initiate certain  
196 proceedings or take certain actions concerning rates;

197 | amending s. 368.108, F.S.; providing powers of the office  
 198 | to have access to records; specifying limitations on the  
 199 | authority of the commission to access records; providing  
 200 | for the office to maintain confidentiality; amending s.  
 201 | 368.1085, F.S.; authorizing the office to assess a natural  
 202 | gas transmission company for certain travel costs;  
 203 | removing the authority of the commission to assess such  
 204 | costs; amending s. 368.109, F.S.; revising provisions for  
 205 | use of certain regulatory fees; amending ss. 403.519,  
 206 | 403.537, and 403.9422, F.S., relating to siting of  
 207 | electrical transmission lines; revising authority of the  
 208 | commission to initiate certain proceedings or take certain  
 209 | actions upon its own motion; amending ss. 196.012,  
 210 | 199.183, 212.08, 288.0655, 290.007, 364.602, 489.103, and  
 211 | 624.105, F.S.; conforming cross-references; providing an  
 212 | effective date.

213 |

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

215 |

216 | Section 1. Subsection (3) of section 20.121, Florida  
 217 | Statutes, is amended to read:

218 | 20.121 Department of Financial Services.—There is created  
 219 | a Department of Financial Services.

220 | (3) FINANCIAL SERVICES COMMISSION.—Effective January 7,  
 221 | 2003, there is created within the Department of Financial  
 222 | Services the Financial Services Commission, composed of the  
 223 | Governor, the Attorney General, the Chief Financial Officer, and  
 224 | the Commissioner of Agriculture, which shall for purposes of



225 | this section be referred to as the commission. Commission  
 226 | members shall serve as agency head of the Financial Services  
 227 | Commission. The commission shall be a separate budget entity and  
 228 | shall be exempt from the provisions of s. 20.052. Commission  
 229 | action shall be by majority vote consisting of at least three  
 230 | affirmative votes. The commission shall not be subject to  
 231 | control, supervision, or direction by the Department of  
 232 | Financial Services in any manner, including purchasing,  
 233 | transactions involving real or personal property, personnel, or  
 234 | budgetary matters.

235 |         (a) Structure.—The major structural unit of the commission  
 236 | is the office. Each office shall be headed by a director. The  
 237 | following offices are established:

238 |             1. The Office of Insurance Regulation, which shall be  
 239 | responsible for all activities concerning insurers and other  
 240 | risk bearing entities, including licensing, rates, policy forms,  
 241 | market conduct, claims, issuance of certificates of authority,  
 242 | solvency, viatical settlements, premium financing, and  
 243 | administrative supervision, as provided under the insurance code  
 244 | or chapter 636. The head of the Office of Insurance Regulation  
 245 | is the Director of the Office of Insurance Regulation, who may  
 246 | also be known as the Commissioner of Insurance Regulation.

247 |             2. The Office of Financial Regulation, which shall be  
 248 | responsible for all activities of the Financial Services  
 249 | Commission relating to the regulation of banks, credit unions,  
 250 | other financial institutions, finance companies, and the  
 251 | securities industry. The head of the office is the Director of  
 252 | the Office of Financial Regulation, who may also be known as the

253 Commissioner of Financial Regulation. The Office of Financial  
254 Regulation shall include a Bureau of Financial Investigations,  
255 which shall function as a criminal justice agency for purposes  
256 of ss. 943.045-943.08 and shall have a separate budget. The  
257 bureau may conduct investigations within or outside this state  
258 as the bureau deems necessary to aid in the enforcement of this  
259 section. If, during an investigation, the office has reason to  
260 believe that any criminal law of this state has or may have been  
261 violated, the office shall refer any records tending to show  
262 such violation to state or federal law enforcement or  
263 prosecutorial agencies and shall provide investigative  
264 assistance to those agencies as required.

265 3. The Office of Regulatory Staff, which shall represent  
266 the public interest with respect to matters within the  
267 jurisdiction of the Public Service Commission. The Office of  
268 Regulatory Staff shall be headed by an executive director and  
269 shall be organized and function independently under the  
270 provisions of chapter 350.

271 (b) Organization.—The commission shall establish by rule  
272 any additional organizational structure of the offices. It is  
273 the intent of the Legislature to provide the commission with the  
274 flexibility to organize the offices in any manner they determine  
275 appropriate to promote both efficiency and accountability.

276 (c) Powers.—Commission members shall serve as the agency  
277 head for purposes of rulemaking under ss. 120.536-120.565 by the  
278 commission and all subunits of the commission. Each director is  
279 agency head for purposes of final agency action under chapter  
280 120 for all areas within the regulatory authority delegated to

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281 the director's office.

282 (d) Appointment and qualifications of directors.—The  
283 commission shall appoint or remove each director by a majority  
284 vote consisting of at least three affirmative votes, with both  
285 the Governor and the Chief Financial Officer on the prevailing  
286 side. The minimum qualifications of the directors are as  
287 follows:

288 1. Prior to appointment as director, the director of the  
289 Office of Insurance Regulation must have had, within the  
290 previous 10 years, at least 5 years of responsible private  
291 sector experience working full time in areas within the scope of  
292 the subject matter jurisdiction of the Office of Insurance  
293 Regulation or at least 5 years of experience as a senior  
294 examiner or other senior employee of a state or federal agency  
295 having regulatory responsibility over insurers or insurance  
296 agencies.

297 2. Prior to appointment as director, the director of the  
298 Office of Financial Regulation must have had, within the  
299 previous 10 years, at least 5 years of responsible private  
300 sector experience working full time in areas within the subject  
301 matter jurisdiction of the Office of Financial Regulation or at  
302 least 5 years of experience as a senior examiner or other senior  
303 employee of a state or federal agency having regulatory  
304 responsibility over financial institutions, finance companies,  
305 or securities companies.

306 3. The executive director of the Office of Regulatory  
307 Staff must meet the qualification requirements under s. 350.073.  
308 Appointment of the executive director is subject to confirmation

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309 by the Senate.

310 (e) Administrative support.—The offices shall have a  
311 sufficient number of attorneys, examiners, investigators, other  
312 professional personnel to carry out their responsibilities and  
313 administrative personnel as determined annually in the  
314 appropriations process. The Department of Financial Services  
315 shall provide administrative and information systems support to  
316 the offices.

317 (f) Records retention schedules.—The commission and the  
318 offices may destroy general correspondence files and also any  
319 other records that they deem no longer necessary to preserve in  
320 accordance with retention schedules and destruction notices  
321 established under rules of the Division of Library and  
322 Information Services, records and information management  
323 program, of the Department of State. Such schedules and notices  
324 relating to financial records of the commission and offices  
325 shall be subject to the approval of the Auditor General.

326 (g) Records storage.—The commission and offices may  
327 photograph, microphotograph, or reproduce on film such documents  
328 and records as they may select, in such manner that each page  
329 will be exposed in exact conformity with the original. After  
330 reproduction and filing, original documents and records may be  
331 destroyed in accordance with the provisions of paragraph (f).

332 Section 2. Paragraphs (a) and (c) of subsection (8) of  
333 section 112.324, Florida Statutes, are amended to read:

334 112.324 Procedures on complaints of violations; public  
335 records and meeting exemptions.—

336 (8) If, in cases pertaining to complaints other than

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337 | complaints against impeachable officers or members of the  
338 | Legislature, upon completion of a full and final investigation  
339 | by the commission, the commission finds that there has been a  
340 | violation of this part or of s. 8, Art. II of the State  
341 | Constitution, it shall be the duty of the commission to report  
342 | its findings and recommend appropriate action to the proper  
343 | disciplinary official or body as follows, and such official or  
344 | body shall have the power to invoke the penalty provisions of  
345 | this part, including the power to order the appropriate  
346 | elections official to remove a candidate from the ballot for a  
347 | violation of s. 112.3145 or s. 8(a) and (i), Art. II of the  
348 | State Constitution:

349 |       (a) The President of the Senate and the Speaker of the  
350 | House of Representatives, jointly, in any case concerning ~~the~~  
351 | ~~Public Counsel~~, members of the Public Service Commission,  
352 | members of the Public Service Commission Nominating Council, the  
353 | Auditor General, the director of the Office of Program Policy  
354 | Analysis and Government Accountability, or members of the  
355 | Legislative Committee on Intergovernmental Relations.

356 |       (c) The President of the Senate, in any case concerning an  
357 | employee of the Senate; the Speaker of the House of  
358 | Representatives, in any case concerning an employee of the House  
359 | of Representatives; or the President and the Speaker, jointly,  
360 | in any case concerning an employee of a committee of the  
361 | Legislature whose members are appointed solely by the President  
362 | and the Speaker or in any case concerning an employee of the  
363 | ~~Public Counsel~~, Public Service Commission, Auditor General,  
364 | Office of Program Policy Analysis and Government Accountability,

365 or Legislative Committee on Intergovernmental Relations.

366 Section 3. Subsection (2) of section 186.801, Florida  
 367 Statutes, is amended to read:

368 186.801 Ten-year site plans.—

369 (2) Within 9 months after the receipt of the proposed  
 370 plan, the commission shall request assistance from the Office of  
 371 Regulatory Staff to make a preliminary study of such plan and  
 372 shall classify the plan ~~it~~ as "suitable" or "unsuitable." The  
 373 commission may suggest alternatives to the plan. All findings of  
 374 the commission shall be made available to the Department of  
 375 Environmental Protection for its consideration at any subsequent  
 376 electrical power plant site certification proceedings. It is  
 377 recognized that 10-year site plans submitted by an electric  
 378 utility are tentative information for planning purposes only and  
 379 may be amended at any time at the discretion of the utility upon  
 380 written notification to the commission. A complete application  
 381 for certification of an electrical power plant site under  
 382 chapter 403, when such site is not designated in the current 10-  
 383 year site plan of the applicant, shall constitute an amendment  
 384 to the 10-year site plan. In its preliminary study of each 10-  
 385 year site plan, the commission shall consider such plan as a  
 386 planning document and shall review:

387 (a) The need, including the need as determined by the  
 388 commission, for electrical power in the area to be served.

389 (b) The effect on fuel diversity within the state.

390 (c) The anticipated environmental impact of each proposed  
 391 electrical power plant site.

392 (d) Possible alternatives to the proposed plan.

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393 (e) The views of appropriate local, state, and federal  
394 agencies, including the views of the appropriate water  
395 management district as to the availability of water and its  
396 recommendation as to the use by the proposed plant of salt water  
397 or fresh water for cooling purposes.

398 (f) The extent to which the plan is consistent with the  
399 state comprehensive plan.

400 (g) The plan with respect to the information of the state  
401 on energy availability and consumption.

402 Section 4. Section 350.001, Florida Statutes, is amended  
403 to read:

404 350.001 Legislative intent.—

405 (1) The Florida Public Service Commission has been and  
406 shall continue to be an arm of the legislative branch of  
407 government. In the exercise of its jurisdiction, the commission  
408 shall neither establish nor implement any regulatory policy that  
409 is contrary to, or is an expansion of, the authority granted to  
410 it by the Legislature.

411 (2) The Public Service Commission and its staff shall  
412 perform their ~~its~~ duties independently, impartially,  
413 professionally, honorably, and without undue influence from any  
414 person.

415 (3) It is the desire of the Legislature that the Governor  
416 participate in the appointment process of commissioners to the  
417 Public Service Commission. The Legislature accordingly delegates  
418 to the Governor a limited authority with respect to the Public  
419 Service Commission by authorizing him or her to participate in  
420 the selection of members only in the manner prescribed by s.

421 350.031.

422 Section 5. Section 350.011, Florida Statutes, is amended  
423 to read:

424 350.011 Florida Public Service Commission; jurisdiction;  
425 powers and duties.—

426 (1) The state regulatory agency heretofore known as the  
427 Florida Railroad and Public Utilities Commission or Florida  
428 Public Utilities Commission shall be known and hereafter called  
429 Florida Public Service Commission, and all rights, powers,  
430 duties, responsibilities, jurisdiction, and judicial powers now  
431 vested in said Railroad and Public Utilities Commission or said  
432 Florida Public Utilities Commission and the commissioners  
433 thereof are vested in the Florida Public Service Commission and  
434 the commissioners thereof.

435 (2) The commissioners of the Florida Public Service  
436 Commission shall not supervise, direct, or control any person  
437 whose services are employed by the Office of Regulatory Staff  
438 created under ss. 20.121 and 350.071.

439 (3) Notwithstanding any other provision of law, the  
440 commission shall not inspect, audit, or examine any entity  
441 subject to the jurisdiction of the commission pursuant to any  
442 provision of law, as these functions are the sole responsibility  
443 of the Office of Regulatory Staff.

444 (4) The commission staff shall not appear as a party in  
445 commission proceedings or offer testimony on issues before the  
446 commission. The commission staff shall not conduct discovery,  
447 either informally or pursuant to the Florida Rules of Civil  
448 Procedure, in any proposed agency action proceeding or any



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449 proceeding under s. 120.569 or s. 120.57 in which the  
450 substantial interests of a party are determined by the  
451 commission.

452 Section 6. Section 350.012, Florida Statutes, is repealed.

453 Section 7. Paragraphs (b) and (d) of subsection (1) and  
454 subsection (5) of section 350.031, Florida Statutes, are amended  
455 to read:

456 350.031 Florida Public Service Commission Nominating  
457 Council.—

458 (1)

459 (b) All terms shall be for 4 years except those members of  
460 the House and Senate, who shall serve 2-year terms concurrent  
461 with the 2-year elected terms of House members. ~~All terms of the~~  
462 ~~members of the Public Service Commission Nominating Council~~  
463 ~~existing on June 30, 2008, shall terminate upon the effective~~  
464 ~~date of this act; however, such members may serve an additional~~  
465 ~~term if reappointed by the Speaker of the House of~~  
466 ~~Representatives or the President of the Senate.~~ To establish  
467 staggered terms, appointments of members shall be made for  
468 initial terms to begin on July 1, 2008, with each appointing  
469 officer to appoint three legislator members, one of whom shall  
470 be a member of the minority party, to terms through the  
471 remainder of the 2-year elected terms of House members; one  
472 nonlegislator member to a 6-month term; one nonlegislator member  
473 to an 18-month term; and one nonlegislator member to a 42-month  
474 term. Thereafter, the terms of the nonlegislator members of the  
475 Public Service Commission Nominating Council shall begin on  
476 January 2 of the year the term commences and end 4 years later

477 on January 1.

478 (d) Vacancies on the council shall be filled for the  
 479 unexpired portion of the term in the same manner as original  
 480 appointments to the council. A member may not be reappointed to  
 481 the council, except for a member of the House of Representatives  
 482 or the Senate who may be appointed to two 2-year terms, ~~members~~  
 483 ~~who are reappointed pursuant to paragraph (b)~~, or a person who  
 484 is appointed to fill the remaining portion of an unexpired term.

485 (5) A person may not be nominated ~~to the Governor~~ for  
 486 appointment to the Public Service Commission until the council  
 487 has determined that the person satisfies the qualifications set  
 488 forth in s. 350.04(2) ~~is competent and knowledgeable in one or~~  
 489 ~~more fields, which shall include, but not be limited to: public~~  
 490 ~~affairs, law, economics, accounting, engineering, finance,~~  
 491 ~~natural resource conservation, energy, or another field~~  
 492 ~~substantially related to the duties and functions of the~~  
 493 ~~commission~~. The commission shall fairly represent the ~~above-~~  
 494 ~~stated~~ fields identified in s. 350.04(2). Recommendations of the  
 495 council shall be nonpartisan.

496 Section 8. Section 350.035, Florida Statutes, is created  
 497 to read:

498 350.035 Prohibited influence on commissioners.—Neither the  
 499 Governor, the President of the Senate, the Speaker of the House  
 500 of Representatives, nor a member of the Public Service  
 501 Commission Nominating Council shall attempt to sway the  
 502 independent judgment of the commission by bringing pressure to  
 503 bear upon a commissioner or commission employee through that  
 504 person's role in the nomination, appointment, or confirmation of

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505 commissioners. It is the duty of the Commission on Ethics to  
506 receive and investigate sworn complaints of violations of this  
507 section pursuant to ss. 112.322-112.3241.

508 Section 9. Section 350.04, Florida Statutes, is amended to  
509 read:

510 350.04 Qualifications of commissioners; training and  
511 continuing education.—

512 (1) A commissioner may not, at the time of appointment or  
513 during his or her term of office:

514 (a)~~(1)~~ Have any financial interest, other than ownership  
515 of shares in a mutual fund, in any business entity which, either  
516 directly or indirectly, owns or controls any public utility  
517 regulated by the commission, in any public utility regulated by  
518 the commission, or in any business entity which, either directly  
519 or indirectly, is an affiliate or subsidiary of any public  
520 utility regulated by the commission.

521 (b)~~(2)~~ Be employed by or engaged in any business activity  
522 with any business entity which, either directly or indirectly,  
523 owns or controls any public utility regulated by the commission,  
524 by any public utility regulated by the commission, or by any  
525 business entity which, either directly or indirectly, is an  
526 affiliate or subsidiary of any public utility regulated by the  
527 commission.

528 (2) Each person recommended for appointment to the Public  
529 Service Commission by the Public Service Commission Nominating  
530 Council must:

531 (a) Have earned at least a baccalaureate degree from an  
532 institution of higher learning accredited by a regional or

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533 national accrediting body; and

534 (b) Possess a minimum of 10 years of professional  
535 experience, or a minimum of 6 years of professional experience  
536 if the person has earned an advanced degree, in one or more of  
537 the following:

538 1. Energy or electric industry issues.

539 2. Telecommunications issues.

540 3. Water and sewer industry issues.

541 4. Finance.

542 5. Economics.

543 6. Accounting.

544 7. Engineering.

545 8. Law.

546 (3) Before voting on any matter before the Public Service  
547 Commission, each person appointed to the commission after July  
548 1, 2010, shall complete a comprehensive course of study,  
549 developed by the executive director and general counsel of the  
550 Office of Regulatory Staff in coordination with the National  
551 Association of Regulatory Utility Commissioners Subcommittee on  
552 Education and Research, that addresses the substantive matters  
553 within the jurisdiction of the commission, administrative law  
554 applicable to commission proceedings, and standards of conduct  
555 applicable to commissioners. Thereafter, each commissioner must  
556 annually complete no less than 10 hours of continuing  
557 professional education directly related to substantive matters  
558 within the jurisdiction of the commission.

559 (4) No less than once every 12 months, each commissioner  
560 and commission employee shall receive training, in a form

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561 developed by the executive director and general counsel of the  
562 Office of Regulatory Staff, that addresses the ethical standards  
563 of conduct applicable to commissioners and their staff.

564 (5) The chair of the Public Service Commission shall  
565 certify the commission's compliance with these requirements, and  
566 each commissioner shall certify his or her individual compliance  
567 with the continuing professional education requirements provided  
568 in subsection (3). Each certification of compliance shall be  
569 provided to the President of the Senate and the Speaker of the  
570 House of Representatives.

571 Section 10. Section 350.041, Florida Statutes, is amended  
572 to read:

573 350.041 Commissioners; standards of conduct.—

574 (1) STATEMENT OF INTENT.—

575 (a) Professional, impartial, and honorable commissioners  
576 are indispensable to the effective performance of the  
577 commission's duties. A commissioner shall maintain high  
578 standards of conduct and shall personally observe those  
579 standards so that the integrity and impartiality of the  
580 commission may be preserved. The standards of conduct provided  
581 in this section should be construed and applied to further that  
582 objective.

583 (b) In addition to the provisions of part III of chapter  
584 112, which are applicable to public service commissioners by  
585 virtue of their being public officers and full-time employees of  
586 the legislative branch of government, the conduct of public  
587 service commissioners shall be governed by the standards of  
588 conduct provided in this section. Nothing shall prohibit the

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589 standards of conduct from being more restrictive than part III  
590 of chapter 112. Further, this section shall not be construed to  
591 contravene the restrictions of part III of chapter 112. In the  
592 event of a conflict between this section and part III of chapter  
593 112, the more restrictive provision shall apply.

594 (2) STANDARDS OF CONDUCT.—

595 (a) A commissioner may not accept anything from any  
596 business entity which, either directly or indirectly, owns or  
597 controls any public utility regulated by the commission, from  
598 any public utility regulated by the commission, or from any  
599 business entity which, either directly or indirectly, is an  
600 affiliate or subsidiary of any public utility regulated by the  
601 commission. A commissioner may attend conferences and associated  
602 meals and events that are generally available to all conference  
603 participants without payment of any fees in addition to the  
604 conference fee. Additionally, while attending a conference, a  
605 commissioner may attend meetings, meals, or events that are not  
606 sponsored, in whole or in part, by any representative of any  
607 public utility regulated by the commission and that are limited  
608 to commissioners only, committee members, or speakers if the  
609 commissioner is a member of a committee of the association of  
610 regulatory agencies that organized the conference or is a  
611 speaker at the conference. It is not a violation of this  
612 paragraph for a commissioner to attend a conference for which  
613 conference participants who are employed by a utility regulated  
614 by the commission have paid a higher conference registration fee  
615 than the commissioner, or to attend a meal or event that is  
616 generally available to all conference participants without

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617 payment of any fees in addition to the conference fee and that  
618 is sponsored, in whole or in part, by a utility regulated by the  
619 commission. If, during the course of an investigation by the  
620 Commission on Ethics into an alleged violation of this  
621 paragraph, allegations are made as to the identity of the person  
622 giving or providing the prohibited gift, that person must be  
623 given notice and an opportunity to participate in the  
624 investigation and relevant proceedings to present a defense. If  
625 the Commission on Ethics determines that the person gave or  
626 provided a prohibited gift, the person may not appear before the  
627 commission or otherwise represent anyone before the commission  
628 for a period of 2 years.

629 (b) A commissioner may not accept any form of employment  
630 with or engage in any business activity with any business entity  
631 which, either directly or indirectly, owns or controls any  
632 public utility regulated by the commission, any public utility  
633 regulated by the commission, or any business entity which,  
634 either directly or indirectly, is an affiliate or subsidiary of  
635 any public utility regulated by the commission.

636 (c) A commissioner may not have any financial interest,  
637 other than shares in a mutual fund, in any public utility  
638 regulated by the commission, in any business entity which,  
639 either directly or indirectly, owns or controls any public  
640 utility regulated by the commission, or in any business entity  
641 which, either directly or indirectly, is an affiliate or  
642 subsidiary of any public utility regulated by the commission. If  
643 a commissioner acquires any financial interest prohibited by  
644 this section during his or her term of office as a result of

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645 events or actions beyond the commissioner's control, he or she  
646 shall immediately sell such financial interest or place such  
647 financial interest in a blind trust at a financial institution.  
648 A commissioner may not attempt to influence, or exercise any  
649 control over, decisions regarding the blind trust.

650 (d) A commissioner may not accept anything from a party in  
651 a proceeding currently pending before the commission. If, during  
652 the course of an investigation by the Commission on Ethics into  
653 an alleged violation of this paragraph, allegations are made as  
654 to the identity of the person giving or providing the prohibited  
655 gift, that person must be given notice and an opportunity to  
656 participate in the investigation and relevant proceedings to  
657 present a defense. If the Commission on Ethics determines that  
658 the person gave or provided a prohibited gift, the person may  
659 not appear before the commission or otherwise represent anyone  
660 before the commission for a period of 2 years.

661 (e) A commissioner may not serve as the representative of  
662 any political party or on any executive committee or other  
663 governing body of a political party; serve as an executive  
664 officer or employee of any political party, committee,  
665 organization, or association; receive remuneration for  
666 activities on behalf of any candidate for public office; engage  
667 on behalf of any candidate for public office in the solicitation  
668 of votes or other activities on behalf of such candidacy; or  
669 become a candidate for election to any public office without  
670 first resigning from office.

671 (f) A commissioner, during his or her term of office, may  
672 not make any public comment regarding the merits of any



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673 proceeding under ss. 120.569 and 120.57 currently pending before  
674 the commission.

675 (g) A commissioner may not conduct himself or herself in  
676 an unprofessional manner at any time during the performance of  
677 his or her official duties.

678 (h) The chair shall require order and decorum in  
679 proceedings before the commission. In the absence of the chair,  
680 the commissioner presiding over a commission proceeding shall  
681 require order and decorum in the proceeding.

682 (i) A commissioner shall be patient, dignified, and  
683 courteous to litigants, other commissioners, witnesses, lawyers,  
684 commission staff, staff of the Office of Regulatory Staff, and  
685 others with whom the commissioner deals in an official capacity.

686 (j) A commissioner shall perform his or her official  
687 duties without bias or prejudice. A commissioner may not, in the  
688 performance of his or her official duties, by words or conduct  
689 manifest bias or prejudice.

690 (k) A commissioner may not, with respect to parties or  
691 classes of parties, cases, controversies, or issues likely to  
692 come before the commission, make pledges, promises, or  
693 commitments that are inconsistent with the impartial performance  
694 of the commissioner's official duties.

695 (l) A commissioner may not be swayed by partisan  
696 interests, public clamor, or fear of criticism.

697 (m) ~~(h)~~ A commissioner must avoid impropriety in all of his  
698 or her activities and must act at all times in a manner that  
699 promotes public confidence in the integrity and impartiality of  
700 the commission.

701        (n) ~~(i)~~ A commissioner may not directly or indirectly,  
 702 through staff or other means, solicit anything of value from any  
 703 public utility regulated by the commission, or from any business  
 704 entity that, whether directly or indirectly, is an affiliate or  
 705 subsidiary of any public utility regulated by the commission, or  
 706 from any party appearing in a proceeding considered by the  
 707 commission in the last 2 years.

708        (3) INVESTIGATIONS; REPORTS; ADVISORY OPINIONS.—

709        (a) The Commission on Ethics shall accept and investigate  
 710 any alleged violations of this section pursuant to the  
 711 procedures contained in ss. 112.322-112.3241.

712        (b) The Commission on Ethics shall provide the Governor  
 713 and the Florida Public Service Commission Nominating Council  
 714 with a report of its findings and recommendations with respect  
 715 to alleged violations by a public service commissioner. The  
 716 Governor is authorized to enforce these ~~the~~ findings and  
 717 recommendations ~~of the Commission on Ethics,~~ pursuant to part  
 718 III of chapter 112.

719        (c) The Commission on Ethics shall provide the  
 720 disciplinary officials or bodies specified in part III of  
 721 chapter 112 with a report of its findings and recommendations  
 722 with respect to alleged violations of the specific provisions of  
 723 this section that, pursuant to s. 350.073, are applicable to the  
 724 executive director of the Office of Regulatory Staff.

725        (d) A public service commissioner, a commission employee,  
 726 the executive director of the Office of Regulatory Staff, or a  
 727 member of the Florida Public Service Commission Nominating  
 728 Council may request an advisory opinion from the Commission on

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729 Ethics, pursuant to s. 112.322(3)(a), regarding the standards of  
 730 conduct or prohibitions set forth in this section and ss.  
 731 350.031, 350.04, and 350.042.

732 Section 11. Section 350.042, Florida Statutes, is amended  
 733 to read:

734 350.042 Ex parte communications.—

735 (1) Each ~~A~~ commissioner and employee of the commission  
 736 shall ~~should~~ accord to every person who is a party to or is  
 737 registered with the commission as an interested person in a  
 738 proposed agency action proceeding, or who is a party to a  
 739 proceeding under s. 120.565, s. 120.569, or s. 120.57 ~~legally~~  
 740 ~~interested in a proceeding, or the person's lawyer, full right~~  
 741 ~~to be heard according to law, and, except as authorized by law,~~  
 742 ~~shall~~ not ~~neither~~ initiate, solicit, or ~~nor~~ consider ex parte  
 743 communications concerning a pending proposed agency action ~~the~~  
 744 ~~merits, threat, or offer of reward in any proceeding or a~~  
 745 proceeding under s. 120.565, s. 120.569, or s. 120.57 ~~other than~~  
 746 ~~a proceeding under s. 120.54 or s. 120.565, workshops, or~~  
 747 ~~internal affairs meetings.~~ No individual shall discuss ex parte  
 748 with a commissioner the merits of any issue that he or she knows  
 749 will be filed with the commission within 180 ~~90~~ days. ~~The~~  
 750 ~~provisions of this subsection shall not apply to commission~~  
 751 ~~staff.~~

752 (a) As used in this section, the term "ex parte  
 753 communication" means any communication that:

754 1. If it is a written or printed communication or a  
 755 communication in electronic form, is not served on all parties  
 756 to a proceeding; or

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757        2. If it is an oral communication, is made without  
758 adequate notice to the parties and without an opportunity for  
759 the parties to be present and heard.

760        (b) Where circumstances require, ex parte communications  
761 concerning scheduling, administrative purposes, or emergencies  
762 that do not deal with substantive matters or issues on the  
763 merits are authorized, if:

764        1. The commissioner or commission employee reasonably  
765 believes that no party will gain a procedural or tactical  
766 advantage as a result of the ex parte communication; and

767        2. The commissioner or commission employee makes provision  
768 promptly to notify all parties of the substance of the ex parte  
769 communication and, where possible, allows an opportunity to  
770 respond.

771        (2) The provisions of this section shall not prohibit an  
772 individual residential ratepayer from communicating with a  
773 commissioner or commission employee, provided that the ratepayer  
774 is representing only himself or herself, without compensation.

775        (3) This section shall not apply to oral communications or  
776 discussions in scheduled and noticed open public meetings of  
777 educational programs or of a conference or other meeting of an  
778 association of regulatory agencies.

779        (4) If a commissioner or commission employee knowingly  
780 receives an ex parte communication prohibited by this section  
781 ~~relative to a proceeding other than as set forth in subsection~~  
782 ~~(1)~~, to which he or she is assigned, he or she must place on the  
783 record of the proceeding copies of all written communications  
784 received, all written responses to the communications, and a

785 memorandum stating the substance of all oral communications  
 786 received and all oral responses made, and shall give written  
 787 notice to all parties to the communication that such matters  
 788 have been placed on the record. Any party to the proceeding who  
 789 desires to respond to the ~~an ex parte~~ communication may do so.  
 790 The response must be received by the commission within 10 days  
 791 after receiving notice that the ~~ex parte~~ communication has been  
 792 placed on the record. The commissioner may, if he or she deems  
 793 it necessary to eliminate the effect of an ex parte  
 794 communication received by him or her, withdraw from the  
 795 proceeding, in which case the chair shall substitute another  
 796 commissioner for the proceeding.

797 (5) Any individual who makes an ex parte communication  
 798 prohibited by this section shall submit to the commission a  
 799 written statement describing the nature of such communication,  
 800 to include the name of the person making the communication, the  
 801 name of each ~~the~~ commissioner or commission employee  
 802 ~~commissioners~~ receiving the communication, copies of all written  
 803 communications made, all written responses to such  
 804 communications, and a memorandum stating the substance of all  
 805 oral communications received and all oral responses made. The  
 806 commission shall place on the record of a proceeding all such  
 807 communications.

808 (6) Any commissioner or commission employee who knowingly  
 809 fails to place on the record any ex parte communication  
 810 prohibited by this section ~~such communications~~, in violation of  
 811 this ~~the~~ section, within 15 days after ~~of~~ the date of the ~~such~~  
 812 communication is subject to removal or dismissal and may be

813 | assessed a civil penalty not to exceed \$5,000. Any individual  
 814 | who knowingly fails to comply with subsection (5) may be  
 815 | assessed a civil penalty not to exceed \$5,000.

816 | (7) (a) It is ~~shall be~~ the duty of the Commission on Ethics  
 817 | to receive and investigate sworn complaints of violations of  
 818 | this section pursuant to the procedures contained in ss.  
 819 | 112.322-112.3241.

820 | (b) If the Commission on Ethics finds that there has been  
 821 | a violation of this section by a public service commissioner or  
 822 | commission employee, it shall provide the Governor and the  
 823 | Florida Public Service Commission Nominating Council with a  
 824 | report of its findings and recommendations. The Governor is  
 825 | authorized to enforce the findings and recommendations of the  
 826 | Commission on Ethics, pursuant to part III of chapter 112.

827 | (c) If a commissioner, commission employee, or other  
 828 | individual fails or refuses to pay the Commission on Ethics any  
 829 | civil penalties assessed pursuant to ~~the provisions of this~~  
 830 | section, the Commission on Ethics may bring an action in any  
 831 | circuit court to enforce the ~~such~~ penalty.

832 | (d) If, during the course of an investigation by the  
 833 | Commission on Ethics into an alleged violation of this section,  
 834 | allegations are made as to the identity of the person who  
 835 | participated in the ex parte communication, that person must be  
 836 | given notice and an opportunity to participate in the  
 837 | investigation and relevant proceedings to present a defense. If  
 838 | the Commission on Ethics determines that the person participated  
 839 | in the ex parte communication, the person may not appear before  
 840 | the commission or otherwise represent anyone before the

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841 | commission for a period of 2 years.

842 |       Section 12. Subsections (1), (2), and (3) of section  
843 | 350.06, Florida Statutes, are amended to read:

844 |       350.06 Place of meeting; expenditures; employment of  
845 | personnel; records availability and fees.—

846 |       (1) The offices of the commission ~~said commissioners~~ shall  
847 | be in the vicinity of Tallahassee, but the commissioners may  
848 | hold sessions anywhere in the state at their discretion.

849 |       (2) All sums of money authorized to be paid on account of  
850 | the commission ~~said commissioners~~ shall be paid out of the State  
851 | Treasury only on the order of the Chief Financial Officer.

852 |       (3) The commission ~~commissioners~~ may employ clerical,  
853 | technical, and professional personnel reasonably necessary for  
854 | the performance of its ~~their~~ duties, except for those  
855 | responsibilities and functions reserved to the Office of  
856 | Regulatory Staff, and may also employ one or more persons  
857 | capable of stenographic court reporting, to be known as the  
858 | official reporters of the commission.

859 |       Section 13. Section 350.0605, Florida Statutes, is amended  
860 | to read:

861 |       350.0605 Former commissioners; executive directors; and  
862 | employees of the commission or Office of Regulatory Staff;  
863 | representation of clients before commission.—

864 |       (1) Any former commissioner of the Public Service  
865 | Commission or former executive director of the Office of  
866 | Regulatory Staff is prohibited from appearing before the  
867 | commission representing any client or any industry regulated by  
868 | the Public Service Commission for a period of 2 years following

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869 termination of service as a commissioner or executive director  
870 ~~on the commission.~~

871 (2) Any former employee of the commission or the Office of  
872 Regulatory Staff is prohibited from appearing before the  
873 commission representing any client regulated by the Public  
874 Service Commission on any matter which was pending at the time  
875 of termination and in which such former employee had  
876 participated.

877 (3) For a period of 2 years following termination of  
878 service as a commissioner or executive director ~~on the~~  
879 ~~commission~~, a former commissioner of the Public Service  
880 Commission or former executive director of the Office of  
881 Regulatory Staff ~~member~~ may not accept employment by or  
882 compensation from a business entity which, directly or  
883 indirectly, owns or controls a public utility regulated by the  
884 commission, from a public utility regulated by the commission,  
885 from a business entity which, directly or indirectly, is an  
886 affiliate or subsidiary of a public utility regulated by the  
887 commission or is an actual business competitor of a local  
888 exchange company or public utility regulated by the commission  
889 and is otherwise exempt from regulation by the commission under  
890 ss. 364.02(15) ~~(14)~~ and 366.02(1), or from a business entity or  
891 trade association that has been a party to a commission  
892 proceeding within the 2 years preceding the member's termination  
893 of service on the commission. This subsection applies only to  
894 members of the Florida Public Service Commission who are  
895 appointed or reappointed after May 10, 1993.

896 Section 14. Subsection (1) of section 350.061, Florida



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897 Statutes, is amended to read:

898 350.061 Public Counsel; appointment; oath; restrictions on  
899 Public Counsel and his or her employees.—

900 (1) The Attorney General ~~Committee on Public Counsel~~  
901 ~~Oversight~~ shall appoint a Public Counsel ~~by majority vote of the~~  
902 ~~members of the committee~~ to represent the general public of  
903 Florida before the Florida Public Service Commission. The Public  
904 Counsel shall be an attorney admitted to practice before the  
905 Florida Supreme Court and shall serve at the pleasure of the  
906 Attorney General ~~Committee on Public Counsel Oversight~~, subject  
907 ~~to biennial reconfirmation by the committee~~. The Public Counsel  
908 shall perform his or her duties independently. Vacancies in the  
909 office shall be filled in the same manner as the original  
910 appointment.

911 Section 15. Section 350.0613, Florida Statutes, is amended  
912 to read:

913 350.0613 Public Counsel; employees; receipt of pleadings.—  
914 The Attorney General ~~committee~~ may authorize the Public Counsel  
915 to employ clerical and technical assistants whose  
916 qualifications, duties, and responsibilities the Attorney  
917 General ~~committee~~ shall from time to time prescribe. The  
918 Attorney General ~~committee~~ may from time to time authorize  
919 retention of the services of additional attorneys or experts to  
920 the extent that the best interests of the people of the state  
921 will be better served thereby, including the retention of expert  
922 witnesses and other technical personnel for participation in  
923 contested proceedings before the commission. The commission  
924 shall furnish the Public Counsel with copies of the initial

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925 pleadings in all proceedings before the commission, and if the  
 926 Public Counsel intervenes as a party in any proceeding he or she  
 927 shall be served with copies of all subsequent pleadings,  
 928 exhibits, and prepared testimony, if used. Upon filing notice of  
 929 intervention, the Public Counsel shall serve all interested  
 930 parties with copies of such notice and all of his or her  
 931 subsequent pleadings and exhibits.

932 Section 16. Section 350.0614, Florida Statutes, is amended  
 933 to read:

934 350.0614 Public Counsel; compensation and expenses.—

935 ~~(1)~~ The salaries and expenses of the Public Counsel and  
 936 his or her employees shall be allocated by the Attorney General  
 937 ~~committee~~ only from moneys appropriated to the Public Counsel by  
 938 the Legislature.

939 ~~(2) The Legislature declares and determines that the~~  
 940 ~~Public Counsel is under the legislative branch of government~~  
 941 ~~within the intention of the legislation as expressed in chapter~~  
 942 ~~216, and no power shall be in the Executive Office of the~~  
 943 ~~Governor or its successor to release or withhold funds~~  
 944 ~~appropriated to it, but the same shall be available for~~  
 945 ~~expenditure as provided by law and the rules or decisions of the~~  
 946 ~~Committee on Public Counsel Oversight.~~

947 ~~(3) Neither the Executive Office of the Governor nor the~~  
 948 ~~Department of Management Services or its successor shall have~~  
 949 ~~power to determine the number, or fix the compensation, of the~~  
 950 ~~employees of the Public Counsel or to exercise any manner of~~  
 951 ~~control over them.~~

952 Section 17. Section 350.071, Florida Statutes, is created

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953 to read:

954 350.071 Office of Regulatory Staff; creation; status;  
955 purpose.-

956 (1) The Office of Regulatory Staff is created as an office  
957 within the Financial Services Commission. The office shall  
958 perform its duties independently.

959 (2) The office shall be considered a party of record in  
960 all proceedings before the Public Service Commission. All  
961 tariffs, initial pleadings, complaints, and notices of appeal  
962 filed with the commission shall be served upon the office. The  
963 commission shall notify the office of the initiation of any  
964 rulemaking proceeding, workshop, or other proceeding that the  
965 commission is authorized by law to initiate.

966 (3) The office shall represent the public interest of this  
967 state. As used in ss. 350.071-350.075, the term "public  
968 interest" means a balancing of the following:

969 (a) Concerns of the using and consuming public, regardless  
970 of customer class, with respect to services provided by any  
971 company subject to the jurisdiction of the commission pursuant  
972 to any provision of law.

973 (b) Preservation of the financial integrity of the state's  
974 regulated public utilities and continued investment in and  
975 maintenance of facilities in order to provide reliable utility  
976 services at fair, just, and reasonable rates.

977 (c) Promotion of fair competition in telecommunications  
978 markets.

979 (4) The Office of Regulatory Staff shall be subject to the  
980 same provisions governing ex parte communications that apply to

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981 any other party to a commission proceeding. Any recommendation  
982 of the Office of Regulatory Staff shall be provided to the  
983 commission in a form, forum, and manner as may lawfully be  
984 provided by any other party.

985 Section 18. Section 350.072, Florida Statutes, is created  
986 to read:

987 350.072 Office of Regulatory Staff; organization,  
988 administration, and operations.-

989 (1) The Office of Regulatory Staff shall consist of the  
990 executive director and any clerical, technical, and professional  
991 personnel that the executive director deems to be reasonably  
992 necessary for the performance of the duties of the office. The  
993 executive director is authorized to employ expert witnesses and  
994 other professional expertise that the executive director deems  
995 to be reasonably necessary to assist the office in the  
996 performance of its duties.

997 (2) The executive director shall employ and set the  
998 compensation for all personnel of the Office of Regulatory Staff  
999 and shall be responsible for the supervision and direction of  
1000 all such personnel.

1001 (3) The executive director and employees of the Office of  
1002 Regulatory Staff are not subject to the supervision, direction,  
1003 or control of the commission, the chair of the commission, or  
1004 any member or employee of the commission.

1005 (4) The executive director is responsible for preparing  
1006 the budget for the Office of Regulatory Staff and shall submit  
1007 the budget to the Financial Services Commission.

1008 (5) The Office of Regulatory Staff shall maintain offices

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1009 in Leon County at a place convenient to the offices of the  
 1010 commission that will enable the Office of Regulatory Staff to  
 1011 efficiently perform its functions and duties.

1012 (6) The Office of Regulatory Staff shall establish  
 1013 procedures governing its internal administration and operations.

1014 Section 19. Section 350.073, Florida Statutes, is created  
 1015 to read:

1016 350.073 Office of Regulatory Staff; executive director.-

1017 (1) The Financial Services Commission shall appoint or  
 1018 remove the executive director of the Office of Regulatory Staff  
 1019 in the manner set forth in s. 20.121(3)(d). Appointment of the  
 1020 executive director shall be subject to confirmation by the  
 1021 Senate. Until such time as the Senate confirms the appointment  
 1022 of the executive director, the appointee shall perform the  
 1023 functions of the office as provided by law.

1024 (2)(a) The term of the executive director shall be 4  
 1025 years, and the initial term of office shall begin January 2,  
 1026 2011. The Financial Services Commission shall appoint the  
 1027 executive director no less than 60 days prior to the first day  
 1028 of the term to which he or she is appointed.

1029 (b) In case of a vacancy in the office of executive  
 1030 director for any reason before expiration of the term of office,  
 1031 the Financial Services Commission shall appoint a new executive  
 1032 director in the same manner as the original appointment. The  
 1033 Financial Services Commission may appoint an interim executive  
 1034 director to serve until such time as a new executive director is  
 1035 appointed.

1036 (3) A person may not be appointed as executive director

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1037 until the Financial Services Commission determines that the  
 1038 person satisfies the criteria set forth in s. 350.04(1) and  
 1039 (2) (a) and possesses a minimum of 12 years of professional  
 1040 experience in one or more of the fields identified in s.  
 1041 350.04(2) (b) .

1042 (4) The salary of the executive director shall be set by  
 1043 the Financial Services Commission.

1044 (5) The executive director shall take and subscribe to the  
 1045 oath of office required of state officers by the State  
 1046 Constitution.

1047 (6) In addition to the provisions of part III of chapter  
 1048 112, applicable to the executive director by virtue of being a  
 1049 public officer, the executive director shall be subject to the  
 1050 standards of conduct applicable to commissioners pursuant to s.  
 1051 350.041(2) (a), (b), (c), (d), (e), (g), (l), and (n). In the  
 1052 event of a conflict between this section and part III of chapter  
 1053 112, the more restrictive provision shall apply.

1054 Section 20. Section 350.074, Florida Statutes, is created  
 1055 to read:

1056 350.074 Office of Regulatory Staff; duties.—

1057 (1) The Office of Regulatory Staff shall represent the  
 1058 public interest with respect to matters within the jurisdiction  
 1059 of the commission and, when considered necessary and in the  
 1060 public interest by the executive director, shall petition the  
 1061 commission to initiate proceedings on matters within its  
 1062 jurisdiction. The office shall have authority to:

1063 (a) Review and investigate the rates charged or proposed  
 1064 to be charged, and the service furnished or proposed to be

1065 furnished, by any public utility or regulated company.  
 1066 (b) Inspect, audit, and examine public utilities and  
 1067 regulated companies regarding matters within the jurisdiction of  
 1068 the commission.  
 1069 (c) Represent the public interest in commission  
 1070 proceedings, hearings, rulemakings, and other regulatory  
 1071 matters.  
 1072 (d) Investigate complaints made in connection with matters  
 1073 under the jurisdiction of the commission, including those  
 1074 complaints that are directed to the commission or commissioners.  
 1075 (e) Assist customers in the informal resolution of  
 1076 complaints regarding the rates or service of public utilities  
 1077 and regulated companies or regarding any other matter within the  
 1078 jurisdiction of the commission.  
 1079 (f) Make studies to the commission with respect to  
 1080 standards, regulations, practices, or service of any public  
 1081 utility or regulated company.  
 1082 (g) Provide legal representation of the public interest  
 1083 before other state agencies, federal agencies, and state and  
 1084 federal courts in connection with matters under the jurisdiction  
 1085 of the commission, including proceedings that could affect the  
 1086 rates or service of any public utility or regulated company.  
 1087 (h) Educate the public on matters within the jurisdiction  
 1088 of the commission which are of special interest to consumers.  
 1089 (2) The commission may not require the Office of  
 1090 Regulatory Staff to sponsor witnesses or provide testimony in  
 1091 any proceeding, but it may request in writing or at any duly  
 1092 noticed public meeting that the office:

1093 (a) Provide information and reports on any matter subject  
 1094 to the commission's jurisdiction and matters incidental to the  
 1095 jurisdiction of the commission;

1096 (b) Assist in the preparation of any report that the  
 1097 commission is required by law to produce; or

1098 (c) Conduct inspections, audits, or examinations of public  
 1099 utilities and regulated companies regarding matters within the  
 1100 jurisdiction of the commission.

1101 (3) Decisions relating to whether, when, or how to  
 1102 petition to initiate proceedings before the commission or to  
 1103 participate or intervene in proceedings before other state  
 1104 agencies, federal agencies, or state or federal courts are in  
 1105 the sole discretion of the executive director, except for those  
 1106 matters that are specified by order of a court of competent  
 1107 jurisdiction.

1108 (4) The Office of Regulatory Staff is considered to have  
 1109 an interest sufficient to maintain actions for judicial review  
 1110 of commission orders or decisions and may, as of right and in a  
 1111 manner prescribed by law, intervene or otherwise participate in  
 1112 any civil proceeding which involves the review or enforcement of  
 1113 commission action that the executive director determines may  
 1114 substantially affect the public interest.

1115 (5) The Office of Regulatory Staff shall provide to the  
 1116 Legislature an annual report of its activities.

1117 (6) The commission and the office shall establish mutually  
 1118 acceptable procedures by which the office may elect not to  
 1119 participate as a party in noncontroversial matters.



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1120 Section 21. Section 350.075, Florida Statutes, is created  
 1121 to read:

1122 350.075 Office of Regulatory Staff; access to records.—The  
 1123 Office of Regulatory Staff may access or require the production  
 1124 of books, records, and information pursuant to ss. 364.183,  
 1125 366.093, 367.156, and 368.108 and may access or require the  
 1126 production of any other records as provided by law.

1127 Section 22. Subsections (1), (2), and (6) of section  
 1128 350.113, Florida Statutes, are amended to read:

1129 350.113 Florida Public Service Regulatory Trust Fund;  
 1130 moneys to be deposited therein.—

1131 (1) There is hereby created in the State Treasury a  
 1132 special fund to be designated as the "Florida Public Service  
 1133 Regulatory Trust Fund" which shall be used in the operation of  
 1134 the commission and the Office of Regulatory Staff in the  
 1135 performance of the various functions and duties required of them  
 1136 ~~it~~ by law.

1137 (2) All fees, licenses, and other charges collected by the  
 1138 commission shall be deposited in the State Treasury to the  
 1139 credit of the Florida Public Service Regulatory Trust Fund to be  
 1140 used in the operation of the commission and the Office of  
 1141 Regulatory Staff as authorized by the Legislature; however,  
 1142 penalties and interest assessed and collected by the commission  
 1143 shall not be deposited in the trust fund but shall be deposited  
 1144 in the General Revenue Fund. The Florida Public Service  
 1145 Regulatory Trust Fund shall be subject to the service charge  
 1146 imposed pursuant to chapter 215.

1147 (6) All moneys in the Florida Public Service Regulatory

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1148 Trust Fund shall be for the use of the commission and the Office  
 1149 of Regulatory Staff in the performance of their ~~its~~ functions  
 1150 and duties as provided by law, subject to the fiscal and  
 1151 budgetary provisions of general law.

1152 Section 23. Subsections (1) and (2) of section 350.117,  
 1153 Florida Statutes, are amended to read:

1154 350.117 Reports; audits.—

1155 (1) The commission and the Office of Regulatory Staff may  
 1156 require such regular or emergency reports, including, but not  
 1157 limited to, financial reports, as the commission or the office  
 1158 deems necessary to fulfill its obligations under the law. A copy  
 1159 of any report provided to the commission must be provided to the  
 1160 Office of Regulatory Staff.

1161 (2) The commission may request that the Office of  
 1162 Regulatory Staff perform management and operation audits of any  
 1163 regulated company. The commission may consider the results of  
 1164 such audits in establishing rates; however, the company shall  
 1165 not be denied due process as a result of the use of any such  
 1166 management or operation audit.

1167 Section 24. Section 350.121, Florida Statutes, is  
 1168 repealed.

1169 Section 25. Section 350.122, Florida Statutes, is created  
 1170 to read:

1171 350.122 Testimony; public disclosure of affiliation.—

1172 (1) Each person offering testimony at a meeting, workshop,  
 1173 hearing, or other scheduled event of the commission shall  
 1174 disclose any financial or fiduciary relationship with any party

1175 to the proceedings at the time the testimony is provided to the  
 1176 commission.

1177 (2) The determination by the commission that a person has  
 1178 knowingly violated this section constitutes agency action for  
 1179 which a hearing may be sought under chapter 120.

1180 Section 26. Section 364.016, Florida Statutes, is amended  
 1181 to read:

1182 364.016 Travel costs.—The office ~~commission~~ has the  
 1183 authority to assess a telecommunications company for reasonable  
 1184 travel costs associated with reviewing the records of the  
 1185 telecommunications company and its affiliates when such records  
 1186 are kept out of state. The telecommunications company may bring  
 1187 the records back into the state for review.

1188 Section 27. Subsections (11) through (16) of section  
 1189 364.02, Florida Statutes, are renumbered as subsections (12)  
 1190 through (17), respectively, and a new subsection (11) is added  
 1191 to that section to read:

1192 364.02 Definitions.—As used in this chapter, the term:  
 1193 (11) "Office" means the Office of Regulatory Staff.

1194 Section 28. Section 364.15, Florida Statutes, is amended  
 1195 to read:

1196 364.15 Compelling repairs, improvements, changes,  
 1197 additions, or extensions.—Whenever the commission finds, ~~on its~~  
 1198 ~~own motion or~~ upon petition or complaint, that repairs or  
 1199 improvements to, or changes in, any telecommunications facility  
 1200 ought reasonably to be made, or that any additions or extensions  
 1201 should reasonably be made to any telecommunications facility, in  
 1202 order to promote the security or convenience of the public or

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1203 employees or in order to secure adequate service or facilities  
 1204 for basic local telecommunications services consistent with the  
 1205 requirements set forth in this chapter, the commission shall  
 1206 make and serve an order directing that such repairs,  
 1207 improvements, changes, additions, or extensions be made in the  
 1208 manner to be specified in the order. This section authorizes the  
 1209 commission to impose only those requirements that it is  
 1210 otherwise authorized to impose under this chapter.

1211 Section 29. Subsections (1) and (2) of section 364.183,  
 1212 Florida Statutes, are amended to read:

1213 364.183 Access to company records.—

1214 (1) The commission and the office shall have access to all  
 1215 records of a telecommunications company that are reasonably  
 1216 necessary for the disposition of matters within the commission's  
 1217 jurisdiction. The commission and the office shall also have  
 1218 access to those records of a local exchange telecommunications  
 1219 company's affiliated companies, including its parent company,  
 1220 that are reasonably necessary for the disposition of any matter  
 1221 concerning an affiliated transaction or a claim of  
 1222 anticompetitive behavior including claims of cross-subsidization  
 1223 and predatory pricing. Both the commission and the office may  
 1224 require a telecommunications company to file records, reports or  
 1225 other data directly related to matters within the commission's  
 1226 jurisdiction in the form specified in the request ~~by the~~  
 1227 ~~commission~~ and may require such company to retain such  
 1228 information for a designated period of time. Upon request of the  
 1229 company or other person, any records received by the commission  
 1230 or the office which are claimed by the company or other person

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1231 to be proprietary confidential business information shall be  
 1232 kept confidential and shall be exempt from s. 119.07(1) and s.  
 1233 24(a), Art. I of the State Constitution. The authority of the  
 1234 commission to access records under this section is granted  
 1235 subject to the limitations set forth in s. 350.011(3) and (4).

1236 (2) Discovery in any docket or proceeding before the  
 1237 commission shall be in the manner provided for in Rule 1.280 of  
 1238 the Florida Rules of Civil Procedure. Upon a showing by a  
 1239 company or other person and a finding by the commission that  
 1240 discovery will require the disclosure of proprietary  
 1241 confidential business information, the commission shall issue an  
 1242 appropriate protective order designating the manner for handling  
 1243 such information during the course of the proceeding and for  
 1244 protecting such information from disclosure outside the  
 1245 proceeding. Such proprietary confidential business information  
 1246 shall be exempt from s. 119.07(1). Any records provided pursuant  
 1247 to a discovery request for which proprietary confidential  
 1248 business information status is requested shall be treated by the  
 1249 commission, the Office of Regulatory Staff, ~~and~~ the Office of  
 1250 the Public Counsel, and any other party subject to the public  
 1251 records law as confidential and shall be exempt from s.  
 1252 119.07(1), pending a formal ruling on such request by the  
 1253 commission or the return of the records to the person providing  
 1254 the records. Any record which has been determined to be  
 1255 proprietary confidential business information and is not entered  
 1256 into the official record of the proceeding shall be returned to  
 1257 the person providing the record within 60 days after the final  
 1258 order, unless the final order is appealed. If the final order is

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1259 | appealed, any such record shall be returned within 30 days after  
 1260 | the decision on appeal. The commission shall adopt the necessary  
 1261 | rules to implement this subsection.

1262 |         Section 30. Section 364.185, Florida Statutes, is amended  
 1263 | to read:

1264 |         364.185 Investigations and inspections; power of office  
 1265 | ~~commission~~.—The office ~~commission~~ or its duly authorized  
 1266 | representatives may during all reasonable hours enter upon any  
 1267 | premises occupied by any telecommunications company and may set  
 1268 | up and use thereon all necessary apparatus and appliances for  
 1269 | the purpose of making investigations, inspections, examinations,  
 1270 | and tests and exercising any power conferred by this chapter or  
 1271 | chapter 350; however, the telecommunications company shall be  
 1272 | notified of and be represented at the making of such  
 1273 | investigations, inspections, examinations, and tests. The  
 1274 | requirement to provide prior notification and representation  
 1275 | shall not be applicable to the onsite field inspection of  
 1276 | equipment used to provide telecommunications services to the  
 1277 | transient public, including the facilities of call aggregators.

1278 |         Section 31. Subsections (2) and (4) of section 364.335,  
 1279 | Florida Statutes, are amended to read:

1280 |         364.335 Application for certificate.—

1281 |         (2) If the commission grants the requested certificate,  
 1282 | any person who would be substantially affected by the requested  
 1283 | certification may, within 21 days after the granting of such  
 1284 | certificate, file a written objection requesting a proceeding  
 1285 | pursuant to ss. 120.569 and 120.57. The commission may, upon  
 1286 | petition of the office ~~on its own motion~~, institute a proceeding

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1287 | under ss. 120.569 and 120.57 to determine whether the grant of  
 1288 | such certificate is in the public interest. The commission shall  
 1289 | order such proceeding conducted in or near the territory applied  
 1290 | for, if feasible. If any person requests a public hearing on the  
 1291 | application, such hearing shall, if feasible, be held in or near  
 1292 | the territory applied for, and the transcript of the public  
 1293 | hearing and any material submitted at or prior to the hearing  
 1294 | shall be considered part of the record of the application and  
 1295 | any proceeding related to the application.

1296 |         (4) Except as provided in s. 364.33, revocation,  
 1297 | suspension, transfer, or amendment of a certificate shall be  
 1298 | subject to the provisions of this section; except that, when the  
 1299 | commission institutes a proceeding upon petition of the office  
 1300 | ~~initiates the action~~, the commission shall furnish notice to the  
 1301 | appropriate local government and to the Public Counsel.

1302 |         Section 32. Subsection (10) of section 364.3376, Florida  
 1303 | Statutes, is amended to read:

1304 |         364.3376 Operator services.—

1305 |         (10) The office ~~commission~~ shall conduct an effective  
 1306 | program of random, no-notice compliance investigations of the  
 1307 | operator services providers and call aggregators operating  
 1308 | within the state. When the office ~~commission~~ finds a blocking  
 1309 | violation, it shall notify the commission and provide  
 1310 | information to assist the commission in determining ~~determine~~  
 1311 | whether the blocking is the responsibility of the call  
 1312 | aggregator or the operator services provider. The commission ~~and~~  
 1313 | may fine the responsible party in accordance with s. 364.285.  
 1314 | Upon the failure of the responsible party to correct a violation

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1315 within a mandatory time limit established by the commission or  
 1316 upon a proven pattern of intentional blocking, the commission  
 1317 shall order the discontinuance of the call aggregator's  
 1318 telephone service or revoke the operator services provider's  
 1319 certificate, as applicable.

1320 Section 33. Subsection (3) of section 364.3381, Florida  
 1321 Statutes, is amended to read:

1322 364.3381 Cross-subsidization.—

1323 (3) The commission shall have continuing oversight  
 1324 jurisdiction over cross-subsidization, predatory pricing, or  
 1325 other similar anticompetitive behavior and may investigate, upon  
 1326 petition or complaint ~~or on its own motion~~, allegations of such  
 1327 practices.

1328 Section 34. Section 364.37, Florida Statutes, is amended  
 1329 to read:

1330 364.37 Controversy concerning territory to be served;  
 1331 powers of commission.—If any person in constructing or extending  
 1332 his or her telecommunications facility unreasonably interferes  
 1333 or is about to unreasonably interfere with any  
 1334 telecommunications facility or service of any other person, or  
 1335 if a controversy arises between any two or more persons with  
 1336 respect to the territory professed to be served by each, the  
 1337 commission, upon petition of the office or ~~on its own initiative~~  
 1338 ~~or on~~ complaint of any person claiming to be adversely affected,  
 1339 may make such order and prescribe such terms and conditions with  
 1340 respect thereto as are just and reasonable.

1341 Section 35. Subsection (4) is added to section 366.02,  
 1342 Florida Statutes, to read:



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1343 366.02 Definitions.—As used in this chapter:

1344 (4) "Office" means the Office of Regulatory Staff.

1345 Section 36. Subsections (6), (9), and (11) of section  
1346 366.05, Florida Statutes, are amended to read:

1347 366.05 Powers.—

1348 (6) The commission or the office, if designated by the  
1349 commission to conduct testing, may purchase materials,  
1350 apparatus, and standard measuring instruments for such  
1351 examination and tests.

1352 (9) Both the commission and the office may require the  
1353 filing of reports and other data by a public utility or its  
1354 affiliated companies, including its parent company, regarding  
1355 transactions, or allocations of common costs, among the utility  
1356 and such affiliated companies. Both the commission and the  
1357 office may also require such reports or other data necessary to  
1358 ensure that a utility's ratepayers do not subsidize nonutility  
1359 activities. The authority of the commission to access records  
1360 under this subsection is granted subject to the limitations set  
1361 forth in s. 350.011(3) and (4).

1362 (11) The office may ~~commission has the authority to~~ assess  
1363 a public utility for reasonable travel costs associated with  
1364 reviewing the records of the public utility and its affiliates  
1365 when such records are kept out of state. The public utility may  
1366 bring the records back into the state for review.

1367 Section 37. Subsections (2) and (3) of section 366.06,  
1368 Florida Statutes, are amended to read:

1369 366.06 Rates; procedure for fixing and changing.—

1370 (2) Whenever the commission finds, upon request made ~~or~~

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1371 ~~upon its own motion~~, that the rates demanded, charged, or  
1372 collected by any public utility for public utility service, or  
1373 that the rules, regulations, or practices of any public utility  
1374 affecting such rates, are unjust, unreasonable, unjustly  
1375 discriminatory, or in violation of law; that such rates are  
1376 insufficient to yield reasonable compensation for the services  
1377 rendered; that such rates yield excessive compensation for  
1378 services rendered; or that such service is inadequate or cannot  
1379 be obtained, the commission shall order and hold a public  
1380 hearing, giving notice to the public and to the public utility,  
1381 and shall thereafter determine just and reasonable rates to be  
1382 thereafter charged for such service and promulgate rules and  
1383 regulations affecting equipment, facilities, and service to be  
1384 thereafter installed, furnished, and used.

1385 (3) Pending a final order by the commission in any rate  
1386 proceeding under this section, the commission may withhold  
1387 consent to the operation of all or any portion of the new rate  
1388 schedules, delivering to the utility requesting such increase,  
1389 within 60 days, a reason or written statement of good cause for  
1390 withholding its consent. Such consent shall not be withheld for  
1391 a period longer than 8 months from the date of filing the new  
1392 schedules. The new rates or any portion not consented to shall  
1393 go into effect under bond or corporate undertaking at the end of  
1394 such period, but the commission shall, by order, require such  
1395 public utility to keep accurate account in detail of all amounts  
1396 received by reason of such increase, specifying by whom and in  
1397 whose behalf such amounts were paid and, upon completion of  
1398 hearing and final decision in such proceeding, shall by further

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1399 | order require such public utility to refund with interest at a  
1400 | fair rate, to be determined by the commission in such manner as  
1401 | it may direct, such portion of the increased rate or charge as  
1402 | by its decision shall be found not justified. Any portion of  
1403 | such refund not thus refunded to patrons or customers of the  
1404 | public utility shall be refunded or disposed of by the public  
1405 | utility as the commission may direct; however, no such funds  
1406 | shall accrue to the benefit of the public utility. The  
1407 | commission shall take final commission action in the docket and  
1408 | enter its final order within 12 months of the commencement date  
1409 | for final agency action. As used in this subsection, the  
1410 | "commencement date for final agency action" means the date upon  
1411 | which it has been determined by the commission or its designee  
1412 | that the utility has filed with the clerk the minimum filing  
1413 | requirements as established by rule of the commission. Within 30  
1414 | days after receipt of the application, rate request, or other  
1415 | written document for which the commencement date for final  
1416 | agency action is to be established, the commission or its  
1417 | designee shall either determine the commencement date for final  
1418 | agency action or issue a statement of deficiencies to the  
1419 | applicant, specifically listing why said applicant has failed to  
1420 | meet the minimum filing requirements. Such statement of  
1421 | deficiencies shall be binding upon the commission to the extent  
1422 | that, once the deficiencies in the statement are satisfied, the  
1423 | commencement date for final agency action shall be promptly  
1424 | established as provided herein. Thereafter, within 15 days after  
1425 | the applicant indicates to the commission that it believes that  
1426 | it has met the minimum filing requirements, the commission or

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1427 | its designee shall either determine the commencement date for  
 1428 | final agency action or specifically enumerate in writing why the  
 1429 | requirements have not been met, in which case this procedure  
 1430 | shall be repeated until the commencement date for final agency  
 1431 | action is established. When the commission initiates a  
 1432 | proceeding upon a request made by a person other than the  
 1433 | utility, the commencement date for final agency action shall be  
 1434 | the date upon which the order initiating the proceeding is  
 1435 | issued.

1436 |         Section 38. Section 366.07, Florida Statutes, is amended  
 1437 | to read:

1438 |         366.07 Rates; adjustment.—Whenever the commission, after  
 1439 | public hearing either upon petition of the office ~~its own motion~~  
 1440 | or upon complaint, shall find the rates, rentals, charges or  
 1441 | classifications, or any of them, proposed, demanded, observed,  
 1442 | charged or collected by any public utility for any service, or  
 1443 | in connection therewith, or the rules, regulations,  
 1444 | measurements, practices or contracts, or any of them, relating  
 1445 | thereto, are unjust, unreasonable, insufficient, excessive, or  
 1446 | unjustly discriminatory or preferential, or in anywise in  
 1447 | violation of law, or any service is inadequate or cannot be  
 1448 | obtained, the commission shall determine and by order fix the  
 1449 | fair and reasonable rates, rentals, charges or classifications,  
 1450 | and reasonable rules, regulations, measurements, practices,  
 1451 | contracts or service, to be imposed, observed, furnished or  
 1452 | followed in the future.

1453 |         Section 39. Subsections (1) and (3) of section 366.071,  
 1454 | Florida Statutes, are amended to read:

1455 366.071 Interim rates; procedure.—

1456 (1) The commission may, during any proceeding for a change  
 1457 of rates, ~~upon its own motion, or~~ upon petition from any party,  
 1458 or by a tariff filing of a public utility, authorize the  
 1459 collection of interim rates until the effective date of the  
 1460 final order. Such interim rates may be based upon a test period  
 1461 different from the test period used in the request for permanent  
 1462 rate relief. To establish a prima facie entitlement for interim  
 1463 relief, ~~the commission,~~ the petitioning party, or the public  
 1464 utility shall demonstrate that the public utility is earning  
 1465 outside the range of reasonableness on rate of return calculated  
 1466 in accordance with subsection (5).

1467 (3) In granting such relief, the commission may, in an  
 1468 expedited hearing but within 60 days of the commencement of the  
 1469 proceeding, upon petition ~~or upon its own motion,~~ preclude the  
 1470 recovery of any extraordinary or imprudently incurred  
 1471 expenditures or, for good cause shown, increase the amount of  
 1472 the bond or corporate undertaking.

1473 Section 40. Subsection (1) of section 366.076, Florida  
 1474 Statutes, is amended to read:

1475 366.076 Limited proceedings; rules on subsequent  
 1476 adjustments.—

1477 (1) Upon petition ~~or its own motion,~~ the commission may  
 1478 conduct a limited proceeding to consider and act upon any matter  
 1479 within its jurisdiction, including any matter the resolution of  
 1480 which requires a public utility to adjust its rates to consist  
 1481 with the provisions of this chapter. The commission shall  
 1482 determine the issues to be considered during such a proceeding

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1483 and may grant or deny any request to expand the scope of the  
 1484 proceeding to include other matters.

1485 Section 41. Section 366.08, Florida Statutes, is amended  
 1486 to read:

1487 366.08 Investigations, inspections; power of office  
 1488 ~~commission~~.—The office ~~commission~~ or its duly authorized  
 1489 representatives may during all reasonable hours enter upon any  
 1490 premises occupied by any public utility and may set up and use  
 1491 thereon all necessary apparatus and appliances for the purpose  
 1492 of making investigations, inspections, examinations and tests  
 1493 and exercising any power conferred by this chapter or chapter  
 1494 350; however provided, such public utility shall have the right  
 1495 to be notified of and be represented at the making of such  
 1496 investigations, inspections, examinations and tests.

1497 Section 42. Subsections (1) and (2) of section 366.093,  
 1498 Florida Statutes, are amended to read:

1499 366.093 Public utility records; confidentiality.—

1500 (1) The commission and the office shall ~~continue to~~ have  
 1501 reasonable access to all public utility records and records of  
 1502 the utility's affiliated companies, including its parent  
 1503 company, regarding transactions or cost allocations among the  
 1504 utility and such affiliated companies, and such records  
 1505 necessary to ensure that a utility's ratepayers do not subsidize  
 1506 nonutility activities. Upon request of the public utility or  
 1507 other person, any records received by the commission or the  
 1508 office which are shown and found by the commission to be  
 1509 proprietary confidential business information shall be kept  
 1510 confidential and shall be exempt from s. 119.07(1). The

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1511 authority of the commission to access records under this section  
1512 is granted subject to the limitations set forth in s. 350.011(3)  
1513 and (4).

1514 (2) Discovery in any docket or proceeding before the  
1515 commission shall be in the manner provided for in Rule 1.280 of  
1516 the Florida Rules of Civil Procedure. Information which affects  
1517 a utility's rates or cost of service shall be considered  
1518 relevant for purposes of discovery in any docket or proceeding  
1519 where the utility's rates or cost of service are at issue. The  
1520 commission shall determine whether information requested in  
1521 discovery affects a utility's rates or cost of service. Upon a  
1522 showing by a utility or other person and a finding by the  
1523 commission that discovery will require the disclosure of  
1524 proprietary confidential business information, the commission  
1525 shall issue appropriate protective orders designating the manner  
1526 for handling such information during the course of the  
1527 proceeding and for protecting such information from disclosure  
1528 outside the proceeding. Such proprietary confidential business  
1529 information shall be exempt from s. 119.07(1). Any records  
1530 provided pursuant to a discovery request for which proprietary  
1531 confidential business information status is requested shall be  
1532 treated by the commission, the Office of Regulatory Staff, ~~and~~  
1533 the office of the Public Counsel, and any other party subject to  
1534 the public records law as confidential and shall be exempt from  
1535 s. 119.07(1), pending a formal ruling on such request by the  
1536 commission or the return of the records to the person providing  
1537 the records. Any record which has been determined to be  
1538 proprietary confidential business information and is not entered

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1539 into the official record of the proceeding must be returned to  
1540 the person providing the record within 60 days after the final  
1541 order, unless the final order is appealed. If the final order is  
1542 appealed, any such record must be returned within 30 days after  
1543 the decision on appeal. The commission shall adopt the necessary  
1544 rules to implement this provision.

1545 Section 43. Subsections (6) and (7) of section 366.82,  
1546 Florida Statutes, are amended to read:

1547 366.82 Definition; goals; plans; programs; annual reports;  
1548 energy audits.—

1549 (6) The commission may change the goals upon a showing of  
1550 ~~for~~ reasonable cause. The time period to review the goals,  
1551 however, shall not exceed 5 years. After the programs and plans  
1552 to meet those goals are completed, the commission shall  
1553 determine what further goals, programs, or plans are warranted  
1554 and adopt them.

1555 (7) Following adoption of goals pursuant to subsections  
1556 (2) and (3), the commission shall require each utility to  
1557 develop plans and programs to meet the overall goals within its  
1558 service area. Upon petition, the commission may require  
1559 modifications or additions to a utility's plans and programs at  
1560 any time it is shown to be in the public interest consistent  
1561 with this act. In approving plans and programs for cost  
1562 recovery, the commission shall have the flexibility to modify or  
1563 deny plans or programs that would have an undue impact on the  
1564 costs passed on to customers. If any plan or program includes  
1565 loans, collection of loans, or similar banking functions by a  
1566 utility and the plan is approved by the commission, the utility



1567 shall perform such functions, notwithstanding any other  
 1568 provision of the law. However, no utility shall be required to  
 1569 loan its funds for the purpose of purchasing or otherwise  
 1570 acquiring conservation measures or devices, but nothing herein  
 1571 shall prohibit or impair the administration or implementation of  
 1572 a utility plan as submitted by a utility and approved by the  
 1573 commission under this subsection. If the commission disapproves  
 1574 a plan, it shall specify the reasons for disapproval, and the  
 1575 utility whose plan is disapproved shall resubmit its modified  
 1576 plan within 30 days. Prior approval by the commission shall be  
 1577 required to modify or discontinue a plan, or part thereof, which  
 1578 has been approved. If any utility has not implemented its  
 1579 programs and is not substantially in compliance with the  
 1580 provisions of its approved plan at any time, the commission  
 1581 shall adopt programs required for that utility to achieve the  
 1582 overall goals. Utility programs may include variations in rate  
 1583 design, load control, cogeneration, residential energy  
 1584 conservation subsidy, or any other measure within the  
 1585 jurisdiction of the commission which the commission finds likely  
 1586 to be effective; this provision shall not be construed to  
 1587 preclude these measures in any plan or program.

1588 Section 44. Subsections (9) through (13) of section  
 1589 367.021, Florida Statutes, are renumbered as subsections (10)  
 1590 through (14), respectively, and a new subsection (9) is added to  
 1591 that section to read:

1592 367.021 Definitions.—As used in this chapter, the  
 1593 following words or terms shall have the meanings indicated:

1594 (9) "Office" means the Office of Regulatory Staff.

1595 Section 45. Paragraph (a) of subsection (1), paragraph (a)  
 1596 of subsection (2), and subsections (4) and (6) of section  
 1597 367.045, Florida Statutes, are amended to read:

1598 367.045 Certificate of authorization; application and  
 1599 amendment procedures.—

1600 (1) When a utility applies for an initial certificate of  
 1601 authorization from the commission, it shall:

1602 (a) Provide notice of the actual application filed by mail  
 1603 or personal delivery to the governing body of the county or city  
 1604 affected, ~~to~~ the Public Counsel, the office, ~~to~~ the commission,  
 1605 and ~~to~~ such other persons and in such other manner as may be  
 1606 prescribed by commission rule;

1607 (2) A utility may not delete or extend its service outside  
 1608 the area described in its certificate of authorization until it  
 1609 has obtained an amended certificate of authorization from the  
 1610 commission. When a utility applies for an amended certificate of  
 1611 authorization from the commission, it shall:

1612 (a) Provide notice of the actual application filed by mail  
 1613 or personal delivery to the governing body of the county or  
 1614 municipality affected, ~~to~~ the Public Counsel, the office, ~~to~~ the  
 1615 commission, and ~~to~~ such other persons and in such other manner  
 1616 as may be prescribed by commission rule;

1617 (4) If, within 30 days after the last day that notice was  
 1618 mailed or published by the applicant, whichever is later, the  
 1619 commission receives from the Public Counsel, the office, a  
 1620 governmental authority, or a utility or consumer who would be  
 1621 substantially affected by the requested certification or  
 1622 amendment a written objection requesting a proceeding pursuant

1623 to ss. 120.569 and 120.57, the commission shall order such  
 1624 proceeding conducted in or near the area for which application  
 1625 is made, if feasible. Notwithstanding the ability to object on  
 1626 any other ground, a county or municipality has standing to  
 1627 object on the ground that the issuance or amendment of the  
 1628 certificate of authorization violates established local  
 1629 comprehensive plans developed pursuant to ss. 163.3161-163.3211.  
 1630 If a consumer, utility, or governmental authority or the office  
 1631 or Public Counsel requests a public hearing on the application,  
 1632 such hearing must, if feasible, be held in or near the area for  
 1633 which application is made; and the transcript of such hearing  
 1634 and any material submitted at or before the hearing must be  
 1635 considered as part of the record of the application and any  
 1636 proceeding related thereto.

1637 (6) The revocation, suspension, transfer, or amendment of  
 1638 a certificate of authorization is subject to the provisions of  
 1639 this section. The commission shall give 30 days' notice before  
 1640 it initiates any such action upon petition of the office.

1641 Section 46. Paragraph (a) of subsection (2) and paragraph  
 1642 (a) of subsection (4) of section 367.081, Florida Statutes, are  
 1643 amended to read:

1644 367.081 Rates; procedure for fixing and changing.—

1645 (2) (a) 1. The commission shall, ~~either~~ upon request ~~or upon~~  
 1646 ~~its own motion~~, fix rates which are just, reasonable,  
 1647 compensatory, and not unfairly discriminatory. In every such  
 1648 proceeding, the commission shall consider the value and quality  
 1649 of the service and the cost of providing the service, which  
 1650 shall include, but not be limited to, debt interest; the

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1651 requirements of the utility for working capital; maintenance,  
1652 depreciation, tax, and operating expenses incurred in the  
1653 operation of all property used and useful in the public service;  
1654 and a fair return on the investment of the utility in property  
1655 used and useful in the public service. However, the commission  
1656 shall not allow the inclusion of contributions-in-aid-of-  
1657 construction in the rate base of any utility during a rate  
1658 proceeding, nor shall the commission impute prospective future  
1659 contributions-in-aid-of-construction against the utility's  
1660 investment in property used and useful in the public service;  
1661 and accumulated depreciation on such contributions-in-aid-of-  
1662 construction shall not be used to reduce the rate base, nor  
1663 shall depreciation on such contributed assets be considered a  
1664 cost of providing utility service.

1665 2. For purposes of such proceedings, the commission shall  
1666 consider utility property, including land acquired or facilities  
1667 constructed or to be constructed within a reasonable time in the  
1668 future, not to exceed 24 months after the end of the historic  
1669 base year used to set final rates unless a longer period is  
1670 approved by the commission, to be used and useful in the public  
1671 service, if:

1672 a. Such property is needed to serve current customers;

1673 b. Such property is needed to serve customers 5 years  
1674 after the end of the test year used in the commission's final  
1675 order on a rate request as provided in subsection (6) at a  
1676 growth rate for equivalent residential connections not to exceed  
1677 5 percent per year; or

1678 c. Such property is needed to serve customers more than 5

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1679 full years after the end of the test year used in the  
 1680 commission's final order on a rate request as provided in  
 1681 subsection (6) only to the extent that the utility presents  
 1682 clear and convincing evidence to justify such consideration.

1683  
 1684 Notwithstanding the provisions of this paragraph, the commission  
 1685 shall approve rates for service which allow a utility to recover  
 1686 from customers the full amount of environmental compliance  
 1687 costs. Such rates may not include charges for allowances for  
 1688 funds prudently invested or similar charges. For purposes of  
 1689 this requirement, the term "environmental compliance costs"  
 1690 includes all reasonable expenses and fair return on any prudent  
 1691 investment incurred by a utility in complying with the  
 1692 requirements or conditions contained in any permitting,  
 1693 enforcement, or similar decisions of the United States  
 1694 Environmental Protection Agency, the Department of Environmental  
 1695 Protection, a water management district, or any other  
 1696 governmental entity with similar regulatory jurisdiction.

1697 (4) (a) On or before March 31 of each year, the commission  
 1698 by order shall establish a price increase or decrease index for  
 1699 major categories of operating costs incurred by utilities  
 1700 subject to its jurisdiction reflecting the percentage of  
 1701 increase or decrease in such costs from the most recent 12-month  
 1702 historical data available. The commission by rule shall  
 1703 establish the procedure to be used in determining such indices  
 1704 and a procedure by which a utility, without further action by  
 1705 the commission, or the commission upon petition of the office ~~on~~  
 1706 ~~its own motion~~, may implement an increase or decrease in its

1707 rates based upon the application of the indices to the amount of  
 1708 the major categories of operating costs incurred by the utility  
 1709 during the immediately preceding calendar year, except to the  
 1710 extent of any disallowances or adjustments for those expenses of  
 1711 that utility in its most recent rate proceeding before the  
 1712 commission. The rules shall provide that, upon a finding of good  
 1713 cause, including inadequate service, the commission may order a  
 1714 utility to refrain from implementing a rate increase hereunder  
 1715 unless implemented under a bond or corporate undertaking in the  
 1716 same manner as interim rates may be implemented under s.  
 1717 367.082. A utility may not use this procedure between the  
 1718 official filing date of the rate proceeding and 1 year  
 1719 thereafter, unless the case is completed or terminated at an  
 1720 earlier date. A utility may not use this procedure to increase  
 1721 any operating cost for which an adjustment has been or could be  
 1722 made under paragraph (b), or to increase its rates by  
 1723 application of a price index other than the most recent price  
 1724 index authorized by the commission at the time of filing.

1725 Section 47. Subsections (1), (2), (4), (6), (8), and (10)  
 1726 of section 367.0814, Florida Statutes, are amended to read:

1727 367.0814 Office of Regulatory Staff assistance in changing  
 1728 rates and charges; interim rates.—

1729 (1) The commission may establish rules by which a water or  
 1730 wastewater utility whose gross annual revenues are \$250,000 or  
 1731 less may request and obtain ~~staff~~ assistance from the Office of  
 1732 Regulatory Staff for the purpose of changing its rates and  
 1733 charges. A utility may request such ~~staff~~ assistance by filing  
 1734 an application with the commission. The gross annual revenue

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1735 level shall be adjusted on July 1, 2013, and every 5 years  
 1736 thereafter, based on the most recent cumulative 5 years of the  
 1737 price index established by the commission pursuant to s.  
 1738 367.081(4)(a).

1739 (2) The official date of filing is established as 30 days  
 1740 after official acceptance by the office ~~commission~~ of the  
 1741 application. If a utility does not remit a fee, as provided by  
 1742 s. 367.145, within 30 days after acceptance, the commission may  
 1743 deny the application. The commission has 15 months after the  
 1744 official date of filing within which to issue a final order.

1745 (4) The commission may, upon petition from the office or  
 1746 ~~its own motion, or upon petition~~ from the regulated utility,  
 1747 authorize the collection of interim rates until the effective  
 1748 date of the final order. Such interim rates may be based upon a  
 1749 test period different from the test period used in the request  
 1750 for permanent rate relief. To establish interim relief, there  
 1751 must be a demonstration that the operation and maintenance  
 1752 expenses exceed the revenues of the regulated utility, and  
 1753 interim rates shall not exceed the level necessary to cover  
 1754 operation and maintenance expenses as defined by the Uniform  
 1755 System of Accounts for Class C Water and Wastewater Utilities  
 1756 (1996) of the National Association of Regulatory Utility  
 1757 Commissioners.

1758 (6) The utility, in requesting ~~staff~~ assistance from the  
 1759 office, shall agree to accept the final rates and charges  
 1760 approved by the commission unless the final rates and charges  
 1761 produce less revenue than the existing rates and charges.

1762 (8) If a utility becomes exempt from commission regulation

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1763 or jurisdiction during the pendency of a ~~staff-assisted~~ rate  
 1764 case conducted pursuant to this section, the request for rate  
 1765 relief is deemed to have been withdrawn. Interim rates, if  
 1766 previously approved, shall become final. Temporary rates, if  
 1767 previously approved, must be discontinued, and any money  
 1768 collected pursuant to the temporary rates, or the difference  
 1769 between temporary and interim rates, if previously approved,  
 1770 must be refunded to the customers of the utility with interest.

1771 (10) The commission shall submit to the President of the  
 1772 Senate and the Speaker of the House of Representatives by  
 1773 January 1, 2013, and every 5 years thereafter, a report of the  
 1774 status of proceedings conducted under this section, including  
 1775 the number of utilities eligible to request ~~staff~~ assistance  
 1776 from the office, the number of proceedings conducted annually  
 1777 for the most recent 5-year period, the associated impact on  
 1778 commission and office resources, and any other information the  
 1779 commission deems appropriate. The commission shall request from  
 1780 the office any information necessary to complete this report.

1781 Section 48. Subsection (6) of section 367.0817, Florida  
 1782 Statutes, is amended to read:

1783 367.0817 Reuse projects.—

1784 (6) After the reuse project is placed in service, the  
 1785 commission, upon ~~by~~ petition ~~or on its own motion~~, may initiate  
 1786 a proceeding to true-up the costs of the reuse project and the  
 1787 resulting rates.

1788 Section 49. Subsections (1) and (3) of section 367.082,  
 1789 Florida Statutes, are amended to read:

1790 367.082 Interim rates; procedure.—



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1791           (1) The commission may, during any proceeding for a change  
 1792 of rates, ~~upon its own motion,~~ upon petition from any party, or  
 1793 by a tariff filing of a utility or a regulated company,  
 1794 authorize the collection of interim rates until the effective  
 1795 date of the final order. Such interim rates may be based upon a  
 1796 test period different from the test period used in the request  
 1797 for permanent rate relief. Upon application by a utility, the  
 1798 commission may use the projected test-year rate base when  
 1799 determining the interim rates or revenues subject to refund. To  
 1800 establish a prima facie entitlement for interim relief, ~~the~~  
 1801 ~~commission,~~ the petitioning party, the utility, or the regulated  
 1802 company shall demonstrate that the utility or the regulated  
 1803 company is earning outside the range of reasonableness on rate  
 1804 of return calculated in accordance with subsection (5).

1805           (3) In granting such relief, the commission may, in an  
 1806 expedited hearing but within 60 days of the commencement of the  
 1807 proceeding, upon petition ~~or upon its own motion,~~ preclude the  
 1808 recovery of any extraordinary or imprudently incurred  
 1809 expenditures or, for good cause shown, increase the amount of  
 1810 the bond, escrow, letter of credit, or corporate undertaking.

1811           Section 50. Subsection (1) of section 367.0822, Florida  
 1812 Statutes, is amended to read:

1813           367.0822 Limited proceedings.—

1814           (1) Upon petition ~~or by its own motion,~~ the commission may  
 1815 conduct limited proceedings to consider, and act upon, any  
 1816 matter within its jurisdiction, including any matter the  
 1817 resolution of which requires a utility to adjust its rates. The  
 1818 commission shall determine the issues to be considered during

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1819 such a proceeding and may grant or deny any request to expand  
1820 the scope of the proceeding to include other related matters.  
1821 However, unless the issue of rate of return is specifically  
1822 addressed in the limited proceeding, the commission shall not  
1823 adjust rates if the effect of the adjustment would be to change  
1824 the last authorized rate of return.

1825 Section 51. Section 367.083, Florida Statutes, is amended  
1826 to read:

1827 367.083 Determination of official date of filing.—Within  
1828 30 days after receipt of an application, rate request, or other  
1829 written document for which an official date of filing is to be  
1830 established, the commission or its designee shall either  
1831 determine the official date of filing or issue a statement of  
1832 deficiencies to the applicant, specifically listing why said  
1833 applicant has failed to meet the minimum filing requirements.  
1834 Such statement of deficiencies shall be binding upon the  
1835 commission to the extent that, once the deficiencies in the  
1836 statement are satisfied, the official date of filing shall be  
1837 promptly established as provided herein. Thereafter, within 20  
1838 days after the applicant indicates to the commission that it  
1839 believes that it has met the minimum filing requirements, the  
1840 commission or its designee shall either determine the official  
1841 date of filing or issue another statement of deficiencies,  
1842 specifically listing why the requirements have not been met, in  
1843 which case this procedure shall be repeated until the applicant  
1844 meets the minimum filing requirements and the official date of  
1845 filing is established. When the commission initiates a  
1846 proceeding upon request made by a person other than the utility,

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1847 | the official date of filing shall be the date upon which the  
 1848 | order initiating the proceeding is issued.

1849 | Section 52. Subsection (1) of section 367.101, Florida  
 1850 | Statutes, is amended to read:

1851 | 367.101 Charges for service availability.—

1852 | (1) The commission shall set just and reasonable charges  
 1853 | and conditions for service availability. The commission by rule  
 1854 | may set standards for and levels of service-availability charges  
 1855 | and service-availability conditions. Such charges and conditions  
 1856 | shall be just and reasonable. The commission shall, upon request  
 1857 | ~~or upon its own motion,~~ direct the office to investigate  
 1858 | agreements or proposals for charges and conditions for service  
 1859 | availability and report the results to the commission.

1860 | Section 53. Paragraphs (i) and (k) of subsection (1) and  
 1861 | subsection (2) of section 367.121, Florida Statutes, are amended  
 1862 | to read:

1863 | 367.121 Powers of commission and office.—

1864 | (1) In the exercise of its jurisdiction, the commission  
 1865 | shall have power:

1866 | (i) To require the filing of reports and other data by a  
 1867 | public utility or its affiliated companies, including its parent  
 1868 | company, regarding transactions or allocations of common costs,  
 1869 | among the utility and such affiliated companies. The commission  
 1870 | may also require such reports or other data necessary to ensure  
 1871 | that a utility's ratepayers do not subsidize nonutility  
 1872 | activities. The authority of the commission to access records  
 1873 | under this paragraph is granted subject to the limitations set  
 1874 | forth in s. 350.011(3) and (4).

1875 ~~(k) To assess a utility for reasonable travel costs~~  
 1876 ~~associated with reviewing the records of the utility and its~~  
 1877 ~~affiliates when such records are kept out of state. The utility~~  
 1878 ~~may bring the records back into the state for review.~~

1879 (2) (a) The office ~~commission~~ or its duly authorized  
 1880 representatives may, during all reasonable hours, enter upon any  
 1881 premises occupied by any utility and set up and use thereon any  
 1882 necessary apparatus and appliance for the purpose of making  
 1883 investigations, inspections, examinations, and tests and  
 1884 exercising any power conferred by this chapter. Such utility  
 1885 shall have the right to be notified of and be represented at the  
 1886 making of such investigations, inspections, examinations, and  
 1887 tests.

1888 (b) The office may assess a utility for reasonable travel  
 1889 costs associated with reviewing the records of the utility and  
 1890 its affiliates when such records are kept out of state. The  
 1891 utility may bring the records back into the state for review.

1892 Section 54. Subsections (3) and (4) of section 367.122,  
 1893 Florida Statutes, are amended to read:

1894 367.122 Examination and testing of meters.—

1895 (3) The commission shall establish reasonable fees to be  
 1896 paid for testing such meters on the request of the customers.  
 1897 Current utility customers or users may, at their discretion, pay  
 1898 the fee fixed by the commission at the time of the request or  
 1899 have the utility include the fee with their next regularly  
 1900 scheduled statement. However, the fee shall be paid by the  
 1901 utility and repaid to the customer or user if the meter is found  
 1902 defective or incorrect to the disadvantage of the customer or

1903 user in excess of the degree or amount of tolerance customarily  
 1904 allowed for such meters, or as may be provided for in rules and  
 1905 regulations of the commission. No fee may be charged for any  
 1906 such testing done by the commission or its representatives. The  
 1907 commission may designate the office to conduct testing on its  
 1908 behalf.

1909 (4) The commission or the office, if designated by the  
 1910 commission to conduct testing, may purchase materials,  
 1911 apparatus, and standard measuring instruments for such  
 1912 examinations and tests.

1913 Section 55. Subsection (3) of section 367.145, Florida  
 1914 Statutes, is amended to read:

1915 367.145 Regulatory assessment and application fees.—

1916 (3) Fees collected by the commission pursuant to this  
 1917 section may only be used to cover the cost of the commission and  
 1918 the office in regulating water and wastewater systems. Fees  
 1919 collected by the commission pursuant to chapters 364 and 366 may  
 1920 not be used to pay the cost of regulating water and wastewater  
 1921 systems.

1922 Section 56. Subsections (1) and (2) of section 367.156,  
 1923 Florida Statutes, are amended to read:

1924 367.156 Public utility records; confidentiality.—

1925 (1) The commission and the office shall ~~continue to~~ have  
 1926 reasonable access to all utility records and records of  
 1927 affiliated companies, including its parent company, regarding  
 1928 transactions or cost allocations among the utility and such  
 1929 affiliated companies, and such records necessary to ensure that  
 1930 a utility's ratepayers do not subsidize nonutility activities.

1931 Upon request of the utility or any other person, any records  
 1932 received by the commission or the office which are shown and  
 1933 found by the commission to be proprietary confidential business  
 1934 information shall be kept confidential and shall be exempt from  
 1935 s. 119.07(1). The authority of the commission to access records  
 1936 under this section is granted subject to the limitations set  
 1937 forth in s. 350.011(3) and (4).

1938 (2) Discovery in any docket or proceeding before the  
 1939 commission shall be in the manner provided for in Rule 1.280 of  
 1940 the Florida Rules of Civil Procedure. Information which affects  
 1941 a utility's rates or cost of service shall be considered  
 1942 relevant for purposes of discovery in any docket or proceeding  
 1943 where the utility's rates or cost of service are at issue. The  
 1944 commission shall determine whether information requested in  
 1945 discovery affects a utility's rates or cost of service. Upon  
 1946 showing by a utility or other person and a finding by the  
 1947 commission that discovery will require the disclosure of  
 1948 proprietary confidential business information, the commission  
 1949 shall issue appropriate protective orders designating the manner  
 1950 for handling such information during the course of the  
 1951 proceeding and for protecting such information from disclosure  
 1952 outside the proceeding. Such proprietary confidential business  
 1953 information shall be exempt from s. 119.07(1). Any records  
 1954 provided pursuant to a discovery request for which proprietary  
 1955 confidential business information status is requested shall be  
 1956 treated by the commission, the Office of Regulatory Staff, and  
 1957 the Office of the Public Counsel, and any other party subject to  
 1958 the public records act as confidential and shall be exempt from

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1959 s. 119.07(1), pending a formal ruling on such request by the  
 1960 commission or the return of the records to the person providing  
 1961 the records. Any record which has been determined to be  
 1962 proprietary confidential business information and is not entered  
 1963 into the official record of the proceeding must be returned to  
 1964 the person providing the record within 60 days after the final  
 1965 order, unless the final order is appealed. If the final order is  
 1966 appealed, any such record must be returned within 30 days after  
 1967 the decision on appeal. The commission shall adopt the necessary  
 1968 rules to implement this provision.

1969 Section 57. Subsection (5) of section 367.171, Florida  
 1970 Statutes, is amended to read:

1971 367.171 Effectiveness of this chapter.—

1972 (5) When a utility becomes subject to regulation by a  
 1973 county, all cases in which the utility is a party then pending  
 1974 before the commission, or in any court by appeal from any order  
 1975 of the commission, shall remain within the jurisdiction of the  
 1976 commission or court until disposed of in accordance with the law  
 1977 in effect on the day such case was filed by any party with the  
 1978 commission or initiated by the commission upon the petition of  
 1979 any party, whether or not the parties or the subject of any such  
 1980 case relates to a utility in a county wherein this chapter no  
 1981 longer applies.

1982 Section 58. Subsection (4) is added to section 368.05,  
 1983 Florida Statutes, to read:

1984 368.05 Commission jurisdiction; rules.—

1985 (4) The commission may not, on its own motion, initiate  
 1986 any proceeding under this part. The authority of the commission

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1987 | to access records under this section is granted subject to the  
 1988 | limitations set forth in s. 350.011(3) and (4).

1989 |       Section 59. Subsections (2) and (3) of section 368.061,  
 1990 | Florida Statutes, are amended to read:

1991 |       368.061 Penalty.—

1992 |       (2) Any such civil penalty may be compromised by the  
 1993 | commission ~~commissioners~~. In determining the amount of such  
 1994 | penalty or the amount agreed upon in compromise, the  
 1995 | appropriateness of such penalty to the size of the business of  
 1996 | the person charged, the gravity of the violation, and the good  
 1997 | faith of the person charged in attempting to achieve compliance  
 1998 | after notification of a violation shall be considered. Each  
 1999 | penalty shall be a lien upon the real and personal property of  
 2000 | said persons and enforceable by the commission as statutory  
 2001 | liens under chapter 85, the proceeds of which shall be deposited  
 2002 | in the general revenue fund of the state.

2003 |       (3) The commission ~~commissioners~~ may, upon petition at  
 2004 | ~~their discretion~~, cause to be instituted in any court of  
 2005 | competent jurisdiction in this state proceedings for injunction  
 2006 | against any person subject to the provisions of this part to  
 2007 | compel the observance of the provisions of this part or any  
 2008 | rule, regulation, or requirement of the commission made  
 2009 | thereunder.

2010 |       Section 60. Subsections (5) and (6) of section 368.103,  
 2011 | Florida Statutes, are renumbered as subsections (6) and (7),  
 2012 | respectively, and a new subsection (5) is added to that section  
 2013 | to read:

2014 |       368.103 Definitions.—As used in ss. 368.101-368.112, the



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2015 term:

2016 (5) "Office" means the Office of Regulatory Staff.

2017 Section 61. Subsection (2) of section 368.106, Florida  
 2018 Statutes, is amended to read:

2019 368.106 Statement of intent to increase rates; major  
 2020 changes; hearing; suspension of rate schedules; determination of  
 2021 rate level.—

2022 (2) Except when a rate is deemed just and reasonable  
 2023 pursuant to s. 368.105(3), if there is filed with the commission  
 2024 an initial rate, or a change or modification in any rate in  
 2025 effect, the commission shall, on complaint by any person whose  
 2026 substantial interests are affected by the rate, or may, upon  
 2027 petition by the office ~~on its own motion~~, at any time before  
 2028 such rate would have taken effect, order a hearing pursuant to  
 2029 ss. 120.569 and 120.57 to determine whether the rate is just and  
 2030 reasonable.

2031 Section 62. Section 368.107, Florida Statutes, is amended  
 2032 to read:

2033 368.107 Unreasonable or violative existing rates and  
 2034 services.—If the commission, after reasonable notice and  
 2035 hearing, upon petition by the office ~~on its own motion~~ or  
 2036 written complaint by any person who has a substantial interest,  
 2037 finds that any rate or service filed with the commission,  
 2038 including any rate filed pursuant to s. 368.105(3), whether or  
 2039 not being demanded, observed, charged, or collected by any  
 2040 natural gas transmission company for any service is unjust,  
 2041 unreasonable, or unduly discriminatory or preferential, or in  
 2042 any way in violation of any provision of law, the commission

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2043 shall determine the just and reasonable rates, including maximum  
 2044 or minimum rates and services, to be thereafter observed and in  
 2045 force, and shall fix the same by order to be served on the  
 2046 natural gas transmission company. Those rates and services shall  
 2047 constitute the legal rates and services of the natural gas  
 2048 transmission company until changed as provided by ss. 368.101-  
 2049 368.112.

2050 Section 63. Subsections (1) and (2) of section 368.108,  
 2051 Florida Statutes, are amended to read:

2052 368.108 Confidentiality; discovery.—

2053 (1) The commission and the office shall ~~continue to~~ have  
 2054 reasonable access to all natural gas transmission company  
 2055 records and records of the natural gas transmission company's  
 2056 affiliated companies, including its parent company, regarding  
 2057 transactions or cost allocations among the natural gas  
 2058 transmission company and such affiliated companies, and such  
 2059 records necessary to ensure that a natural gas transmission  
 2060 company's ratepayers do not subsidize unregulated activities.  
 2061 Upon request of the natural gas transmission company or other  
 2062 person, any records received by the commission or the office  
 2063 which are shown and found by the commission to be proprietary  
 2064 confidential business information shall be confidential and  
 2065 exempt from s. 119.07(1). The authority of the commission to  
 2066 access records under this section is granted subject to the  
 2067 limitations set forth in s. 350.011(3) and (4).

2068 (2) Discovery in any docket or proceeding before the  
 2069 commission shall be in the manner provided for in Rule 1.280 of  
 2070 the Florida Rules of Civil Procedure. Information which affects

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2071 a natural gas transmission company's rates or cost of service  
2072 shall be considered relevant for purposes of discovery in any  
2073 docket or proceeding where the natural gas transmission  
2074 company's rates or cost of service are at issue. The commission  
2075 shall determine whether information requested in discovery  
2076 affects a natural gas transmission company's rates or cost of  
2077 service. Upon a showing by a natural gas transmission company or  
2078 other person and a finding by the commission that discovery will  
2079 require the disclosure of proprietary confidential business  
2080 information, the commission shall issue appropriate protective  
2081 orders designating the manner for handling such information  
2082 during the course of the proceeding and for protecting such  
2083 information from disclosure outside the proceeding. Such  
2084 proprietary confidential business information shall be exempt  
2085 from s. 119.07(1). Any records provided pursuant to a discovery  
2086 request for which proprietary confidential business information  
2087 status is requested shall be treated by the commission, the  
2088 Office of Regulatory Staff, ~~and~~ the Office of the Public  
2089 Counsel, and any other party subject to the public records law  
2090 as confidential and shall be exempt from s. 119.07(1) pending a  
2091 formal ruling on such request by the commission or the return of  
2092 the records to the person providing the records. Any record  
2093 which has been determined to be proprietary confidential  
2094 business information and is not entered into the official record  
2095 of the proceeding must be returned to the person providing the  
2096 record within 60 days after the final order, unless the final  
2097 order is appealed. If the final order is appealed, any such  
2098 record must be returned within 30 days after the decision on

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2099 | appeal. The commission shall adopt the necessary rules to  
 2100 | implement this provision.

2101 |       Section 64. Section 368.1085, Florida Statutes, is amended  
 2102 | to read:

2103 |       368.1085 Travel costs.—The office ~~commission~~ has the  
 2104 | authority to assess a natural gas transmission company for  
 2105 | reasonable travel costs associated with reviewing the records of  
 2106 | the natural gas transmission company and its affiliates when  
 2107 | such records are kept out of state. The natural gas transmission  
 2108 | company may bring the records back into the state for review.

2109 |       Section 65. Section 368.109, Florida Statutes, is amended  
 2110 | to read:

2111 |       368.109 Regulatory assessment fees.—Each natural gas  
 2112 | transmission company operating under ss. 368.101-368.112, for  
 2113 | all or any part of the preceding 6-month period, shall pay to  
 2114 | the commission, within 30 days following the end of each 6-month  
 2115 | period, a fee that may not exceed 0.25 percent annually of its  
 2116 | gross operating revenues derived from intrastate business  
 2117 | excluding sales for resales to natural gas transmission  
 2118 | companies, public utilities that supply gas, municipal gas  
 2119 | utilities, and gas districts. The fee shall, to the extent  
 2120 | practicable, be related to the cost of the commission and the  
 2121 | office in regulating such natural gas transmission companies.

2122 |       Section 66. Subsection (1) of section 403.519, Florida  
 2123 | Statutes, is amended to read:

2124 |       403.519 Exclusive forum for determination of need.—

2125 |       (1) On request by an applicant or upon petition by the  
 2126 | Office of Regulatory Staff ~~on its own motion~~, the commission

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2127 shall begin a proceeding to determine the need for an electrical  
 2128 power plant subject to the Florida Electrical Power Plant Siting  
 2129 Act.

2130 Section 67. Paragraph (a) of subsection (1) of section  
 2131 403.537, Florida Statutes, is amended to read:

2132 403.537 Determination of need for transmission line;  
 2133 powers and duties.—

2134 (1) (a) Upon request by an applicant or upon petition by  
 2135 the Office of Regulatory Staff ~~its own motion~~, the Florida  
 2136 Public Service Commission shall schedule a public hearing, after  
 2137 notice, to determine the need for a transmission line regulated  
 2138 by the Florida Electric Transmission Line Siting Act, ss.  
 2139 403.52-403.5365. The notice shall be published at least 21 days  
 2140 before the date set for the hearing and shall be published by  
 2141 the applicant in at least one-quarter page size notice in  
 2142 newspapers of general circulation, and by the commission in the  
 2143 manner specified in chapter 120, by giving notice to counties  
 2144 and regional planning councils in whose jurisdiction the  
 2145 transmission line could be placed, and by giving notice to any  
 2146 persons who have requested to be placed on the mailing list of  
 2147 the commission for this purpose. Within 21 days after receipt of  
 2148 a request for determination by an applicant, the commission  
 2149 shall set a date for the hearing. The hearing shall be held  
 2150 pursuant to s. 350.01 within 45 days after the filing of the  
 2151 request, and a decision shall be rendered within 60 days after  
 2152 such filing.

2153 Section 68. Paragraph (a) of subsection (1) of section  
 2154 403.9422, Florida Statutes, is amended to read:

2155 403.9422 Determination of need for natural gas  
 2156 transmission pipeline; powers and duties.—  
 2157 (1) (a) Upon request by an applicant or upon petition by  
 2158 the Office of Regulatory Staff ~~its own motion~~, the commission  
 2159 shall schedule a public hearing, after notice, to determine the  
 2160 need for a natural gas transmission pipeline regulated by ss.  
 2161 403.9401-403.9425. Such notice shall be published at least 45  
 2162 days before the date set for the hearing and shall be published  
 2163 in at least one-quarter page size in newspapers of general  
 2164 circulation and in the Florida Administrative Weekly, by giving  
 2165 notice to counties and regional planning councils in whose  
 2166 jurisdiction the natural gas transmission pipeline could be  
 2167 placed, and by giving notice to any persons who have requested  
 2168 to be placed on the mailing list of the commission for this  
 2169 purpose. Within 21 days after receipt of a request for  
 2170 determination by an applicant, the commission shall set a date  
 2171 for the hearing. The hearing shall be held pursuant to s. 350.01  
 2172 within 75 days after the filing of the request, and a decision  
 2173 shall be rendered within 90 days after such filing.

2174 Section 69. Subsection (6) of section 196.012, Florida  
 2175 Statutes, is amended to read:

2176 196.012 Definitions.—For the purpose of this chapter, the  
 2177 following terms are defined as follows, except where the context  
 2178 clearly indicates otherwise:

2179 (6) Governmental, municipal, or public purpose or function  
 2180 shall be deemed to be served or performed when the lessee under  
 2181 any leasehold interest created in property of the United States,  
 2182 the state or any of its political subdivisions, or any

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2183 municipality, agency, special district, authority, or other  
2184 public body corporate of the state is demonstrated to perform a  
2185 function or serve a governmental purpose which could properly be  
2186 performed or served by an appropriate governmental unit or which  
2187 is demonstrated to perform a function or serve a purpose which  
2188 would otherwise be a valid subject for the allocation of public  
2189 funds. For purposes of the preceding sentence, an activity  
2190 undertaken by a lessee which is permitted under the terms of its  
2191 lease of real property designated as an aviation area on an  
2192 airport layout plan which has been approved by the Federal  
2193 Aviation Administration and which real property is used for the  
2194 administration, operation, business offices and activities  
2195 related specifically thereto in connection with the conduct of  
2196 an aircraft full service fixed base operation which provides  
2197 goods and services to the general aviation public in the  
2198 promotion of air commerce shall be deemed an activity which  
2199 serves a governmental, municipal, or public purpose or function.  
2200 Any activity undertaken by a lessee which is permitted under the  
2201 terms of its lease of real property designated as a public  
2202 airport as defined in s. 332.004(14) by municipalities,  
2203 agencies, special districts, authorities, or other public bodies  
2204 corporate and public bodies politic of the state, a spaceport as  
2205 defined in s. 331.303, or which is located in a deepwater port  
2206 identified in s. 403.021(9)(b) and owned by one of the foregoing  
2207 governmental units, subject to a leasehold or other possessory  
2208 interest of a nongovernmental lessee that is deemed to perform  
2209 an aviation, airport, aerospace, maritime, or port purpose or  
2210 operation shall be deemed an activity that serves a

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2211 governmental, municipal, or public purpose. The use by a lessee,  
2212 licensee, or management company of real property or a portion  
2213 thereof as a convention center, visitor center, sports facility  
2214 with permanent seating, concert hall, arena, stadium, park, or  
2215 beach is deemed a use that serves a governmental, municipal, or  
2216 public purpose or function when access to the property is open  
2217 to the general public with or without a charge for admission. If  
2218 property deeded to a municipality by the United States is  
2219 subject to a requirement that the Federal Government, through a  
2220 schedule established by the Secretary of the Interior, determine  
2221 that the property is being maintained for public historic  
2222 preservation, park, or recreational purposes and if those  
2223 conditions are not met the property will revert back to the  
2224 Federal Government, then such property shall be deemed to serve  
2225 a municipal or public purpose. The term "governmental purpose"  
2226 also includes a direct use of property on federal lands in  
2227 connection with the Federal Government's Space Exploration  
2228 Program or spaceport activities as defined in s. 212.02(22).  
2229 Real property and tangible personal property owned by the  
2230 Federal Government or Space Florida and used for defense and  
2231 space exploration purposes or which is put to a use in support  
2232 thereof shall be deemed to perform an essential national  
2233 governmental purpose and shall be exempt. "Owned by the lessee"  
2234 as used in this chapter does not include personal property,  
2235 buildings, or other real property improvements used for the  
2236 administration, operation, business offices and activities  
2237 related specifically thereto in connection with the conduct of  
2238 an aircraft full service fixed based operation which provides



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2239 goods and services to the general aviation public in the  
 2240 promotion of air commerce provided that the real property is  
 2241 designated as an aviation area on an airport layout plan  
 2242 approved by the Federal Aviation Administration. For purposes of  
 2243 determination of "ownership," buildings and other real property  
 2244 improvements which will revert to the airport authority or other  
 2245 governmental unit upon expiration of the term of the lease shall  
 2246 be deemed "owned" by the governmental unit and not the lessee.  
 2247 Providing two-way telecommunications services to the public for  
 2248 hire by the use of a telecommunications facility, as defined in  
 2249 s. 364.02 (16) ~~(15)~~, and for which a certificate is required under  
 2250 chapter 364 does not constitute an exempt use for purposes of s.  
 2251 196.199, unless the telecommunications services are provided by  
 2252 the operator of a public-use airport, as defined in s. 332.004,  
 2253 for the operator's provision of telecommunications services for  
 2254 the airport or its tenants, concessionaires, or licensees, or  
 2255 unless the telecommunications services are provided by a public  
 2256 hospital.

2257 Section 70. Paragraph (b) of subsection (1) of section  
 2258 199.183, Florida Statutes, is amended to read:

2259 199.183 Taxpayers exempt from nonrecurring taxes.—

2260 (1) Intangible personal property owned by this state or  
 2261 any of its political subdivisions or municipalities shall be  
 2262 exempt from taxation under this chapter. This exemption does not  
 2263 apply to:

2264 (b) Property related to the provision of two-way  
 2265 telecommunications services to the public for hire by the use of  
 2266 a telecommunications facility, as defined in s. 364.02 (16) ~~(15)~~,

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2267 and for which a certificate is required under chapter 364, when  
 2268 the service is provided by any county, municipality, or other  
 2269 political subdivision of the state. Any immunity of any  
 2270 political subdivision of the state or other entity of local  
 2271 government from taxation of the property used to provide  
 2272 telecommunication services that is taxed as a result of this  
 2273 paragraph is hereby waived. However, intangible personal  
 2274 property related to the provision of telecommunications services  
 2275 provided by the operator of a public-use airport, as defined in  
 2276 s. 332.004, for the operator's provision of telecommunications  
 2277 services for the airport or its tenants, concessionaires, or  
 2278 licensees, and intangible personal property related to the  
 2279 provision of telecommunications services provided by a public  
 2280 hospital, are exempt from taxation under this chapter.

2281 Section 71. Subsection (6) of section 212.08, Florida  
 2282 Statutes, is amended to read:

2283 212.08 Sales, rental, use, consumption, distribution, and  
 2284 storage tax; specified exemptions.—The sale at retail, the  
 2285 rental, the use, the consumption, the distribution, and the  
 2286 storage to be used or consumed in this state of the following  
 2287 are hereby specifically exempt from the tax imposed by this  
 2288 chapter.

2289 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—There are also  
 2290 exempt from the tax imposed by this chapter sales made to the  
 2291 United States Government, a state, or any county, municipality,  
 2292 or political subdivision of a state when payment is made  
 2293 directly to the dealer by the governmental entity. This  
 2294 exemption shall not inure to any transaction otherwise taxable

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2295 | under this chapter when payment is made by a government employee  
2296 | by any means, including, but not limited to, cash, check, or  
2297 | credit card when that employee is subsequently reimbursed by the  
2298 | governmental entity. This exemption does not include sales of  
2299 | tangible personal property made to contractors employed either  
2300 | directly or as agents of any such government or political  
2301 | subdivision thereof when such tangible personal property goes  
2302 | into or becomes a part of public works owned by such government  
2303 | or political subdivision. A determination whether a particular  
2304 | transaction is properly characterized as an exempt sale to a  
2305 | government entity or a taxable sale to a contractor shall be  
2306 | based on the substance of the transaction rather than the form  
2307 | in which the transaction is cast. The department shall adopt  
2308 | rules that give special consideration to factors that govern the  
2309 | status of the tangible personal property before its affixation  
2310 | to real property. In developing these rules, assumption of the  
2311 | risk of damage or loss is of paramount consideration in the  
2312 | determination. This exemption does not include sales, rental,  
2313 | use, consumption, or storage for use in any political  
2314 | subdivision or municipality in this state of machines and  
2315 | equipment and parts and accessories therefor used in the  
2316 | generation, transmission, or distribution of electrical energy  
2317 | by systems owned and operated by a political subdivision in this  
2318 | state for transmission or distribution expansion. Likewise  
2319 | exempt are charges for services rendered by radio and television  
2320 | stations, including line charges, talent fees, or license fees  
2321 | and charges for films, videotapes, and transcriptions used in  
2322 | producing radio or television broadcasts. The exemption provided

2323 in this subsection does not include sales, rental, use,  
 2324 consumption, or storage for use in any political subdivision or  
 2325 municipality in this state of machines and equipment and parts  
 2326 and accessories therefor used in providing two-way  
 2327 telecommunications services to the public for hire by the use of  
 2328 a telecommunications facility, as defined in s. 364.02 (16) ~~(15)~~,  
 2329 and for which a certificate is required under chapter 364, which  
 2330 facility is owned and operated by any county, municipality, or  
 2331 other political subdivision of the state. Any immunity of any  
 2332 political subdivision of the state or other entity of local  
 2333 government from taxation of the property used to provide  
 2334 telecommunication services that is taxed as a result of this  
 2335 section is hereby waived. However, the exemption provided in  
 2336 this subsection includes transactions taxable under this chapter  
 2337 which are for use by the operator of a public-use airport, as  
 2338 defined in s. 332.004, in providing such telecommunications  
 2339 services for the airport or its tenants, concessionaires, or  
 2340 licensees, or which are for use by a public hospital for the  
 2341 provision of such telecommunications services.

2342 Section 72. Paragraph (b) of subsection (2) of section  
 2343 288.0655, Florida Statutes, is amended to read:

2344 288.0655 Rural Infrastructure Fund.—

2345 (2)

2346 (b) To facilitate access of rural communities and rural  
 2347 areas of critical economic concern as defined by the Rural  
 2348 Economic Development Initiative to infrastructure funding  
 2349 programs of the Federal Government, such as those offered by the  
 2350 United States Department of Agriculture and the United States

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2351 Department of Commerce, and state programs, including those  
2352 offered by Rural Economic Development Initiative agencies, and  
2353 to facilitate local government or private infrastructure funding  
2354 efforts, the office may award grants for up to 30 percent of the  
2355 total infrastructure project cost. If an application for funding  
2356 is for a catalyst site, as defined in s. 288.0656, the office  
2357 may award grants for up to 40 percent of the total  
2358 infrastructure project cost. Eligible projects must be related  
2359 to specific job-creation or job-retention opportunities.  
2360 Eligible projects may also include improving any inadequate  
2361 infrastructure that has resulted in regulatory action that  
2362 prohibits economic or community growth or reducing the costs to  
2363 community users of proposed infrastructure improvements that  
2364 exceed such costs in comparable communities. Eligible uses of  
2365 funds shall include improvements to public infrastructure for  
2366 industrial or commercial sites and upgrades to or development of  
2367 public tourism infrastructure. Authorized infrastructure may  
2368 include the following public or public-private partnership  
2369 facilities: storm water systems; telecommunications facilities;  
2370 broadband facilities; roads or other remedies to transportation  
2371 impediments; nature-based tourism facilities; or other physical  
2372 requirements necessary to facilitate tourism, trade, and  
2373 economic development activities in the community. Authorized  
2374 infrastructure may also include publicly or privately owned  
2375 self-powered nature-based tourism facilities, publicly owned  
2376 telecommunications facilities, and broadband facilities, and  
2377 additions to the distribution facilities of the existing natural  
2378 gas utility as defined in s. 366.04(3)(c), the existing electric

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2379 utility as defined in s. 366.02, or the existing water or  
 2380 wastewater utility as defined in s. 367.021(13)~~(12)~~, or any  
 2381 other existing water or wastewater facility, which owns a gas or  
 2382 electric distribution system or a water or wastewater system in  
 2383 this state where:

2384 1. A contribution-in-aid of construction is required to  
 2385 serve public or public-private partnership facilities under the  
 2386 tariffs of any natural gas, electric, water, or wastewater  
 2387 utility as defined herein; and

2388 2. Such utilities as defined herein are willing and able  
 2389 to provide such service.

2390 Section 73. Subsection (8) of section 290.007, Florida  
 2391 Statutes, is amended to read:

2392 290.007 State incentives available in enterprise zones.—  
 2393 The following incentives are provided by the state to encourage  
 2394 the revitalization of enterprise zones:

2395 (8) Notwithstanding any law to the contrary, the Public  
 2396 Service Commission may allow public utilities and  
 2397 telecommunications companies to grant discounts of up to 50  
 2398 percent on tariffed rates for services to small businesses  
 2399 located in an enterprise zone designated pursuant to s.  
 2400 290.0065. Such discounts may be granted for a period not to  
 2401 exceed 5 years. For purposes of this subsection, the term  
 2402 "public utility" has the same meaning as in s. 366.02(1) and the  
 2403 term "telecommunications company" has the same meaning as in s.  
 2404 364.02(15)~~(14)~~.

2405 Section 74. Subsection (4) of section 364.602, Florida  
 2406 Statutes, is amended to read:

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2407 364.602 Definitions.—For purposes of this part:

2408 (4) "Originating party" means any person, firm,  
 2409 corporation, or other entity, including a telecommunications  
 2410 company or a billing clearinghouse, that provides any  
 2411 telecommunications service or information service to a customer  
 2412 or bills a customer through a billing party, except the term  
 2413 "originating party" does not include any entity specifically  
 2414 exempted from the definition of "telecommunications company" as  
 2415 provided in s. 364.02 (15) ~~(14)~~.

2416 Section 75. Subsection (5) of section 489.103, Florida  
 2417 Statutes, is amended to read:

2418 489.103 Exemptions.—This part does not apply to:

2419 (5) Public utilities, including special gas districts as  
 2420 defined in chapter 189, telecommunications companies as defined  
 2421 in s. 364.02 (15) ~~(14)~~, and natural gas transmission companies as  
 2422 defined in s. 368.103(4), on construction, maintenance, and  
 2423 development work performed by their employees, which work,  
 2424 including, but not limited to, work on bridges, roads, streets,  
 2425 highways, or railroads, is incidental to their business. The  
 2426 board shall define, by rule, the term "incidental to their  
 2427 business" for purposes of this subsection.

2428 Section 76. Section 624.105, Florida Statutes, is amended  
 2429 to read:

2430 624.105 Waiver of customer liability.—Any regulated  
 2431 company as defined in s. 350.111, any electric utility as  
 2432 defined in s. 366.02(2), any utility as defined in s.  
 2433 367.021 (13) ~~(12)~~ or s. 367.022(2) and (7), and any provider of  
 2434 communications services as defined in s. 202.11(2) may charge

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2435 | for and include an optional waiver of liability provision in  
2436 | their customer contracts under which the entity agrees to waive  
2437 | all or a portion of the customer's liability for service from  
2438 | the entity for a defined period in the event of the customer's  
2439 | call to active military service, death, disability, involuntary  
2440 | unemployment, qualification for family leave, or similar  
2441 | qualifying event or condition. Such provisions may not be  
2442 | effective in the customer's contract with the entity unless  
2443 | affirmatively elected by the customer. No such provision shall  
2444 | constitute insurance so long as the provision is a contract  
2445 | between the entity and its customer.

2446 |       Section 77. This act shall take effect October 1, 2010.