

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

85 participate as a party in certain matters; transferring  
86 from the commission all powers, duties, functions,  
87 records, offices, personnel, property, pending issues, and  
88 existing contracts, administrative authority,  
89 administrative rules, and unexpended balances of funds not  
90 related to the duties and responsibilities of the  
91 commission to the office; creating s. 350.075, F.S.;  
92 authorizing the office to access certain books and  
93 records; amending s. 350.113, F.S.; revising authorized  
94 uses of the Florida Public Service Regulatory Trust Fund;  
95 amending s. 350.117, F.S.; authorizing the office to  
96 require reports; requiring a copy of any report provided  
97 to the commission to be provided to the office;  
98 authorizing the commission to request that the office  
99 perform management and operation audits of any regulated  
100 company; repealing s. 350.121, F.S., relating to  
101 commission inquiries and the confidentiality of business  
102 material; creating s. 350.122, F.S.; requiring persons  
103 testifying before the Public Service Commission to  
104 disclose certain financial and fiduciary relationships;  
105 providing that a determination by the commission that a  
106 violation occurred constitutes agency action for which a  
107 hearing may be sought; amending s. 364.016, F.S.;  
108 authorizing the office to assess a telecommunications  
109 company for certain travel costs; amending s. 364.02,  
110 F.S.; defining the term "office" as used in provisions  
111 relating to telecommunications companies; amending s.  
112 364.15, F.S.; revising provisions authorizing the

113 | commission to compel changes to a telecommunications  
114 | facility; amending s. 364.183, F.S.; providing that the  
115 | office shall have access to certain records of a  
116 | telecommunications company and may require a  
117 | telecommunications company to file records, reports, or  
118 | other data; specifying limitations on the authority of the  
119 | commission to access records; providing for the office to  
120 | maintain confidentiality; amending s. 364.185, F.S.;  
121 | providing powers of the office to investigate and inspect  
122 | telecommunications companies; removing such powers from  
123 | the commission; amending s. 364.335, F.S.; revising the  
124 | authority of the commission to institute a proceeding to  
125 | determine whether the grant of a certificate of need  
126 | concerning construction, operation, or control of a  
127 | telecommunications facility is in the public interest;  
128 | amending s. 364.3376, F.S.; providing for the office to  
129 | conduct certain investigations; amending s. 364.3381,  
130 | F.S.; revising the authority of the commission to  
131 | investigate allegations of certain anticompetitive  
132 | practices; amending s. 364.37, F.S.; revising the  
133 | authority of the commission to make such order and  
134 | prescribe such terms and conditions with respect to  
135 | controversies concerning territory to be served by a  
136 | telecommunications facility; amending s. 366.02, F.S.;  
137 | defining the term "office" as used in provisions relating  
138 | to public utilities; amending s. 366.05, F.S.; authorizing  
139 | the office to make certain purchases for examinations and  
140 | testing; providing that the office shall have access to

141 certain records and may require records, reports, or other  
142 data; specifying limitations on the authority of the  
143 commission to access records; authorizing the office to  
144 assess a public utility for certain travel costs; amending  
145 ss. 366.06, 366.07, 366.071, and 366.076, F.S.; removing  
146 authority of the commission to initiate certain  
147 proceedings or take certain actions upon its own motion;  
148 amending s. 366.08, F.S.; providing powers of the office  
149 to investigate public utilities; removing such powers from  
150 the commission; amending s. 366.093, F.S.; providing  
151 powers of the office to have access to records; specifying  
152 limitations on the authority of the commission to access  
153 records; providing for the office to maintain  
154 confidentiality; amending s. 366.82, F.S.; revising the  
155 authority of the commission to require modifications or  
156 additions to a utility's plans and programs; amending s.  
157 367.021, F.S.; defining the term "office" as used in  
158 provisions relating to water and wastewater utilities;  
159 amending s. 367.045, F.S.; requiring a water or wastewater  
160 utility to provide notice to the office when it applies  
161 for an initial or amended certificate of authorization;  
162 providing for an objection and a request for a public  
163 hearing by the office; requiring the commission to give  
164 notice of certain actions upon petition of the office;  
165 amending s. 367.081, F.S.; revising the authority of the  
166 commission to fix rates of water and wastewater utilities  
167 or implement changes of such rates; amending s. 367.0814,  
168 F.S.; providing for a water or wastewater utility to

169 request and obtain assistance from the office for the  
170 purpose of changing its rates and charges; revising the  
171 authority of the commission to authorize interim rates;  
172 directing the commission to request from the office any  
173 information necessary to complete a status report;  
174 amending ss. 367.0817, 367.082, 367.0822, and 367.083,  
175 F.S.; revising authority of the commission to initiate  
176 certain proceedings or take certain actions upon its own  
177 motion; amending s. 367.101, F.S.; providing that the  
178 commission shall, upon request, direct the office to  
179 investigate agreements or proposals for charges and  
180 conditions for service availability and report the  
181 results; amending s. 367.121, F.S.; revising powers of the  
182 commission; providing powers of the office; amending s.  
183 367.122, F.S.; providing for the office to test meters;  
184 amending s. 367.145, F.S.; revising provisions for use of  
185 certain regulatory fees; amending s. 367.156, F.S.;  
186 providing powers of the office to have access to records;  
187 specifying limitations on the authority of the commission  
188 to access records; providing for the office to maintain  
189 confidentiality; amending s. 367.171, F.S.; revising  
190 provisions for jurisdiction of certain cases involving a  
191 utility that becomes subject to county regulation;  
192 amending s. 368.05, F.S., relating to gas transmission and  
193 distribution facilities; prohibiting the commission from  
194 initiating proceedings under specified provisions on its  
195 own motion; specifying limitations on the authority of the  
196 commission to access records; amending s. 368.061, F.S.;

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197 revising provisions for compromise of a civil penalty;  
198 revising the authority of the commission to initiate  
199 injunction proceedings; amending s. 368.103, F.S.;  
200 defining the term "office" as used in the "Natural Gas  
201 Transmission Pipeline Intrastate Regulatory Act";  
202 amending ss. 368.106 and 368.107, F.S.; revising the  
203 authority of the commission to initiate certain  
204 proceedings or take certain actions concerning rates;  
205 amending s. 368.108, F.S.; providing powers of the office  
206 to have access to records; specifying limitations on the  
207 authority of the commission to access records; providing  
208 for the office to maintain confidentiality; amending s.  
209 368.1085, F.S.; authorizing the office to assess a natural  
210 gas transmission company for certain travel costs;  
211 removing the authority of the commission to assess such  
212 costs; amending s. 368.109, F.S.; revising provisions for  
213 use of certain regulatory fees; amending ss. 403.519,  
214 403.537, and 403.9422, F.S., relating to siting of  
215 electrical transmission lines; revising authority of the  
216 commission to initiate certain proceedings or take certain  
217 actions upon its own motion; amending ss. 196.012,  
218 199.183, 212.08, 288.0655, 290.007, 364.602, 489.103, and  
219 624.105, F.S.; conforming cross-references; providing an  
220 effective date.

221  
222 Be It Enacted by the Legislature of the State of Florida:

223  
224 Section 1. Subsection (3) of section 20.121, Florida



225 Statutes, is amended to read:

226 20.121 Department of Financial Services.—There is created  
 227 a Department of Financial Services.

228 (3) FINANCIAL SERVICES COMMISSION.—Effective January 7,  
 229 2003, there is created within the Department of Financial  
 230 Services the Financial Services Commission, composed of the  
 231 Governor, the Attorney General, the Chief Financial Officer, and  
 232 the Commissioner of Agriculture, which shall for purposes of  
 233 this section be referred to as the commission. Commission  
 234 members shall serve as agency head of the Financial Services  
 235 Commission. The commission shall be a separate budget entity and  
 236 shall be exempt from the provisions of s. 20.052. Commission  
 237 action shall be by majority vote consisting of at least three  
 238 affirmative votes. The commission shall not be subject to  
 239 control, supervision, or direction by the Department of  
 240 Financial Services in any manner, including purchasing,  
 241 transactions involving real or personal property, personnel, or  
 242 budgetary matters.

243 (a) Structure.—The major structural unit of the commission  
 244 is the office. Each office shall be headed by a director. The  
 245 following offices are established:

246 1. The Office of Insurance Regulation, which shall be  
 247 responsible for all activities concerning insurers and other  
 248 risk bearing entities, including licensing, rates, policy forms,  
 249 market conduct, claims, issuance of certificates of authority,  
 250 solvency, viatical settlements, premium financing, and  
 251 administrative supervision, as provided under the insurance code  
 252 or chapter 636. The head of the Office of Insurance Regulation

253 is the Director of the Office of Insurance Regulation, who may  
 254 also be known as the Commissioner of Insurance Regulation.

255 2. The Office of Financial Regulation, which shall be  
 256 responsible for all activities of the Financial Services  
 257 Commission relating to the regulation of banks, credit unions,  
 258 other financial institutions, finance companies, and the  
 259 securities industry. The head of the office is the Director of  
 260 the Office of Financial Regulation, who may also be known as the  
 261 Commissioner of Financial Regulation. The Office of Financial  
 262 Regulation shall include a Bureau of Financial Investigations,  
 263 which shall function as a criminal justice agency for purposes  
 264 of ss. 943.045-943.08 and shall have a separate budget. The  
 265 bureau may conduct investigations within or outside this state  
 266 as the bureau deems necessary to aid in the enforcement of this  
 267 section. If, during an investigation, the office has reason to  
 268 believe that any criminal law of this state has or may have been  
 269 violated, the office shall refer any records tending to show  
 270 such violation to state or federal law enforcement or  
 271 prosecutorial agencies and shall provide investigative  
 272 assistance to those agencies as required.

273 3. The Office of Regulatory Staff, which shall represent  
 274 the public interest with respect to matters within the  
 275 jurisdiction of the Public Service Commission. The Office of  
 276 Regulatory Staff shall be headed by an executive director and  
 277 shall be organized and function independently under the  
 278 provisions of chapter 350.

279 (b) Organization.—The commission shall establish by rule  
 280 any additional organizational structure of the offices. It is

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281 the intent of the Legislature to provide the commission with the  
282 flexibility to organize the offices in any manner they determine  
283 appropriate to promote both efficiency and accountability.

284 (c) Powers.—Commission members shall serve as the agency  
285 head for purposes of rulemaking under ss. 120.536-120.565 by the  
286 commission and all subunits of the commission. Each director is  
287 agency head for purposes of final agency action under chapter  
288 120 for all areas within the regulatory authority delegated to  
289 the director's office.

290 (d) Appointment and qualifications of directors.—The  
291 commission shall appoint or remove each director by a majority  
292 vote consisting of at least three affirmative votes, with both  
293 the Governor and the Chief Financial Officer on the prevailing  
294 side. The minimum qualifications of the directors are as  
295 follows:

296 1. Prior to appointment as director, the director of the  
297 Office of Insurance Regulation must have had, within the  
298 previous 10 years, at least 5 years of responsible private  
299 sector experience working full time in areas within the scope of  
300 the subject matter jurisdiction of the Office of Insurance  
301 Regulation or at least 5 years of experience as a senior  
302 examiner or other senior employee of a state or federal agency  
303 having regulatory responsibility over insurers or insurance  
304 agencies.

305 2. Prior to appointment as director, the director of the  
306 Office of Financial Regulation must have had, within the  
307 previous 10 years, at least 5 years of responsible private  
308 sector experience working full time in areas within the subject

309 matter jurisdiction of the Office of Financial Regulation or at  
310 least 5 years of experience as a senior examiner or other senior  
311 employee of a state or federal agency having regulatory  
312 responsibility over financial institutions, finance companies,  
313 or securities companies.

314 3. The executive director of the Office of Regulatory  
315 Staff must meet the qualification requirements under s. 350.073.  
316 Appointment of the executive director is subject to confirmation  
317 by the Senate.

318 (e) Administrative support.—The offices shall have a  
319 sufficient number of attorneys, examiners, investigators, other  
320 professional personnel to carry out their responsibilities and  
321 administrative personnel as determined annually in the  
322 appropriations process. The Department of Financial Services  
323 shall provide administrative and information systems support to  
324 the offices.

325 (f) Records retention schedules.—The commission and the  
326 offices may destroy general correspondence files and also any  
327 other records that they deem no longer necessary to preserve in  
328 accordance with retention schedules and destruction notices  
329 established under rules of the Division of Library and  
330 Information Services, records and information management  
331 program, of the Department of State. Such schedules and notices  
332 relating to financial records of the commission and offices  
333 shall be subject to the approval of the Auditor General.

334 (g) Records storage.—The commission and offices may  
335 photograph, microphotograph, or reproduce on film such documents  
336 and records as they may select, in such manner that each page

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337 will be exposed in exact conformity with the original. After  
 338 reproduction and filing, original documents and records may be  
 339 destroyed in accordance with the provisions of paragraph (f).

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

342 112.324 Procedures on complaints of violations; public  
 343 records and meeting exemptions.—

344 (8) If, in cases pertaining to complaints other than  
 345 complaints against impeachable officers or members of the  
 346 Legislature, upon completion of a full and final investigation  
 347 by the commission, the commission finds that there has been a  
 348 violation of this part or of s. 8, Art. II of the State  
 349 Constitution, it shall be the duty of the commission to report  
 350 its findings and recommend appropriate action to the proper  
 351 disciplinary official or body as follows, and such official or  
 352 body shall have the power to invoke the penalty provisions of  
 353 this part, including the power to order the appropriate  
 354 elections official to remove a candidate from the ballot for a  
 355 violation of s. 112.3145 or s. 8(a) and (i), Art. II of the  
 356 State Constitution:

357 (a) The President of the Senate and the Speaker of the  
 358 House of Representatives, jointly, in any case concerning ~~the~~  
 359 ~~Public Counsel~~, members of the Public Service Commission,  
 360 members of the Public Service Commission Nominating Council, the  
 361 Auditor General, the director of the Office of Program Policy  
 362 Analysis and Government Accountability, or members of the  
 363 Legislative Committee on Intergovernmental Relations.

364 (c) The President of the Senate, in any case concerning an

365 | employee of the Senate; the Speaker of the House of  
 366 | Representatives, in any case concerning an employee of the House  
 367 | of Representatives; or the President and the Speaker, jointly,  
 368 | in any case concerning an employee of a committee of the  
 369 | Legislature whose members are appointed solely by the President  
 370 | and the Speaker or in any case concerning an employee of the  
 371 | ~~Public Counsel~~, Public Service Commission, Auditor General,  
 372 | Office of Program Policy Analysis and Government Accountability,  
 373 | or Legislative Committee on Intergovernmental Relations.

374 |       Section 3. Subsection (2) of section 186.801, Florida  
 375 | Statutes, is amended to read:

376 |       186.801 Ten-year site plans.—

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

393 | year site plan, the commission shall consider such plan as a  
 394 | planning document and shall review:

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

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

398 |       (c) The anticipated environmental impact of each proposed  
 399 | electrical power plant site.

400 |       (d) Possible alternatives to the proposed plan.

401 |       (e) The views of appropriate local, state, and federal  
 402 | agencies, including the views of the appropriate water  
 403 | management district as to the availability of water and its  
 404 | recommendation as to the use by the proposed plant of salt water  
 405 | or fresh water for cooling purposes.

406 |       (f) The extent to which the plan is consistent with the  
 407 | state comprehensive plan.

408 |       (g) The plan with respect to the information of the state  
 409 | on energy availability and consumption.

410 |       Section 4. Section 350.001, Florida Statutes, is amended  
 411 | to read:

412 |       350.001 Legislative intent.—

413 |       (1) The Florida Public Service Commission has been and  
 414 | shall continue to be an arm of the legislative branch of  
 415 | government. In the exercise of its jurisdiction, the commission  
 416 | shall neither establish nor implement any regulatory policy that  
 417 | is contrary to, or is an expansion of, the authority granted to  
 418 | it by the Legislature.

419 |       (2) The Public Service Commission and its staff shall  
 420 | perform their ~~its~~ duties independently, impartially,

421 professionally, honorably, and without undue influence from any  
 422 person.

423 (3) It is the desire of the Legislature that the Governor  
 424 participate in the appointment process of commissioners to the  
 425 Public Service Commission. The Legislature accordingly delegates  
 426 to the Governor a limited authority with respect to the Public  
 427 Service Commission by authorizing him or her to participate in  
 428 the selection of members only in the manner prescribed by s.  
 429 350.031.

430 Section 5. Section 350.011, Florida Statutes, is amended  
 431 to read:

432 350.011 Florida Public Service Commission; jurisdiction;  
 433 powers and duties.—

434 (1) The state regulatory agency heretofore known as the  
 435 Florida Railroad and Public Utilities Commission or Florida  
 436 Public Utilities Commission shall be known and hereafter called  
 437 Florida Public Service Commission, and all rights, powers,  
 438 duties, responsibilities, jurisdiction, and judicial powers now  
 439 vested in said Railroad and Public Utilities Commission or said  
 440 Florida Public Utilities Commission and the commissioners  
 441 thereof are vested in the Florida Public Service Commission and  
 442 the commissioners thereof.

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

447 (3) Notwithstanding any other provision of law, the  
 448 commission shall not inspect, audit, or examine any entity



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449 subject to the jurisdiction of the commission pursuant to any  
450 provision of law, as these functions are the sole responsibility  
451 of the Office of Regulatory Staff.

452 (4) The commission staff shall not appear as a party in  
453 commission proceedings or offer testimony on issues before the  
454 commission. The commission staff shall not conduct discovery,  
455 either informally or pursuant to the Florida Rules of Civil  
456 Procedure, in any proposed agency action proceeding or any  
457 proceeding under s. 120.569 or s. 120.57 in which the  
458 substantial interests of a party are determined by the  
459 commission.

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

461 Section 7. Paragraphs (b) and (d) of subsection (1) and  
462 subsection (5) of section 350.031, Florida Statutes, are amended  
463 to read:

464 350.031 Florida Public Service Commission Nominating  
465 Council.—

466 (1)

467 (b) All terms shall be for 4 years except those members of  
468 the House and Senate, who shall serve 2-year terms concurrent  
469 with the 2-year elected terms of House members. ~~All terms of the~~  
470 ~~members of the Public Service Commission Nominating Council~~  
471 ~~existing on June 30, 2008, shall terminate upon the effective~~  
472 ~~date of this act; however, such members may serve an additional~~  
473 ~~term if reappointed by the Speaker of the House of~~  
474 ~~Representatives or the President of the Senate.~~ To establish  
475 staggered terms, appointments of members shall be made for  
476 initial terms to begin on July 1, 2008, with each appointing

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477 officer to appoint three legislator members, one of whom shall  
478 be a member of the minority party, to terms through the  
479 remainder of the 2-year elected terms of House members; one  
480 nonlegislator member to a 6-month term; one nonlegislator member  
481 to an 18-month term; and one nonlegislator member to a 42-month  
482 term. Thereafter, the terms of the nonlegislator members of the  
483 Public Service Commission Nominating Council shall begin on  
484 January 2 of the year the term commences and end 4 years later  
485 on January 1.

486 (d) Vacancies on the council shall be filled for the  
487 unexpired portion of the term in the same manner as original  
488 appointments to the council. A member may not be reappointed to  
489 the council, except for a member of the House of Representatives  
490 or the Senate who may be appointed to two 2-year terms, ~~members~~  
491 ~~who are reappointed pursuant to paragraph (b)~~, or a person who  
492 is appointed to fill the remaining portion of an unexpired term.

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

504 Section 8. Section 350.035, Florida Statutes, is created

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505 to read:

506 350.035 Prohibited influence on commissioners.—Neither the  
 507 Governor, the President of the Senate, the Speaker of the House  
 508 of Representatives, nor a member of the Public Service  
 509 Commission Nominating Council shall attempt to sway the  
 510 independent judgment of the commission by bringing pressure to  
 511 bear upon a commissioner or commission employee through that  
 512 person's role in the nomination, appointment, or confirmation of  
 513 commissioners. It is the duty of the Commission on Ethics to  
 514 receive and investigate sworn complaints of violations of this  
 515 section pursuant to ss. 112.322-112.3241.

516 Section 9. Section 350.04, Florida Statutes, is amended to  
 517 read:

518 350.04 Qualifications of commissioners; training and  
 519 continuing education.—

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

522 (a)~~(1)~~ Have any financial interest, other than ownership  
 523 of shares in a mutual fund, in any business entity which, either  
 524 directly or indirectly, owns or controls any public utility  
 525 regulated by the commission, in any public utility regulated by  
 526 the commission, or in any business entity which, either directly  
 527 or indirectly, is an affiliate or subsidiary of any public  
 528 utility regulated by the commission.

529 (b)~~(2)~~ Be employed by or engaged in any business activity  
 530 with any business entity which, either directly or indirectly,  
 531 owns or controls any public utility regulated by the commission,  
 532 by any public utility regulated by the commission, or by any

533 business entity which, either directly or indirectly, is an  
 534 affiliate or subsidiary of any public utility regulated by the  
 535 commission.

536 (2) Each person recommended for appointment to the Public  
 537 Service Commission by the Public Service Commission Nominating  
 538 Council must:

539 (a) Have earned at least a baccalaureate degree from an  
 540 institution of higher learning accredited by a regional or  
 541 national accrediting body; and

542 (b) Possess a minimum of 10 years of professional  
 543 experience, or a minimum of 6 years of professional experience  
 544 if the person has earned an advanced degree, in one or more of  
 545 the following:

- 546 1. Energy or electric industry issues.
- 547 2. Telecommunications issues.
- 548 3. Water and sewer industry issues.
- 549 4. Finance.
- 550 5. Economics.
- 551 6. Accounting.
- 552 7. Engineering.
- 553 8. Law.

554 (3) Before voting on any matter before the Public Service  
 555 Commission, each person appointed to the commission after July  
 556 1, 2010, shall complete a comprehensive course of study,  
 557 developed by the executive director and general counsel of the  
 558 Office of Regulatory Staff in coordination with the National  
 559 Association of Regulatory Utility Commissioners Subcommittee on  
 560 Education and Research, that addresses the substantive matters

561 within the jurisdiction of the commission, administrative law  
 562 applicable to commission proceedings, and standards of conduct  
 563 applicable to commissioners. Thereafter, each commissioner must  
 564 annually complete no less than 10 hours of continuing  
 565 professional education directly related to substantive matters  
 566 within the jurisdiction of the commission.

567 (4) No less than once every 12 months, each commissioner  
 568 and commission employee shall receive training, in a form  
 569 developed by the executive director and general counsel of the  
 570 Office of Regulatory Staff, that addresses the ethical standards  
 571 of conduct applicable to commissioners and their staff.

572 (5) The chair of the Public Service Commission shall  
 573 certify the commission's compliance with these requirements, and  
 574 each commissioner shall certify his or her individual compliance  
 575 with the continuing professional education requirements provided  
 576 in subsection (3). Each certification of compliance shall be  
 577 provided to the President of the Senate and the Speaker of the  
 578 House of Representatives.

579 Section 10. Section 350.041, Florida Statutes, is amended  
 580 to read:

581 350.041 Commissioners; standards of conduct.—

582 (1) STATEMENT OF INTENT.—

583 (a) Professional, impartial, and honorable commissioners  
 584 are indispensable to the effective performance of the  
 585 commission's duties. A commissioner shall maintain high  
 586 standards of conduct and shall personally observe those  
 587 standards so that the integrity and impartiality of the  
 588 commission may be preserved. The standards of conduct provided

589 in this section should be construed and applied to further that  
590 objective.

591 (b) In addition to the provisions of part III of chapter  
592 112, which are applicable to public service commissioners by  
593 virtue of their being public officers and full-time employees of  
594 the legislative branch of government, the conduct of public  
595 service commissioners shall be governed by the standards of  
596 conduct provided in this section. Nothing shall prohibit the  
597 standards of conduct from being more restrictive than part III  
598 of chapter 112. Further, this section shall not be construed to  
599 contravene the restrictions of part III of chapter 112. In the  
600 event of a conflict between this section and part III of chapter  
601 112, the more restrictive provision shall apply.

602 (2) STANDARDS OF CONDUCT.—

603 (a) A commissioner may not accept anything from any  
604 business entity which, either directly or indirectly, owns or  
605 controls any public utility regulated by the commission, from  
606 any public utility regulated by the commission, or from any  
607 business entity which, either directly or indirectly, is an  
608 affiliate or subsidiary of any public utility regulated by the  
609 commission. A commissioner may attend conferences and associated  
610 meals and events that are generally available to all conference  
611 participants without payment of any fees in addition to the  
612 conference fee. Additionally, while attending a conference, a  
613 commissioner may attend meetings, meals, or events that are not  
614 sponsored, in whole or in part, by any representative of any  
615 public utility regulated by the commission and that are limited  
616 to commissioners only, committee members, or speakers if the

617 commissioner is a member of a committee of the association of  
618 regulatory agencies that organized the conference or is a  
619 speaker at the conference. It is not a violation of this  
620 paragraph for a commissioner to attend a conference for which  
621 conference participants who are employed by a utility regulated  
622 by the commission have paid a higher conference registration fee  
623 than the commissioner, or to attend a meal or event that is  
624 generally available to all conference participants without  
625 payment of any fees in addition to the conference fee and that  
626 is sponsored, in whole or in part, by a utility regulated by the  
627 commission. If, during the course of an investigation by the  
628 Commission on Ethics into an alleged violation of this  
629 paragraph, allegations are made as to the identity of the person  
630 giving or providing the prohibited gift, that person must be  
631 given notice and an opportunity to participate in the  
632 investigation and relevant proceedings to present a defense. If  
633 the Commission on Ethics determines that the person gave or  
634 provided a prohibited gift, the person may not appear before the  
635 commission or otherwise represent anyone before the commission  
636 for a period of 2 years.

637 (b) A commissioner may not accept any form of employment  
638 with or engage in any business activity with any business entity  
639 which, either directly or indirectly, owns or controls any  
640 public utility regulated by the commission, any public utility  
641 regulated by the commission, or any business entity which,  
642 either directly or indirectly, is an affiliate or subsidiary of  
643 any public utility regulated by the commission.

644 (c) A commissioner may not have any financial interest,

645 other than shares in a mutual fund, in any public utility  
646 regulated by the commission, in any business entity which,  
647 either directly or indirectly, owns or controls any public  
648 utility regulated by the commission, or in any business entity  
649 which, either directly or indirectly, is an affiliate or  
650 subsidiary of any public utility regulated by the commission. If  
651 a commissioner acquires any financial interest prohibited by  
652 this section during his or her term of office as a result of  
653 events or actions beyond the commissioner's control, he or she  
654 shall immediately sell such financial interest or place such  
655 financial interest in a blind trust at a financial institution.  
656 A commissioner may not attempt to influence, or exercise any  
657 control over, decisions regarding the blind trust.

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

669 (e) A commissioner may not serve as the representative of  
670 any political party or on any executive committee or other  
671 governing body of a political party; serve as an executive  
672 officer or employee of any political party, committee,



673 organization, or association; receive remuneration for  
 674 activities on behalf of any candidate for public office; engage  
 675 on behalf of any candidate for public office in the solicitation  
 676 of votes or other activities on behalf of such candidacy; or  
 677 become a candidate for election to any public office without  
 678 first resigning from office.

679 (f) A commissioner, during his or her term of office, may  
 680 not make any public comment regarding the merits of any  
 681 proceeding under ss. 120.569 and 120.57 currently pending before  
 682 the commission.

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

686 (h) The chair shall require order and decorum in  
 687 proceedings before the commission. In the absence of the chair,  
 688 the commissioner presiding over a commission proceeding shall  
 689 require order and decorum in the proceeding.

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

694 (j) A commissioner shall perform his or her official  
 695 duties without bias or prejudice. A commissioner may not, in the  
 696 performance of his or her official duties, by words or conduct  
 697 manifest bias or prejudice.

698 (k) A commissioner may not, with respect to parties or  
 699 classes of parties, cases, controversies, or issues likely to  
 700 come before the commission, make pledges, promises, or

701 commitments that are inconsistent with the impartial performance  
 702 of the commissioner's official duties.

703 (1) A commissioner may not be swayed by partisan  
 704 interests, public clamor, or fear of criticism.

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

709 (n)~~(i)~~ A commissioner may not directly or indirectly,  
 710 through staff or other means, solicit anything of value from any  
 711 public utility regulated by the commission, or from any business  
 712 entity that, whether directly or indirectly, is an affiliate or  
 713 subsidiary of any public utility regulated by the commission, or  
 714 from any party appearing in a proceeding considered by the  
 715 commission in the last 2 years.

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

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

720 (b) The Commission on Ethics shall provide the Governor  
 721 and the Florida Public Service Commission Nominating Council  
 722 with a report of its findings and recommendations with respect  
 723 to alleged violations by a public service commissioner. The  
 724 Governor is authorized to enforce these ~~the~~ findings and  
 725 recommendations ~~of the Commission on Ethics,~~ pursuant to part  
 726 III of chapter 112.

727 (c) The Commission on Ethics shall provide the  
 728 disciplinary officials or bodies specified in part III of

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729 chapter 112 with a report of its findings and recommendations  
 730 with respect to alleged violations of the specific provisions of  
 731 this section that, pursuant to s. 350.073, are applicable to the  
 732 executive director of the Office of Regulatory Staff.

733 (d) A public service commissioner, a commission employee,  
 734 the executive director of the Office of Regulatory Staff, or a  
 735 member of the Florida Public Service Commission Nominating  
 736 Council may request an advisory opinion from the Commission on  
 737 Ethics, pursuant to s. 112.322(3)(a), regarding the standards of  
 738 conduct or prohibitions set forth in this section and ss.  
 739 350.031, 350.04, and 350.042.

740 Section 11. Section 350.042, Florida Statutes, is amended  
 741 to read:

742 350.042 Ex parte communications.—

743 (1) Each ~~A~~ commissioner and employee of the commission  
 744 shall ~~should~~ accord to every person who is a party to or is  
 745 registered with the commission as an interested person in a  
 746 proposed agency action proceeding, or who is a party to a  
 747 proceeding under s. 120.565, s. 120.569, or s. 120.57 legally  
 748 interested in a proceeding, or the person's lawyer, full right  
 749 to be heard according to law, and, except as authorized by law,  
 750 shall ~~not~~ ~~neither~~ initiate, solicit, or ~~nor~~ consider ex parte  
 751 communications concerning a pending proposed agency action ~~the~~  
 752 ~~merits, threat, or offer of reward in any proceeding or a~~  
 753 ~~proceeding under s. 120.565, s. 120.569, or s. 120.57 other than~~  
 754 ~~a proceeding under s. 120.54 or s. 120.565, workshops, or~~  
 755 ~~internal affairs meetings.~~ No individual shall discuss ex parte  
 756 with a commissioner the merits of any issue that he or she knows

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757 will be filed with the commission within 180 ~~90~~ days. ~~The~~  
758 ~~provisions of this subsection shall not apply to commission~~  
759 ~~staff.~~

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

762 1. If it is a written or printed communication or a  
763 communication in electronic form, is not served on all parties  
764 to a proceeding; or

765 2. If it is an oral communication, is made without  
766 adequate notice to the parties and without an opportunity for  
767 the parties to be present and heard.

768 (b) Where circumstances require, ex parte communications  
769 concerning scheduling, administrative purposes, or emergencies  
770 that do not deal with substantive matters or issues on the  
771 merits are authorized, if:

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

775 2. The commissioner or commission employee makes provision  
776 promptly to notify all parties of the substance of the ex parte  
777 communication and, where possible, allows an opportunity to  
778 respond.

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

783 (3) This section shall not apply to oral communications or  
784 discussions in scheduled and noticed open public meetings of

785 educational programs or of a conference or other meeting of an  
 786 association of regulatory agencies.

787 (4) If a commissioner or commission employee knowingly  
 788 receives an ex parte communication prohibited by this section  
 789 ~~relative to a proceeding other than as set forth in subsection~~  
 790 ~~(1)~~, to which he or she is assigned, he or she must place on the  
 791 record of the proceeding copies of all written communications  
 792 received, all written responses to the communications, and a  
 793 memorandum stating the substance of all oral communications  
 794 received and all oral responses made, and shall give written  
 795 notice to all parties to the communication that such matters  
 796 have been placed on the record. Any party to the proceeding who  
 797 desires to respond to the ~~an ex parte~~ communication may do so.  
 798 The response must be received by the commission within 10 days  
 799 after receiving notice that the ~~ex parte~~ communication has been  
 800 placed on the record. The commissioner may, if he or she deems  
 801 it necessary to eliminate the effect of an ex parte  
 802 communication received by him or her, withdraw from the  
 803 proceeding, in which case the chair shall substitute another  
 804 commissioner for the proceeding.

805 (5) Any individual who makes an ex parte communication  
 806 prohibited by this section shall submit to the commission a  
 807 written statement describing the nature of such communication,  
 808 to include the name of the person making the communication, the  
 809 name of each ~~the~~ commissioner or commission employee  
 810 ~~commissioners~~ receiving the communication, copies of all written  
 811 communications made, all written responses to such  
 812 communications, and a memorandum stating the substance of all

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813 oral communications received and all oral responses made. The  
814 commission shall place on the record of a proceeding all such  
815 communications.

816 (6) Any commissioner or commission employee who knowingly  
817 fails to place on the record any ex parte communication  
818 prohibited by this section ~~such communications~~, in violation of  
819 this ~~the~~ section, within 15 days after ~~of~~ the date of the ~~such~~  
820 communication is subject to removal or dismissal and may be  
821 assessed a civil penalty not to exceed \$5,000. Any individual  
822 who knowingly fails to comply with subsection (5) may be  
823 assessed a civil penalty not to exceed \$5,000.

824 (7) (a) It is ~~shall be~~ the duty of the Commission on Ethics  
825 to receive and investigate sworn complaints of violations of  
826 this section pursuant to the procedures contained in ss.  
827 112.322-112.3241.

828 (b) If the Commission on Ethics finds that there has been  
829 a violation of this section by a public service commissioner or  
830 commission employee, it shall provide the Governor and the  
831 Florida Public Service Commission Nominating Council with a  
832 report of its findings and recommendations. The Governor is  
833 authorized to enforce the findings and recommendations of the  
834 Commission on Ethics, pursuant to part III of chapter 112.

835 (c) If a commissioner, commission employee, or other  
836 individual fails or refuses to pay the Commission on Ethics any  
837 civil penalties assessed pursuant to ~~the provisions of this~~  
838 section, the Commission on Ethics may bring an action in any  
839 circuit court to enforce the ~~such~~ penalty.

840 (d) If, during the course of an investigation by the

841 Commission on Ethics into an alleged violation of this section,  
 842 allegations are made as to the identity of the person who  
 843 participated in the ex parte communication, that person must be  
 844 given notice and an opportunity to participate in the  
 845 investigation and relevant proceedings to present a defense. If  
 846 the Commission on Ethics determines that the person participated  
 847 in the ex parte communication, the person may not appear before  
 848 the commission or otherwise represent anyone before the  
 849 commission for a period of 2 years.

850 Section 12. Subsections (1), (2), and (3) of section  
 851 350.06, Florida Statutes, are amended to read:

852 350.06 Place of meeting; expenditures; employment of  
 853 personnel; records availability and fees.-

854 (1) The offices of the commission ~~said commissioners~~ shall  
 855 be in the vicinity of Tallahassee, but the commissioners may  
 856 hold sessions anywhere in the state at their discretion.

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

860 (3) The commission ~~commissioners~~ may employ clerical,  
 861 technical, and professional personnel reasonably necessary for  
 862 the performance of its ~~their~~ duties, except for those  
 863 responsibilities and functions reserved to the Office of  
 864 Regulatory Staff, and may also employ one or more persons  
 865 capable of stenographic court reporting, to be known as the  
 866 official reporters of the commission.

867 Section 13. Section 350.0605, Florida Statutes, is amended  
 868 to read:

869           350.0605   Former commissioners; executive directors; and  
 870 employees of the commission or Office of Regulatory Staff;  
 871 representation of clients before commission.—

872           (1) Any former commissioner of the Public Service  
 873 Commission or former executive director of the Office of  
 874 Regulatory Staff is prohibited from appearing before the  
 875 commission representing any client or any industry regulated by  
 876 the Public Service Commission for a period of 2 years following  
 877 termination of service as a commissioner or executive director  
 878 ~~on the commission.~~

879           (2) Any former employee of the commission or the Office of  
 880 Regulatory Staff is prohibited from appearing before the  
 881 commission representing any client regulated by the Public  
 882 Service Commission on any matter which was pending at the time  
 883 of termination and in which such former employee had  
 884 participated.

885           (3) For a period of 2 years following termination of  
 886 service as a commissioner or executive director ~~on the~~  
 887 ~~commission,~~ a former commissioner of the Public Service  
 888 Commission or former executive director of the Office of  
 889 Regulatory Staff ~~member~~ may not accept employment by or  
 890 compensation from a business entity which, directly or  
 891 indirectly, owns or controls a public utility regulated by the  
 892 commission, from a public utility regulated by the commission,  
 893 from a business entity which, directly or indirectly, is an  
 894 affiliate or subsidiary of a public utility regulated by the  
 895 commission or is an actual business competitor of a local  
 896 exchange company or public utility regulated by the commission



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897 and is otherwise exempt from regulation by the commission under  
 898 ss. 364.02(15)~~(14)~~ and 366.02(1), or from a business entity or  
 899 trade association that has been a party to a commission  
 900 proceeding within the 2 years preceding the member's termination  
 901 of service on the commission. This subsection applies only to  
 902 members of the Florida Public Service Commission who are  
 903 appointed or reappointed after May 10, 1993.

904 Section 14. Subsection (1) of section 350.061, Florida  
 905 Statutes, is amended to read:

906 350.061 Public Counsel; appointment; oath; restrictions on  
 907 Public Counsel and his or her employees.—

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

919 Section 15. Section 350.0613, Florida Statutes, is amended  
 920 to read:

921 350.0613 Public Counsel; employees; receipt of pleadings.—  
 922 The Attorney General ~~committee~~ may authorize the Public Counsel  
 923 to employ clerical and technical assistants whose  
 924 qualifications, duties, and responsibilities the Attorney

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925 General ~~committee~~ shall from time to time prescribe. The  
 926 Attorney General ~~committee~~ may from time to time authorize  
 927 retention of the services of additional attorneys or experts to  
 928 the extent that the best interests of the people of the state  
 929 will be better served thereby, including the retention of expert  
 930 witnesses and other technical personnel for participation in  
 931 contested proceedings before the commission. The commission  
 932 shall furnish the Public Counsel with copies of the initial  
 933 pleadings in all proceedings before the commission, and if the  
 934 Public Counsel intervenes as a party in any proceeding he or she  
 935 shall be served with copies of all subsequent pleadings,  
 936 exhibits, and prepared testimony, if used. Upon filing notice of  
 937 intervention, the Public Counsel shall serve all interested  
 938 parties with copies of such notice and all of his or her  
 939 subsequent pleadings and exhibits.

940 Section 16. Section 350.0614, Florida Statutes, is amended  
 941 to read:

942 350.0614 Public Counsel; compensation and expenses.—

943 ~~(1)~~ The salaries and expenses of the Public Counsel and  
 944 his or her employees shall be allocated by the Attorney General  
 945 ~~committee~~ only from moneys appropriated to the Public Counsel by  
 946 the Legislature.

947 ~~(2) The Legislature declares and determines that the~~  
 948 ~~Public Counsel is under the legislative branch of government~~  
 949 ~~within the intention of the legislation as expressed in chapter~~  
 950 ~~216, and no power shall be in the Executive Office of the~~  
 951 ~~Governor or its successor to release or withhold funds~~  
 952 ~~appropriated to it, but the same shall be available for~~

953 ~~expenditure as provided by law and the rules or decisions of the~~  
 954 ~~Committee on Public Counsel Oversight.~~

955 ~~(3) Neither the Executive Office of the Governor nor the~~  
 956 ~~Department of Management Services or its successor shall have~~  
 957 ~~power to determine the number, or fix the compensation, of the~~  
 958 ~~employees of the Public Counsel or to exercise any manner of~~  
 959 ~~control over them.~~

960 Section 17. (1) All powers, duties, functions, records,  
 961 offices, personnel, property, pending issues, and existing  
 962 contracts, administrative authority, administrative rules, and  
 963 unexpended balances of appropriations, allocations, and other  
 964 funds relating to the Office of Public Counsel pursuant to s.  
 965 350.061, Florida Statutes, are transferred by a type two  
 966 transfer, as defined in s. 20.06(2), Florida Statutes, from the  
 967 Legislature to the Office of the Attorney General. The Office of  
 968 Public Counsel shall be funded from the General Revenue Fund.

969 (2) Notwithstanding ss. 216.292 and 216.351, Florida  
 970 Statutes, upon approval by the Legislative Budget Commission,  
 971 the Executive Office of the Governor shall transfer funds and  
 972 positions between the Legislature and the Office of the Attorney  
 973 General to implement this act.

974 Section 18. Section 350.071, Florida Statutes, is created  
 975 to read:

976 350.071 Office of Regulatory Staff; creation; status;  
 977 purpose.—

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

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981       (2) The office shall be considered a party of record in  
982 all proceedings before the Public Service Commission. All  
983 tariffs, initial pleadings, complaints, and notices of appeal  
984 filed with the commission shall be served upon the office. The  
985 commission shall notify the office of the initiation of any  
986 rulemaking proceeding, workshop, or other proceeding that the  
987 commission is authorized by law to initiate.

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

991       (a) Concerns of the using and consuming public, regardless  
992 of customer class, with respect to services provided by any  
993 company subject to the jurisdiction of the commission pursuant  
994 to any provision of law.

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

999       (c) Promotion of fair competition in telecommunications  
1000 markets.

1001       (4) The Office of Regulatory Staff shall be subject to the  
1002 same provisions governing ex parte communications that apply to  
1003 any other party to a commission proceeding. Any recommendation  
1004 of the Office of Regulatory Staff shall be provided to the  
1005 commission in a form, forum, and manner as may lawfully be  
1006 provided by any other party.

1007       Section 19. Section 350.072, Florida Statutes, is created  
1008 to read:

1009           350.072 Office of Regulatory Staff; organization,  
 1010 administration, and operations.-

1011           (1) The Office of Regulatory Staff shall consist of the  
 1012 executive director and any clerical, technical, and professional  
 1013 personnel that the executive director deems to be reasonably  
 1014 necessary for the performance of the duties of the office. The  
 1015 executive director is authorized to employ expert witnesses and  
 1016 other professional expertise that the executive director deems  
 1017 to be reasonably necessary to assist the office in the  
 1018 performance of its duties.

1019           (2) The executive director shall employ and set the  
 1020 compensation for all personnel of the Office of Regulatory Staff  
 1021 and shall be responsible for the supervision and direction of  
 1022 all such personnel.

1023           (3) The executive director and employees of the Office of  
 1024 Regulatory Staff are not subject to the supervision, direction,  
 1025 or control of the commission, the chair of the commission, or  
 1026 any member or employee of the commission.

1027           (4) The executive director is responsible for preparing  
 1028 the budget for the Office of Regulatory Staff and shall submit  
 1029 the budget to the Financial Services Commission.

1030           (5) The Office of Regulatory Staff shall maintain offices  
 1031 in Leon County at a place convenient to the offices of the  
 1032 commission that will enable the Office of Regulatory Staff to  
 1033 efficiently perform its functions and duties.

1034           (6) The Office of Regulatory Staff shall establish  
 1035 procedures governing its internal administration and operations.

1036           Section 20. Section 350.073, Florida Statutes, is created

1037 to read:

1038 350.073 Office of Regulatory Staff; executive director.-

1039 (1) The Financial Services Commission shall appoint or  
 1040 remove the executive director of the Office of Regulatory Staff  
 1041 in the manner set forth in s. 20.121(3)(d). Appointment of the  
 1042 executive director shall be subject to confirmation by the  
 1043 Senate. Until such time as the Senate confirms the appointment  
 1044 of the executive director, the appointee shall perform the  
 1045 functions of the office as provided by law.

1046 (2) (a) The term of the executive director shall be 4  
 1047 years, and the initial term of office shall begin January 2,  
 1048 2011. The Financial Services Commission shall appoint the  
 1049 executive director no less than 60 days prior to the first day  
 1050 of the term to which he or she is appointed.

1051 (b) In case of a vacancy in the office of executive  
 1052 director for any reason before expiration of the term of office,  
 1053 the Financial Services Commission shall appoint a new executive  
 1054 director in the same manner as the original appointment. The  
 1055 Financial Services Commission may appoint an interim executive  
 1056 director to serve until such time as a new executive director is  
 1057 appointed.

1058 (3) A person may not be appointed as executive director  
 1059 until the Financial Services Commission determines that the  
 1060 person satisfies the criteria set forth in s. 350.04(1) and  
 1061 (2) (a) and possesses a minimum of 12 years of professional  
 1062 experience in one or more of the fields identified in s.  
 1063 350.04(2) (b) .

1064 (4) The salary of the executive director shall be set by

1065 the Financial Services Commission.

1066 (5) The executive director shall take and subscribe to the  
 1067 oath of office required of state officers by the State  
 1068 Constitution.

1069 (6) In addition to the provisions of part III of chapter  
 1070 112, applicable to the executive director by virtue of being a  
 1071 public officer, the executive director shall be subject to the  
 1072 standards of conduct applicable to commissioners pursuant to s.  
 1073 350.041(2)(a), (b), (c), (d), (e), (g), (l), and (n). In the  
 1074 event of a conflict between this section and part III of chapter  
 1075 112, the more restrictive provision shall apply.

1076 Section 21. Section 350.074, Florida Statutes, is created  
 1077 to read:

1078 350.074 Office of Regulatory Staff; duties.—

1079 (1) The Office of Regulatory Staff shall represent the  
 1080 public interest with respect to matters within the jurisdiction  
 1081 of the commission and, when considered necessary and in the  
 1082 public interest by the executive director, shall petition the  
 1083 commission to initiate proceedings on matters within its  
 1084 jurisdiction. The office shall have authority to:

1085 (a) Review and investigate the rates charged or proposed  
 1086 to be charged, and the service furnished or proposed to be  
 1087 furnished, by any public utility or regulated company.

1088 (b) Inspect, audit, and examine public utilities and  
 1089 regulated companies regarding matters within the jurisdiction of  
 1090 the commission.

1091 (c) Represent the public interest in commission  
 1092 proceedings, hearings, rulemakings, and other regulatory

1093 matters.

1094 (d) Investigate complaints made in connection with matters  
 1095 under the jurisdiction of the commission, including those  
 1096 complaints that are directed to the commission or commissioners.

1097 (e) Assist customers in the informal resolution of  
 1098 complaints regarding the rates or service of public utilities  
 1099 and regulated companies or regarding any other matter within the  
 1100 jurisdiction of the commission.

1101 (f) Make studies to the commission with respect to  
 1102 standards, regulations, practices, or service of any public  
 1103 utility or regulated company.

1104 (g) Provide legal representation of the public interest  
 1105 before other state agencies, federal agencies, and state and  
 1106 federal courts in connection with matters under the jurisdiction  
 1107 of the commission, including proceedings that could affect the  
 1108 rates or service of any public utility or regulated company.

1109 (h) Educate the public on matters within the jurisdiction  
 1110 of the commission which are of special interest to consumers.

1111 (2) The commission may not require the Office of  
 1112 Regulatory Staff to sponsor witnesses or provide testimony in  
 1113 any proceeding, but it may request in writing or at any duly  
 1114 noticed public meeting that the office:

1115 (a) Provide information and reports on any matter subject  
 1116 to the commission's jurisdiction and matters incidental to the  
 1117 jurisdiction of the commission;

1118 (b) Assist in the preparation of any report that the  
 1119 commission is required by law to produce; or

1120 (c) Conduct inspections, audits, or examinations of public



1121 utilities and regulated companies regarding matters within the  
 1122 jurisdiction of the commission.

1123 (3) Decisions relating to whether, when, or how to  
 1124 petition to initiate proceedings before the commission or to  
 1125 participate or intervene in proceedings before other state  
 1126 agencies, federal agencies, or state or federal courts are in  
 1127 the sole discretion of the executive director, except for those  
 1128 matters that are specified by order of a court of competent  
 1129 jurisdiction.

1130 (4) The Office of Regulatory Staff is considered to have  
 1131 an interest sufficient to maintain actions for judicial review  
 1132 of commission orders or decisions and may, as of right and in a  
 1133 manner prescribed by law, intervene or otherwise participate in  
 1134 any civil proceeding which involves the review or enforcement of  
 1135 commission action that the executive director determines may  
 1136 substantially affect the public interest.

1137 (5) The Office of Regulatory Staff shall provide to the  
 1138 Legislature an annual report of its activities.

1139 (6) The commission and the office shall establish mutually  
 1140 acceptable procedures by which the office may elect not to  
 1141 participate as a party in noncontroversial matters.

1142 Section 22. (1) The Public Service Commission may employ  
 1143 clerical, technical, and professional personnel reasonably  
 1144 necessary for the performance of its duties and  
 1145 responsibilities. The commission may also employ one or more  
 1146 persons capable of stenographic court reporting to be known as  
 1147 the official reporters of the commission.

1148 (2) All powers, duties, functions, records, offices,

1149 personnel, property, pending issues, and existing contracts,  
 1150 administrative authority, administrative rules, and unexpended  
 1151 balances of appropriations, allocations, and other funds not  
 1152 related to the duties and responsibilities of the Public Service  
 1153 Commission shall be transferred by a type two transfer, as  
 1154 defined in s. 20.06(2), Florida Statutes, from the commission to  
 1155 the Office of Regulatory Staff, as created pursuant to s.  
 1156 350.071, Florida Statutes, to fulfill its duties and  
 1157 responsibilities in accordance with ss. 350.072, 350.073,  
 1158 350.074, and 350.075, Florida Statutes, and in accordance with  
 1159 any other provision of law.

1160 (3) The Regulatory Trust Fund, FLAIR number 61-2-573, is  
 1161 transferred from the Public Service Commission to the Office of  
 1162 Regulatory Staff within the Financial Services Commission.

1163 (4) Notwithstanding ss. 216.292 and 216.351, Florida  
 1164 Statutes, upon approval by the Legislative Budget Commission,  
 1165 the Executive Office of the Governor shall transfer funds and  
 1166 positions between the Public Service Commission and the Office  
 1167 of Regulatory Staff to implement this act.

1168 Section 23. Section 350.075, Florida Statutes, is created  
 1169 to read:

1170 350.075 Office of Regulatory Staff; access to records.—The  
 1171 Office of Regulatory Staff may access or require the production  
 1172 of books, records, and information pursuant to ss. 364.183,  
 1173 366.093, 367.156, and 368.108 and may access or require the  
 1174 production of any other records as provided by law.

1175 Section 24. Subsections (1), (2), and (6) of section  
 1176 350.113, Florida Statutes, are amended to read:

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1177 350.113 Florida Public Service Regulatory Trust Fund;  
 1178 moneys to be deposited therein.-

1179 (1) There is hereby created in the State Treasury a  
 1180 special fund to be designated as the "Florida Public Service  
 1181 Regulatory Trust Fund" which shall be used in the operation of  
 1182 the commission and the Office of Regulatory Staff in the  
 1183 performance of the various functions and duties required of them  
 1184 ~~it~~ by law.

1185 (2) All fees, licenses, and other charges collected by the  
 1186 commission shall be deposited in the State Treasury to the  
 1187 credit of the Florida Public Service Regulatory Trust Fund to be  
 1188 used in the operation of the commission and the Office of  
 1189 Regulatory Staff as authorized by the Legislature; however,  
 1190 penalties and interest assessed and collected by the commission  
 1191 shall not be deposited in the trust fund but shall be deposited  
 1192 in the General Revenue Fund. The Florida Public Service  
 1193 Regulatory Trust Fund shall be subject to the service charge  
 1194 imposed pursuant to chapter 215.

1195 (6) All moneys in the Florida Public Service Regulatory  
 1196 Trust Fund shall be for the use of the commission and the Office  
 1197 of Regulatory Staff in the performance of their ~~its~~ functions  
 1198 and duties as provided by law, subject to the fiscal and  
 1199 budgetary provisions of general law.

1200 Section 25. Subsections (1) and (2) of section 350.117,  
 1201 Florida Statutes, are amended to read:

1202 350.117 Reports; audits.-

1203 (1) The commission and the Office of Regulatory Staff may  
 1204 require such regular or emergency reports, including, but not

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1205 limited to, financial reports, as the commission or the office  
 1206 deems necessary to fulfill its obligations under the law. A copy  
 1207 of any report provided to the commission must be provided to the  
 1208 Office of Regulatory Staff.

1209 (2) The commission may request that the Office of  
 1210 Regulatory Staff perform management and operation audits of any  
 1211 regulated company. The commission may consider the results of  
 1212 such audits in establishing rates; however, the company shall  
 1213 not be denied due process as a result of the use of any such  
 1214 management or operation audit.

1215 Section 26. Section 350.121, Florida Statutes, is  
 1216 repealed.

1217 Section 27. Section 350.122, Florida Statutes, is created  
 1218 to read:

1219 350.122 Testimony; public disclosure of affiliation.—

1220 (1) Each person offering testimony at a meeting, workshop,  
 1221 hearing, or other scheduled event of the commission shall  
 1222 disclose any financial or fiduciary relationship with any party  
 1223 to the proceedings at the time the testimony is provided to the  
 1224 commission.

1225 (2) The determination by the commission that a person has  
 1226 knowingly violated this section constitutes agency action for  
 1227 which a hearing may be sought under chapter 120.

1228 Section 28. Section 364.016, Florida Statutes, is amended  
 1229 to read:

1230 364.016 Travel costs.—The office ~~commission~~ has the  
 1231 authority to assess a telecommunications company for reasonable  
 1232 travel costs associated with reviewing the records of the

1233 telecommunications company and its affiliates when such records  
 1234 are kept out of state. The telecommunications company may bring  
 1235 the records back into the state for review.

1236 Section 29. Subsections (11) through (16) of section  
 1237 364.02, Florida Statutes, are renumbered as subsections (12)  
 1238 through (17), respectively, and a new subsection (11) is added  
 1239 to that section to read:

1240 364.02 Definitions.—As used in this chapter, the term:  
 1241 (11) "Office" means the Office of Regulatory Staff.

1242 Section 30. Section 364.15, Florida Statutes, is amended  
 1243 to read:

1244 364.15 Compelling repairs, improvements, changes,  
 1245 additions, or extensions.—Whenever the commission finds, ~~on its~~  
 1246 ~~own motion or~~ upon petition or complaint, that repairs or  
 1247 improvements to, or changes in, any telecommunications facility  
 1248 ought reasonably to be made, or that any additions or extensions  
 1249 should reasonably be made to any telecommunications facility, in  
 1250 order to promote the security or convenience of the public or  
 1251 employees or in order to secure adequate service or facilities  
 1252 for basic local telecommunications services consistent with the  
 1253 requirements set forth in this chapter, the commission shall  
 1254 make and serve an order directing that such repairs,  
 1255 improvements, changes, additions, or extensions be made in the  
 1256 manner to be specified in the order. This section authorizes the  
 1257 commission to impose only those requirements that it is  
 1258 otherwise authorized to impose under this chapter.

1259 Section 31. Subsections (1) and (2) of section 364.183,  
 1260 Florida Statutes, are amended to read:

1261           364.183 Access to company records.—  
 1262           (1) The commission and the office shall have access to all  
 1263 records of a telecommunications company that are reasonably  
 1264 necessary for the disposition of matters within the commission's  
 1265 jurisdiction. The commission and the office shall also have  
 1266 access to those records of a local exchange telecommunications  
 1267 company's affiliated companies, including its parent company,  
 1268 that are reasonably necessary for the disposition of any matter  
 1269 concerning an affiliated transaction or a claim of  
 1270 anticompetitive behavior including claims of cross-subsidization  
 1271 and predatory pricing. Both the commission and the office may  
 1272 require a telecommunications company to file records, reports or  
 1273 other data directly related to matters within the commission's  
 1274 jurisdiction in the form specified in the request ~~by the~~  
 1275 ~~commission~~ and may require such company to retain such  
 1276 information for a designated period of time. Upon request of the  
 1277 company or other person, any records received by the commission  
 1278 or the office which are claimed by the company or other person  
 1279 to be proprietary confidential business information shall be  
 1280 kept confidential and shall be exempt from s. 119.07(1) and s.  
 1281 24(a), Art. I of the State Constitution. The authority of the  
 1282 commission to access records under this section is granted  
 1283 subject to the limitations set forth in s. 350.011(3) and (4).  
 1284           (2) Discovery in any docket or proceeding before the  
 1285 commission shall be in the manner provided for in Rule 1.280 of  
 1286 the Florida Rules of Civil Procedure. Upon a showing by a  
 1287 company or other person and a finding by the commission that  
 1288 discovery will require the disclosure of proprietary

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1289 confidential business information, the commission shall issue an  
 1290 appropriate protective order designating the manner for handling  
 1291 such information during the course of the proceeding and for  
 1292 protecting such information from disclosure outside the  
 1293 proceeding. Such proprietary confidential business information  
 1294 shall be exempt from s. 119.07(1). Any records provided pursuant  
 1295 to a discovery request for which proprietary confidential  
 1296 business information status is requested shall be treated by the  
 1297 commission, the Office of Regulatory Staff, ~~and~~ the Office of  
 1298 the Public Counsel, and any other party subject to the public  
 1299 records law as confidential and shall be exempt from s.  
 1300 119.07(1), pending a formal ruling on such request by the  
 1301 commission or the return of the records to the person providing  
 1302 the records. Any record which has been determined to be  
 1303 proprietary confidential business information and is not entered  
 1304 into the official record of the proceeding shall be returned to  
 1305 the person providing the record within 60 days after the final  
 1306 order, unless the final order is appealed. If the final order is  
 1307 appealed, any such record shall be returned within 30 days after  
 1308 the decision on appeal. The commission shall adopt the necessary  
 1309 rules to implement this subsection.

1310 Section 32. Section 364.185, Florida Statutes, is amended  
 1311 to read:

1312 364.185 Investigations and inspections; power of office  
 1313 ~~commission~~.—The office ~~commission~~ or its duly authorized  
 1314 representatives may during all reasonable hours enter upon any  
 1315 premises occupied by any telecommunications company and may set  
 1316 up and use thereon all necessary apparatus and appliances for

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1317 the purpose of making investigations, inspections, examinations,  
 1318 and tests and exercising any power conferred by this chapter or  
 1319 chapter 350; however, the telecommunications company shall be  
 1320 notified of and be represented at the making of such  
 1321 investigations, inspections, examinations, and tests. The  
 1322 requirement to provide prior notification and representation  
 1323 shall not be applicable to the onsite field inspection of  
 1324 equipment used to provide telecommunications services to the  
 1325 transient public, including the facilities of call aggregators.

1326 Section 33. Subsections (2) and (4) of section 364.335,  
 1327 Florida Statutes, are amended to read:

1328 364.335 Application for certificate.—

1329 (2) If the commission grants the requested certificate,  
 1330 any person who would be substantially affected by the requested  
 1331 certification may, within 21 days after the granting of such  
 1332 certificate, file a written objection requesting a proceeding  
 1333 pursuant to ss. 120.569 and 120.57. The commission may, upon  
 1334 petition of the office ~~on its own motion~~, institute a proceeding  
 1335 under ss. 120.569 and 120.57 to determine whether the grant of  
 1336 such certificate is in the public interest. The commission shall  
 1337 order such proceeding conducted in or near the territory applied  
 1338 for, if feasible. If any person requests a public hearing on the  
 1339 application, such hearing shall, if feasible, be held in or near  
 1340 the territory applied for, and the transcript of the public  
 1341 hearing and any material submitted at or prior to the hearing  
 1342 shall be considered part of the record of the application and  
 1343 any proceeding related to the application.

1344 (4) Except as provided in s. 364.33, revocation,



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1345 suspension, transfer, or amendment of a certificate shall be  
 1346 subject to the provisions of this section; except that, when the  
 1347 commission institutes a proceeding upon petition of the office  
 1348 ~~initiates the action~~, the commission shall furnish notice to the  
 1349 appropriate local government and to the Public Counsel.

1350 Section 34. Subsection (10) of section 364.3376, Florida  
 1351 Statutes, is amended to read:

1352 364.3376 Operator services.—

1353 (10) The office ~~commission~~ shall conduct an effective  
 1354 program of random, no-notice compliance investigations of the  
 1355 operator services providers and call aggregators operating  
 1356 within the state. When the office ~~commission~~ finds a blocking  
 1357 violation, it shall notify the commission and provide  
 1358 information to assist the commission in determining ~~determine~~  
 1359 whether the blocking is the responsibility of the call  
 1360 aggregator or the operator services provider. The commission ~~and~~  
 1361 may fine the responsible party in accordance with s. 364.285.  
 1362 Upon the failure of the responsible party to correct a violation  
 1363 within a mandatory time limit established by the commission or  
 1364 upon a proven pattern of intentional blocking, the commission  
 1365 shall order the discontinuance of the call aggregator's  
 1366 telephone service or revoke the operator services provider's  
 1367 certificate, as applicable.

1368 Section 35. Subsection (3) of section 364.3381, Florida  
 1369 Statutes, is amended to read:

1370 364.3381 Cross-subsidization.—

1371 (3) The commission shall have continuing oversight  
 1372 jurisdiction over cross-subsidization, predatory pricing, or

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1373 other similar anticompetitive behavior and may investigate, upon  
 1374 petition or complaint ~~or on its own motion~~, allegations of such  
 1375 practices.

1376 Section 36. Section 364.37, Florida Statutes, is amended  
 1377 to read:

1378 364.37 Controversy concerning territory to be served;  
 1379 powers of commission.—If any person in constructing or extending  
 1380 his or her telecommunications facility unreasonably interferes  
 1381 or is about to unreasonably interfere with any  
 1382 telecommunications facility or service of any other person, or  
 1383 if a controversy arises between any two or more persons with  
 1384 respect to the territory professed to be served by each, the  
 1385 commission, upon petition of the office or ~~on its own initiative~~  
 1386 ~~or on~~ complaint of any person claiming to be adversely affected,  
 1387 may make such order and prescribe such terms and conditions with  
 1388 respect thereto as are just and reasonable.

1389 Section 37. Subsection (4) is added to section 366.02,  
 1390 Florida Statutes, to read:

1391 366.02 Definitions.—As used in this chapter:

1392 (4) "Office" means the Office of Regulatory Staff.

1393 Section 38. Subsections (6), (9), and (11) of section  
 1394 366.05, Florida Statutes, are amended to read:

1395 366.05 Powers.—

1396 (6) The commission or the office, if designated by the  
 1397 commission to conduct testing, may purchase materials,  
 1398 apparatus, and standard measuring instruments for such  
 1399 examination and tests.

1400 (9) Both the commission and the office may require the

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1401 filing of reports and other data by a public utility or its  
 1402 affiliated companies, including its parent company, regarding  
 1403 transactions, or allocations of common costs, among the utility  
 1404 and such affiliated companies. Both the commission and the  
 1405 office may also require such reports or other data necessary to  
 1406 ensure that a utility's ratepayers do not subsidize nonutility  
 1407 activities. The authority of the commission to access records  
 1408 under this subsection is granted subject to the limitations set  
 1409 forth in s. 350.011(3) and (4).

1410 (11) The office may ~~commission has the authority to~~ assess  
 1411 a public utility for reasonable travel costs associated with  
 1412 reviewing the records of the public utility and its affiliates  
 1413 when such records are kept out of state. The public utility may  
 1414 bring the records back into the state for review.

1415 Section 39. Subsections (2) and (3) of section 366.06,  
 1416 Florida Statutes, are amended to read:

1417 366.06 Rates; procedure for fixing and changing.—

1418 (2) Whenever the commission finds, upon request made ~~or~~  
 1419 ~~upon its own motion~~, that the rates demanded, charged, or  
 1420 collected by any public utility for public utility service, or  
 1421 that the rules, regulations, or practices of any public utility  
 1422 affecting such rates, are unjust, unreasonable, unjustly  
 1423 discriminatory, or in violation of law; that such rates are  
 1424 insufficient to yield reasonable compensation for the services  
 1425 rendered; that such rates yield excessive compensation for  
 1426 services rendered; or that such service is inadequate or cannot  
 1427 be obtained, the commission shall order and hold a public  
 1428 hearing, giving notice to the public and to the public utility,

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1429 and shall thereafter determine just and reasonable rates to be  
1430 thereafter charged for such service and promulgate rules and  
1431 regulations affecting equipment, facilities, and service to be  
1432 thereafter installed, furnished, and used.

1433 (3) Pending a final order by the commission in any rate  
1434 proceeding under this section, the commission may withhold  
1435 consent to the operation of all or any portion of the new rate  
1436 schedules, delivering to the utility requesting such increase,  
1437 within 60 days, a reason or written statement of good cause for  
1438 withholding its consent. Such consent shall not be withheld for  
1439 a period longer than 8 months from the date of filing the new  
1440 schedules. The new rates or any portion not consented to shall  
1441 go into effect under bond or corporate undertaking at the end of  
1442 such period, but the commission shall, by order, require such  
1443 public utility to keep accurate account in detail of all amounts  
1444 received by reason of such increase, specifying by whom and in  
1445 whose behalf such amounts were paid and, upon completion of  
1446 hearing and final decision in such proceeding, shall by further  
1447 order require such public utility to refund with interest at a  
1448 fair rate, to be determined by the commission in such manner as  
1449 it may direct, such portion of the increased rate or charge as  
1450 by its decision shall be found not justified. Any portion of  
1451 such refund not thus refunded to patrons or customers of the  
1452 public utility shall be refunded or disposed of by the public  
1453 utility as the commission may direct; however, no such funds  
1454 shall accrue to the benefit of the public utility. The  
1455 commission shall take final commission action in the docket and  
1456 enter its final order within 12 months of the commencement date

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1457 for final agency action. As used in this subsection, the  
1458 "commencement date for final agency action" means the date upon  
1459 which it has been determined by the commission or its designee  
1460 that the utility has filed with the clerk the minimum filing  
1461 requirements as established by rule of the commission. Within 30  
1462 days after receipt of the application, rate request, or other  
1463 written document for which the commencement date for final  
1464 agency action is to be established, the commission or its  
1465 designee shall either determine the commencement date for final  
1466 agency action or issue a statement of deficiencies to the  
1467 applicant, specifically listing why said applicant has failed to  
1468 meet the minimum filing requirements. Such statement of  
1469 deficiencies shall be binding upon the commission to the extent  
1470 that, once the deficiencies in the statement are satisfied, the  
1471 commencement date for final agency action shall be promptly  
1472 established as provided herein. Thereafter, within 15 days after  
1473 the applicant indicates to the commission that it believes that  
1474 it has met the minimum filing requirements, the commission or  
1475 its designee shall either determine the commencement date for  
1476 final agency action or specifically enumerate in writing why the  
1477 requirements have not been met, in which case this procedure  
1478 shall be repeated until the commencement date for final agency  
1479 action is established. When the commission initiates a  
1480 proceeding upon a request made by a person other than the  
1481 utility, the commencement date for final agency action shall be  
1482 the date upon which the order initiating the proceeding is  
1483 issued.

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1484 Section 40. Section 366.07, Florida Statutes, is amended  
 1485 to read:

1486 366.07 Rates; adjustment.—Whenever the commission, after  
 1487 public hearing either upon petition of the office ~~its own motion~~  
 1488 or upon complaint, shall find the rates, rentals, charges or  
 1489 classifications, or any of them, proposed, demanded, observed,  
 1490 charged or collected by any public utility for any service, or  
 1491 in connection therewith, or the rules, regulations,  
 1492 measurements, practices or contracts, or any of them, relating  
 1493 thereto, are unjust, unreasonable, insufficient, excessive, or  
 1494 unjustly discriminatory or preferential, or in anywise in  
 1495 violation of law, or any service is inadequate or cannot be  
 1496 obtained, the commission shall determine and by order fix the  
 1497 fair and reasonable rates, rentals, charges or classifications,  
 1498 and reasonable rules, regulations, measurements, practices,  
 1499 contracts or service, to be imposed, observed, furnished or  
 1500 followed in the future.

1501 Section 41. Subsections (1) and (3) of section 366.071,  
 1502 Florida Statutes, are amended to read:

1503 366.071 Interim rates; procedure.—

1504 (1) The commission may, during any proceeding for a change  
 1505 of rates, ~~upon its own motion, or~~ upon petition from any party,  
 1506 or by a tariff filing of a public utility, authorize the  
 1507 collection of interim rates until the effective date of the  
 1508 final order. Such interim rates may be based upon a test period  
 1509 different from the test period used in the request for permanent  
 1510 rate relief. To establish a prima facie entitlement for interim  
 1511 relief, ~~the commission,~~ the petitioning party, or the public

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1512 utility shall demonstrate that the public utility is earning  
 1513 outside the range of reasonableness on rate of return calculated  
 1514 in accordance with subsection (5).

1515 (3) In granting such relief, the commission may, in an  
 1516 expedited hearing but within 60 days of the commencement of the  
 1517 proceeding, upon petition ~~or upon its own motion~~, preclude the  
 1518 recovery of any extraordinary or imprudently incurred  
 1519 expenditures or, for good cause shown, increase the amount of  
 1520 the bond or corporate undertaking.

1521 Section 42. Subsection (1) of section 366.076, Florida  
 1522 Statutes, is amended to read:

1523 366.076 Limited proceedings; rules on subsequent  
 1524 adjustments.-

1525 (1) Upon petition ~~or its own motion~~, the commission may  
 1526 conduct a limited proceeding to consider and act upon any matter  
 1527 within its jurisdiction, including any matter the resolution of  
 1528 which requires a public utility to adjust its rates to consist  
 1529 with the provisions of this chapter. The commission shall  
 1530 determine the issues to be considered during such a proceeding  
 1531 and may grant or deny any request to expand the scope of the  
 1532 proceeding to include other matters.

1533 Section 43. Section 366.08, Florida Statutes, is amended  
 1534 to read:

1535 366.08 Investigations, inspections; power of office  
 1536 ~~commission~~.-The office ~~commission~~ or its duly authorized  
 1537 representatives may during all reasonable hours enter upon any  
 1538 premises occupied by any public utility and may set up and use  
 1539 thereon all necessary apparatus and appliances for the purpose

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1540 of making investigations, inspections, examinations and tests  
1541 and exercising any power conferred by this chapter or chapter  
1542 350; however provided, such public utility shall have the right  
1543 to be notified of and be represented at the making of such  
1544 investigations, inspections, examinations and tests.

1545 Section 44. Subsections (1) and (2) of section 366.093,  
1546 Florida Statutes, are amended to read:

1547 366.093 Public utility records; confidentiality.—

1548 (1) The commission and the office shall ~~continue to~~ have  
1549 reasonable access to all public utility records and records of  
1550 the utility's affiliated companies, including its parent  
1551 company, regarding transactions or cost allocations among the  
1552 utility and such affiliated companies, and such records  
1553 necessary to ensure that a utility's ratepayers do not subsidize  
1554 nonutility activities. Upon request of the public utility or  
1555 other person, any records received by the commission or the  
1556 office which are shown and found by the commission to be  
1557 proprietary confidential business information shall be kept  
1558 confidential and shall be exempt from s. 119.07(1). The  
1559 authority of the commission to access records under this section  
1560 is granted subject to the limitations set forth in s. 350.011(3)  
1561 and (4).

1562 (2) Discovery in any docket or proceeding before the  
1563 commission shall be in the manner provided for in Rule 1.280 of  
1564 the Florida Rules of Civil Procedure. Information which affects  
1565 a utility's rates or cost of service shall be considered  
1566 relevant for purposes of discovery in any docket or proceeding  
1567 where the utility's rates or cost of service are at issue. The



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1568 commission shall determine whether information requested in  
1569 discovery affects a utility's rates or cost of service. Upon a  
1570 showing by a utility or other person and a finding by the  
1571 commission that discovery will require the disclosure of  
1572 proprietary confidential business information, the commission  
1573 shall issue appropriate protective orders designating the manner  
1574 for handling such information during the course of the  
1575 proceeding and for protecting such information from disclosure  
1576 outside the proceeding. Such proprietary confidential business  
1577 information shall be exempt from s. 119.07(1). Any records  
1578 provided pursuant to a discovery request for which proprietary  
1579 confidential business information status is requested shall be  
1580 treated by the commission, the Office of Regulatory Staff, ~~and~~  
1581 the office of the Public Counsel, and any other party subject to  
1582 the public records law as confidential and shall be exempt from  
1583 s. 119.07(1), pending a formal ruling on such request by the  
1584 commission or the return of the records to the person providing  
1585 the records. Any record which has been determined to be  
1586 proprietary confidential business information and is not entered  
1587 into the official record of the proceeding must be returned to  
1588 the person providing the record within 60 days after the final  
1589 order, unless the final order is appealed. If the final order is  
1590 appealed, any such record must be returned within 30 days after  
1591 the decision on appeal. The commission shall adopt the necessary  
1592 rules to implement this provision.

1593 Section 45. Subsections (6) and (7) of section 366.82,  
1594 Florida Statutes, are amended to read:

1595 366.82 Definition; goals; plans; programs; annual reports;

1596 energy audits.—

1597 (6) The commission may change the goals upon a showing of  
1598 ~~for~~ reasonable cause. The time period to review the goals,  
1599 however, shall not exceed 5 years. After the programs and plans  
1600 to meet those goals are completed, the commission shall  
1601 determine what further goals, programs, or plans are warranted  
1602 and adopt them.

1603 (7) Following adoption of goals pursuant to subsections  
1604 (2) and (3), the commission shall require each utility to  
1605 develop plans and programs to meet the overall goals within its  
1606 service area. Upon petition, the commission may require  
1607 modifications or additions to a utility's plans and programs at  
1608 any time it is shown to be in the public interest consistent  
1609 with this act. In approving plans and programs for cost  
1610 recovery, the commission shall have the flexibility to modify or  
1611 deny plans or programs that would have an undue impact on the  
1612 costs passed on to customers. If any plan or program includes  
1613 loans, collection of loans, or similar banking functions by a  
1614 utility and the plan is approved by the commission, the utility  
1615 shall perform such functions, notwithstanding any other  
1616 provision of the law. However, no utility shall be required to  
1617 loan its funds for the purpose of purchasing or otherwise  
1618 acquiring conservation measures or devices, but nothing herein  
1619 shall prohibit or impair the administration or implementation of  
1620 a utility plan as submitted by a utility and approved by the  
1621 commission under this subsection. If the commission disapproves  
1622 a plan, it shall specify the reasons for disapproval, and the  
1623 utility whose plan is disapproved shall resubmit its modified

1624 plan within 30 days. Prior approval by the commission shall be  
 1625 required to modify or discontinue a plan, or part thereof, which  
 1626 has been approved. If any utility has not implemented its  
 1627 programs and is not substantially in compliance with the  
 1628 provisions of its approved plan at any time, the commission  
 1629 shall adopt programs required for that utility to achieve the  
 1630 overall goals. Utility programs may include variations in rate  
 1631 design, load control, cogeneration, residential energy  
 1632 conservation subsidy, or any other measure within the  
 1633 jurisdiction of the commission which the commission finds likely  
 1634 to be effective; this provision shall not be construed to  
 1635 preclude these measures in any plan or program.

1636 Section 46. Subsections (9) through (13) of section  
 1637 367.021, Florida Statutes, are renumbered as subsections (10)  
 1638 through (14), respectively, and a new subsection (9) is added to  
 1639 that section to read:

1640 367.021 Definitions.—As used in this chapter, the  
 1641 following words or terms shall have the meanings indicated:

1642 (9) "Office" means the Office of Regulatory Staff.

1643 Section 47. Paragraph (a) of subsection (1), paragraph (a)  
 1644 of subsection (2), and subsections (4) and (6) of section  
 1645 367.045, Florida Statutes, are amended to read:

1646 367.045 Certificate of authorization; application and  
 1647 amendment procedures.—

1648 (1) When a utility applies for an initial certificate of  
 1649 authorization from the commission, it shall:

1650 (a) Provide notice of the actual application filed by mail  
 1651 or personal delivery to the governing body of the county or city

1652 affected, ~~to~~ the Public Counsel, the office, ~~to~~ the commission,  
 1653 and ~~to~~ such other persons and in such other manner as may be  
 1654 prescribed by commission rule;

1655 (2) A utility may not delete or extend its service outside  
 1656 the area described in its certificate of authorization until it  
 1657 has obtained an amended certificate of authorization from the  
 1658 commission. When a utility applies for an amended certificate of  
 1659 authorization from the commission, it shall:

1660 (a) Provide notice of the actual application filed by mail  
 1661 or personal delivery to the governing body of the county or  
 1662 municipality affected, ~~to~~ the Public Counsel, the office, ~~to~~ the  
 1663 commission, and ~~to~~ such other persons and in such other manner  
 1664 as may be prescribed by commission rule;

1665 (4) If, within 30 days after the last day that notice was  
 1666 mailed or published by the applicant, whichever is later, the  
 1667 commission receives from the Public Counsel, the office, a  
 1668 governmental authority, or a utility or consumer who would be  
 1669 substantially affected by the requested certification or  
 1670 amendment a written objection requesting a proceeding pursuant  
 1671 to ss. 120.569 and 120.57, the commission shall order such  
 1672 proceeding conducted in or near the area for which application  
 1673 is made, if feasible. Notwithstanding the ability to object on  
 1674 any other ground, a county or municipality has standing to  
 1675 object on the ground that the issuance or amendment of the  
 1676 certificate of authorization violates established local  
 1677 comprehensive plans developed pursuant to ss. 163.3161-163.3211.  
 1678 If a consumer, utility, or governmental authority or the office  
 1679 or Public Counsel requests a public hearing on the application,

1680 such hearing must, if feasible, be held in or near the area for  
 1681 which application is made; and the transcript of such hearing  
 1682 and any material submitted at or before the hearing must be  
 1683 considered as part of the record of the application and any  
 1684 proceeding related thereto.

1685 (6) The revocation, suspension, transfer, or amendment of  
 1686 a certificate of authorization is subject to the provisions of  
 1687 this section. The commission shall give 30 days' notice before  
 1688 it initiates any such action upon petition of the office.

1689 Section 48. Paragraph (a) of subsection (2) and paragraph  
 1690 (a) of subsection (4) of section 367.081, Florida Statutes, are  
 1691 amended to read:

1692 367.081 Rates; procedure for fixing and changing.—

1693 (2)(a)1. The commission shall, ~~either upon request or upon~~  
 1694 ~~its own motion~~, fix rates which are just, reasonable,  
 1695 compensatory, and not unfairly discriminatory. In every such  
 1696 proceeding, the commission shall consider the value and quality  
 1697 of the service and the cost of providing the service, which  
 1698 shall include, but not be limited to, debt interest; the  
 1699 requirements of the utility for working capital; maintenance,  
 1700 depreciation, tax, and operating expenses incurred in the  
 1701 operation of all property used and useful in the public service;  
 1702 and a fair return on the investment of the utility in property  
 1703 used and useful in the public service. However, the commission  
 1704 shall not allow the inclusion of contributions-in-aid-of-  
 1705 construction in the rate base of any utility during a rate  
 1706 proceeding, nor shall the commission impute prospective future  
 1707 contributions-in-aid-of-construction against the utility's

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1708 investment in property used and useful in the public service;  
1709 and accumulated depreciation on such contributions-in-aid-of-  
1710 construction shall not be used to reduce the rate base, nor  
1711 shall depreciation on such contributed assets be considered a  
1712 cost of providing utility service.

1713 2. For purposes of such proceedings, the commission shall  
1714 consider utility property, including land acquired or facilities  
1715 constructed or to be constructed within a reasonable time in the  
1716 future, not to exceed 24 months after the end of the historic  
1717 base year used to set final rates unless a longer period is  
1718 approved by the commission, to be used and useful in the public  
1719 service, if:

1720 a. Such property is needed to serve current customers;

1721 b. Such property is needed to serve customers 5 years  
1722 after the end of the test year used in the commission's final  
1723 order on a rate request as provided in subsection (6) at a  
1724 growth rate for equivalent residential connections not to exceed  
1725 5 percent per year; or

1726 c. Such property is needed to serve customers more than 5  
1727 full years after the end of the test year used in the  
1728 commission's final order on a rate request as provided in  
1729 subsection (6) only to the extent that the utility presents  
1730 clear and convincing evidence to justify such consideration.

1731  
1732 Notwithstanding the provisions of this paragraph, the commission  
1733 shall approve rates for service which allow a utility to recover  
1734 from customers the full amount of environmental compliance  
1735 costs. Such rates may not include charges for allowances for

1736 funds prudently invested or similar charges. For purposes of  
 1737 this requirement, the term "environmental compliance costs"  
 1738 includes all reasonable expenses and fair return on any prudent  
 1739 investment incurred by a utility in complying with the  
 1740 requirements or conditions contained in any permitting,  
 1741 enforcement, or similar decisions of the United States  
 1742 Environmental Protection Agency, the Department of Environmental  
 1743 Protection, a water management district, or any other  
 1744 governmental entity with similar regulatory jurisdiction.

1745 (4) (a) On or before March 31 of each year, the commission  
 1746 by order shall establish a price increase or decrease index for  
 1747 major categories of operating costs incurred by utilities  
 1748 subject to its jurisdiction reflecting the percentage of  
 1749 increase or decrease in such costs from the most recent 12-month  
 1750 historical data available. The commission by rule shall  
 1751 establish the procedure to be used in determining such indices  
 1752 and a procedure by which a utility, without further action by  
 1753 the commission, or the commission upon petition of the office ~~on~~  
 1754 ~~its own motion~~, may implement an increase or decrease in its  
 1755 rates based upon the application of the indices to the amount of  
 1756 the major categories of operating costs incurred by the utility  
 1757 during the immediately preceding calendar year, except to the  
 1758 extent of any disallowances or adjustments for those expenses of  
 1759 that utility in its most recent rate proceeding before the  
 1760 commission. The rules shall provide that, upon a finding of good  
 1761 cause, including inadequate service, the commission may order a  
 1762 utility to refrain from implementing a rate increase hereunder  
 1763 unless implemented under a bond or corporate undertaking in the

1764 same manner as interim rates may be implemented under s.  
 1765 367.082. A utility may not use this procedure between the  
 1766 official filing date of the rate proceeding and 1 year  
 1767 thereafter, unless the case is completed or terminated at an  
 1768 earlier date. A utility may not use this procedure to increase  
 1769 any operating cost for which an adjustment has been or could be  
 1770 made under paragraph (b), or to increase its rates by  
 1771 application of a price index other than the most recent price  
 1772 index authorized by the commission at the time of filing.

1773 Section 49. Subsections (1), (2), (4), (6), (8), and (10)  
 1774 of section 367.0814, Florida Statutes, are amended to read:

1775 367.0814 Office of Regulatory Staff assistance in changing  
 1776 rates and charges; interim rates.—

1777 (1) The commission may establish rules by which a water or  
 1778 wastewater utility whose gross annual revenues are \$250,000 or  
 1779 less may request and obtain ~~staff~~ assistance from the Office of  
 1780 Regulatory Staff for the purpose of changing its rates and  
 1781 charges. A utility may request such ~~staff~~ assistance by filing  
 1782 an application with the commission. The gross annual revenue  
 1783 level shall be adjusted on July 1, 2013, and every 5 years  
 1784 thereafter, based on the most recent cumulative 5 years of the  
 1785 price index established by the commission pursuant to s.  
 1786 367.081(4)(a).

1787 (2) The official date of filing is established as 30 days  
 1788 after official acceptance by the office ~~commission~~ of the  
 1789 application. If a utility does not remit a fee, as provided by  
 1790 s. 367.145, within 30 days after acceptance, the commission may  
 1791 deny the application. The commission has 15 months after the



1792 official date of filing within which to issue a final order.

1793 (4) The commission may, upon petition from the office or  
 1794 ~~its own motion, or upon petition~~ from the regulated utility,  
 1795 authorize the collection of interim rates until the effective  
 1796 date of the final order. Such interim rates may be based upon a  
 1797 test period different from the test period used in the request  
 1798 for permanent rate relief. To establish interim relief, there  
 1799 must be a demonstration that the operation and maintenance  
 1800 expenses exceed the revenues of the regulated utility, and  
 1801 interim rates shall not exceed the level necessary to cover  
 1802 operation and maintenance expenses as defined by the Uniform  
 1803 System of Accounts for Class C Water and Wastewater Utilities  
 1804 (1996) of the National Association of Regulatory Utility  
 1805 Commissioners.

1806 (6) The utility, in requesting ~~staff~~ assistance from the  
 1807 office, shall agree to accept the final rates and charges  
 1808 approved by the commission unless the final rates and charges  
 1809 produce less revenue than the existing rates and charges.

1810 (8) If a utility becomes exempt from commission regulation  
 1811 or jurisdiction during the pendency of a ~~staff-assisted~~ rate  
 1812 case conducted pursuant to this section, the request for rate  
 1813 relief is deemed to have been withdrawn. Interim rates, if  
 1814 previously approved, shall become final. Temporary rates, if  
 1815 previously approved, must be discontinued, and any money  
 1816 collected pursuant to the temporary rates, or the difference  
 1817 between temporary and interim rates, if previously approved,  
 1818 must be refunded to the customers of the utility with interest.

1819 (10) The commission shall submit to the President of the

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1820 Senate and the Speaker of the House of Representatives by  
 1821 January 1, 2013, and every 5 years thereafter, a report of the  
 1822 status of proceedings conducted under this section, including  
 1823 the number of utilities eligible to request ~~staff~~ assistance  
 1824 from the office, the number of proceedings conducted annually  
 1825 for the most recent 5-year period, the associated impact on  
 1826 commission and office resources, and any other information the  
 1827 commission deems appropriate. The commission shall request from  
 1828 the office any information necessary to complete this report.

1829 Section 50. Subsection (6) of section 367.0817, Florida  
 1830 Statutes, is amended to read:

1831 367.0817 Reuse projects.—

1832 (6) After the reuse project is placed in service, the  
 1833 commission, upon ~~by petition or on its own motion~~, may initiate  
 1834 a proceeding to true-up the costs of the reuse project and the  
 1835 resulting rates.

1836 Section 51. Subsections (1) and (3) of section 367.082,  
 1837 Florida Statutes, are amended to read:

1838 367.082 Interim rates; procedure.—

1839 (1) The commission may, during any proceeding for a change  
 1840 of rates, ~~upon its own motion~~, upon petition from any party, or  
 1841 by a tariff filing of a utility or a regulated company,  
 1842 authorize the collection of interim rates until the effective  
 1843 date of the final order. Such interim rates may be based upon a  
 1844 test period different from the test period used in the request  
 1845 for permanent rate relief. Upon application by a utility, the  
 1846 commission may use the projected test-year rate base when  
 1847 determining the interim rates or revenues subject to refund. To

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1848 establish a prima facie entitlement for interim relief, ~~the~~  
 1849 ~~commission,~~ the petitioning party, the utility, or the regulated  
 1850 company shall demonstrate that the utility or the regulated  
 1851 company is earning outside the range of reasonableness on rate  
 1852 of return calculated in accordance with subsection (5).

1853 (3) In granting such relief, the commission may, in an  
 1854 expedited hearing but within 60 days of the commencement of the  
 1855 proceeding, upon petition ~~or upon its own motion,~~ preclude the  
 1856 recovery of any extraordinary or imprudently incurred  
 1857 expenditures or, for good cause shown, increase the amount of  
 1858 the bond, escrow, letter of credit, or corporate undertaking.

1859 Section 52. Subsection (1) of section 367.0822, Florida  
 1860 Statutes, is amended to read:

1861 367.0822 Limited proceedings.—

1862 (1) Upon petition ~~or by its own motion,~~ the commission may  
 1863 conduct limited proceedings to consider, and act upon, any  
 1864 matter within its jurisdiction, including any matter the  
 1865 resolution of which requires a utility to adjust its rates. The  
 1866 commission shall determine the issues to be considered during  
 1867 such a proceeding and may grant or deny any request to expand  
 1868 the scope of the proceeding to include other related matters.  
 1869 However, unless the issue of rate of return is specifically  
 1870 addressed in the limited proceeding, the commission shall not  
 1871 adjust rates if the effect of the adjustment would be to change  
 1872 the last authorized rate of return.

1873 Section 53. Section 367.083, Florida Statutes, is amended  
 1874 to read:

1875 367.083 Determination of official date of filing.—Within

1876 30 days after receipt of an application, rate request, or other  
 1877 written document for which an official date of filing is to be  
 1878 established, the commission or its designee shall either  
 1879 determine the official date of filing or issue a statement of  
 1880 deficiencies to the applicant, specifically listing why said  
 1881 applicant has failed to meet the minimum filing requirements.  
 1882 Such statement of deficiencies shall be binding upon the  
 1883 commission to the extent that, once the deficiencies in the  
 1884 statement are satisfied, the official date of filing shall be  
 1885 promptly established as provided herein. Thereafter, within 20  
 1886 days after the applicant indicates to the commission that it  
 1887 believes that it has met the minimum filing requirements, the  
 1888 commission or its designee shall either determine the official  
 1889 date of filing or issue another statement of deficiencies,  
 1890 specifically listing why the requirements have not been met, in  
 1891 which case this procedure shall be repeated until the applicant  
 1892 meets the minimum filing requirements and the official date of  
 1893 filing is established. When the commission initiates a  
 1894 proceeding upon request made by a person other than the utility,  
 1895 the official date of filing shall be the date upon which the  
 1896 order initiating the proceeding is issued.

1897 Section 54. Subsection (1) of section 367.101, Florida  
 1898 Statutes, is amended to read:

1899 367.101 Charges for service availability.—

1900 (1) The commission shall set just and reasonable charges  
 1901 and conditions for service availability. The commission by rule  
 1902 may set standards for and levels of service-availability charges  
 1903 and service-availability conditions. Such charges and conditions

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1904 shall be just and reasonable. The commission shall, upon request  
 1905 ~~or upon its own motion,~~ direct the office to investigate  
 1906 agreements or proposals for charges and conditions for service  
 1907 availability and report the results to the commission.

1908 Section 55. Paragraphs (i) and (k) of subsection (1) and  
 1909 subsection (2) of section 367.121, Florida Statutes, are amended  
 1910 to read:

1911 367.121 Powers of commission and office.—

1912 (1) In the exercise of its jurisdiction, the commission  
 1913 shall have power:

1914 (i) To require the filing of reports and other data by a  
 1915 public utility or its affiliated companies, including its parent  
 1916 company, regarding transactions or allocations of common costs,  
 1917 among the utility and such affiliated companies. The commission  
 1918 may also require such reports or other data necessary to ensure  
 1919 that a utility's ratepayers do not subsidize nonutility  
 1920 activities. The authority of the commission to access records  
 1921 under this paragraph is granted subject to the limitations set  
 1922 forth in s. 350.011(3) and (4).

1923 ~~(k) To assess a utility for reasonable travel costs~~  
 1924 ~~associated with reviewing the records of the utility and its~~  
 1925 ~~affiliates when such records are kept out of state. The utility~~  
 1926 ~~may bring the records back into the state for review.~~

1927 (2) (a) The office ~~commission~~ or its duly authorized  
 1928 representatives may, during all reasonable hours, enter upon any  
 1929 premises occupied by any utility and set up and use thereon any  
 1930 necessary apparatus and appliance for the purpose of making  
 1931 investigations, inspections, examinations, and tests and

1932 exercising any power conferred by this chapter. Such utility  
 1933 shall have the right to be notified of and be represented at the  
 1934 making of such investigations, inspections, examinations, and  
 1935 tests.

1936 (b) The office may assess a utility for reasonable travel  
 1937 costs associated with reviewing the records of the utility and  
 1938 its affiliates when such records are kept out of state. The  
 1939 utility may bring the records back into the state for review.

1940 Section 56. Subsections (3) and (4) of section 367.122,  
 1941 Florida Statutes, are amended to read:

1942 367.122 Examination and testing of meters.—

1943 (3) The commission shall establish reasonable fees to be  
 1944 paid for testing such meters on the request of the customers.  
 1945 Current utility customers or users may, at their discretion, pay  
 1946 the fee fixed by the commission at the time of the request or  
 1947 have the utility include the fee with their next regularly  
 1948 scheduled statement. However, the fee shall be paid by the  
 1949 utility and repaid to the customer or user if the meter is found  
 1950 defective or incorrect to the disadvantage of the customer or  
 1951 user in excess of the degree or amount of tolerance customarily  
 1952 allowed for such meters, or as may be provided for in rules and  
 1953 regulations of the commission. No fee may be charged for any  
 1954 such testing done by the commission or its representatives. The  
 1955 commission may designate the office to conduct testing on its  
 1956 behalf.

1957 (4) The commission or the office, if designated by the  
 1958 commission to conduct testing, may purchase materials,  
 1959 apparatus, and standard measuring instruments for such

1960 examinations and tests.

1961 Section 57. Subsection (3) of section 367.145, Florida

1962 Statutes, is amended to read:

1963 367.145 Regulatory assessment and application fees.—

1964 (3) Fees collected by the commission pursuant to this

1965 section may only be used to cover the cost of the commission and

1966 the office in regulating water and wastewater systems. Fees

1967 collected by the commission pursuant to chapters 364 and 366 may

1968 not be used to pay the cost of regulating water and wastewater

1969 systems.

1970 Section 58. Subsections (1) and (2) of section 367.156,

1971 Florida Statutes, are amended to read:

1972 367.156 Public utility records; confidentiality.—

1973 (1) The commission and the office shall ~~continue to~~ have

1974 reasonable access to all utility records and records of

1975 affiliated companies, including its parent company, regarding

1976 transactions or cost allocations among the utility and such

1977 affiliated companies, and such records necessary to ensure that

1978 a utility's ratepayers do not subsidize nonutility activities.

1979 Upon request of the utility or any other person, any records

1980 received by the commission or the office which are shown and

1981 found by the commission to be proprietary confidential business

1982 information shall be kept confidential and shall be exempt from

1983 s. 119.07(1). The authority of the commission to access records

1984 under this section is granted subject to the limitations set

1985 forth in s. 350.011(3) and (4).

1986 (2) Discovery in any docket or proceeding before the

1987 commission shall be in the manner provided for in Rule 1.280 of

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1988 | the Florida Rules of Civil Procedure. Information which affects  
1989 | a utility's rates or cost of service shall be considered  
1990 | relevant for purposes of discovery in any docket or proceeding  
1991 | where the utility's rates or cost of service are at issue. The  
1992 | commission shall determine whether information requested in  
1993 | discovery affects a utility's rates or cost of service. Upon  
1994 | showing by a utility or other person and a finding by the  
1995 | commission that discovery will require the disclosure of  
1996 | proprietary confidential business information, the commission  
1997 | shall issue appropriate protective orders designating the manner  
1998 | for handling such information during the course of the  
1999 | proceeding and for protecting such information from disclosure  
2000 | outside the proceeding. Such proprietary confidential business  
2001 | information shall be exempt from s. 119.07(1). Any records  
2002 | provided pursuant to a discovery request for which proprietary  
2003 | confidential business information status is requested shall be  
2004 | treated by the commission, the Office of Regulatory Staff, and  
2005 | the Office of the Public Counsel, and any other party subject to  
2006 | the public records act as confidential and shall be exempt from  
2007 | s. 119.07(1), pending a formal ruling on such request by the  
2008 | commission or the return of the records to the person providing  
2009 | the records. Any record which has been determined to be  
2010 | proprietary confidential business information and is not entered  
2011 | into the official record of the proceeding must be returned to  
2012 | the person providing the record within 60 days after the final  
2013 | order, unless the final order is appealed. If the final order is  
2014 | appealed, any such record must be returned within 30 days after  
2015 | the decision on appeal. The commission shall adopt the necessary



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2016 rules to implement this provision.

2017 Section 59. Subsection (5) of section 367.171, Florida  
 2018 Statutes, is amended to read:

2019 367.171 Effectiveness of this chapter.—

2020 (5) When a utility becomes subject to regulation by a  
 2021 county, all cases in which the utility is a party then pending  
 2022 before the commission, or in any court by appeal from any order  
 2023 of the commission, shall remain within the jurisdiction of the  
 2024 commission or court until disposed of in accordance with the law  
 2025 in effect on the day such case was filed by any party with the  
 2026 commission or initiated by the commission upon the petition of  
 2027 any party, whether or not the parties or the subject of any such  
 2028 case relates to a utility in a county wherein this chapter no  
 2029 longer applies.

2030 Section 60. Subsection (4) is added to section 368.05,  
 2031 Florida Statutes, to read:

2032 368.05 Commission jurisdiction; rules.—

2033 (4) The commission may not, on its own motion, initiate  
 2034 any proceeding under this part. The authority of the commission  
 2035 to access records under this section is granted subject to the  
 2036 limitations set forth in s. 350.011(3) and (4).

2037 Section 61. Subsections (2) and (3) of section 368.061,  
 2038 Florida Statutes, are amended to read:

2039 368.061 Penalty.—

2040 (2) Any such civil penalty may be compromised by the  
 2041 commission ~~commissioners~~. In determining the amount of such  
 2042 penalty or the amount agreed upon in compromise, the  
 2043 appropriateness of such penalty to the size of the business of

2044 the person charged, the gravity of the violation, and the good  
 2045 faith of the person charged in attempting to achieve compliance  
 2046 after notification of a violation shall be considered. Each  
 2047 penalty shall be a lien upon the real and personal property of  
 2048 said persons and enforceable by the commission as statutory  
 2049 liens under chapter 85, the proceeds of which shall be deposited  
 2050 in the general revenue fund of the state.

2051 (3) The commission ~~commissioners~~ may, upon petition at  
 2052 ~~their discretion~~, cause to be instituted in any court of  
 2053 competent jurisdiction in this state proceedings for injunction  
 2054 against any person subject to the provisions of this part to  
 2055 compel the observance of the provisions of this part or any  
 2056 rule, regulation, or requirement of the commission made  
 2057 thereunder.

2058 Section 62. Subsections (5) and (6) of section 368.103,  
 2059 Florida Statutes, are renumbered as subsections (6) and (7),  
 2060 respectively, and a new subsection (5) is added to that section  
 2061 to read:

2062 368.103 Definitions.—As used in ss. 368.101-368.112, the  
 2063 term:

2064 (5) "Office" means the Office of Regulatory Staff.

2065 Section 63. Subsection (2) of section 368.106, Florida  
 2066 Statutes, is amended to read:

2067 368.106 Statement of intent to increase rates; major  
 2068 changes; hearing; suspension of rate schedules; determination of  
 2069 rate level.—

2070 (2) Except when a rate is deemed just and reasonable  
 2071 pursuant to s. 368.105(3), if there is filed with the commission

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2072 an initial rate, or a change or modification in any rate in  
2073 effect, the commission shall, on complaint by any person whose  
2074 substantial interests are affected by the rate, or may, upon  
2075 petition by the office ~~on its own motion~~, at any time before  
2076 such rate would have taken effect, order a hearing pursuant to  
2077 ss. 120.569 and 120.57 to determine whether the rate is just and  
2078 reasonable.

2079 Section 64. Section 368.107, Florida Statutes, is amended  
2080 to read:

2081 368.107 Unreasonable or violative existing rates and  
2082 services.—If the commission, after reasonable notice and  
2083 hearing, upon petition by the office ~~on its own motion~~ or  
2084 written complaint by any person who has a substantial interest,  
2085 finds that any rate or service filed with the commission,  
2086 including any rate filed pursuant to s. 368.105(3), whether or  
2087 not being demanded, observed, charged, or collected by any  
2088 natural gas transmission company for any service is unjust,  
2089 unreasonable, or unduly discriminatory or preferential, or in  
2090 any way in violation of any provision of law, the commission  
2091 shall determine the just and reasonable rates, including maximum  
2092 or minimum rates and services, to be thereafter observed and in  
2093 force, and shall fix the same by order to be served on the  
2094 natural gas transmission company. Those rates and services shall  
2095 constitute the legal rates and services of the natural gas  
2096 transmission company until changed as provided by ss. 368.101-  
2097 368.112.

2098 Section 65. Subsections (1) and (2) of section 368.108,  
2099 Florida Statutes, are amended to read:

2100           368.108 Confidentiality; discovery.-  
 2101           (1) The commission and the office shall ~~continue to~~ have  
 2102 reasonable access to all natural gas transmission company  
 2103 records and records of the natural gas transmission company's  
 2104 affiliated companies, including its parent company, regarding  
 2105 transactions or cost allocations among the natural gas  
 2106 transmission company and such affiliated companies, and such  
 2107 records necessary to ensure that a natural gas transmission  
 2108 company's ratepayers do not subsidize unregulated activities.  
 2109 Upon request of the natural gas transmission company or other  
 2110 person, any records received by the commission or the office  
 2111 which are shown and found by the commission to be proprietary  
 2112 confidential business information shall be confidential and  
 2113 exempt from s. 119.07(1). The authority of the commission to  
 2114 access records under this section is granted subject to the  
 2115 limitations set forth in s. 350.011(3) and (4).

2116           (2) Discovery in any docket or proceeding before the  
 2117 commission shall be in the manner provided for in Rule 1.280 of  
 2118 the Florida Rules of Civil Procedure. Information which affects  
 2119 a natural gas transmission company's rates or cost of service  
 2120 shall be considered relevant for purposes of discovery in any  
 2121 docket or proceeding where the natural gas transmission  
 2122 company's rates or cost of service are at issue. The commission  
 2123 shall determine whether information requested in discovery  
 2124 affects a natural gas transmission company's rates or cost of  
 2125 service. Upon a showing by a natural gas transmission company or  
 2126 other person and a finding by the commission that discovery will  
 2127 require the disclosure of proprietary confidential business

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2128 information, the commission shall issue appropriate protective  
 2129 orders designating the manner for handling such information  
 2130 during the course of the proceeding and for protecting such  
 2131 information from disclosure outside the proceeding. Such  
 2132 proprietary confidential business information shall be exempt  
 2133 from s. 119.07(1). Any records provided pursuant to a discovery  
 2134 request for which proprietary confidential business information  
 2135 status is requested shall be treated by the commission, the  
 2136 Office of Regulatory Staff, ~~and~~ the Office of the Public  
 2137 Counsel, and any other party subject to the public records law  
 2138 as confidential and shall be exempt from s. 119.07(1) pending a  
 2139 formal ruling on such request by the commission or the return of  
 2140 the records to the person providing the records. Any record  
 2141 which has been determined to be proprietary confidential  
 2142 business information and is not entered into the official record  
 2143 of the proceeding must be returned to the person providing the  
 2144 record within 60 days after the final order, unless the final  
 2145 order is appealed. If the final order is appealed, any such  
 2146 record must be returned within 30 days after the decision on  
 2147 appeal. The commission shall adopt the necessary rules to  
 2148 implement this provision.

2149 Section 66. Section 368.1085, Florida Statutes, is amended  
 2150 to read:

2151 368.1085 Travel costs.—The office ~~commission~~ has the  
 2152 authority to assess a natural gas transmission company for  
 2153 reasonable travel costs associated with reviewing the records of  
 2154 the natural gas transmission company and its affiliates when  
 2155 such records are kept out of state. The natural gas transmission

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2156 company may bring the records back into the state for review.

2157 Section 67. Section 368.109, Florida Statutes, is amended  
2158 to read:

2159 368.109 Regulatory assessment fees.—Each natural gas  
2160 transmission company operating under ss. 368.101-368.112, for  
2161 all or any part of the preceding 6-month period, shall pay to  
2162 the commission, within 30 days following the end of each 6-month  
2163 period, a fee that may not exceed 0.25 percent annually of its  
2164 gross operating revenues derived from intrastate business  
2165 excluding sales for resales to natural gas transmission  
2166 companies, public utilities that supply gas, municipal gas  
2167 utilities, and gas districts. The fee shall, to the extent  
2168 practicable, be related to the cost of the commission and the  
2169 office in regulating such natural gas transmission companies.

2170 Section 68. Subsection (1) of section 403.519, Florida  
2171 Statutes, is amended to read:

2172 403.519 Exclusive forum for determination of need.—

2173 (1) On request by an applicant or upon petition by the  
2174 Office of Regulatory Staff ~~on its own motion~~, the commission  
2175 shall begin a proceeding to determine the need for an electrical  
2176 power plant subject to the Florida Electrical Power Plant Siting  
2177 Act.

2178 Section 69. Paragraph (a) of subsection (1) of section  
2179 403.537, Florida Statutes, is amended to read:

2180 403.537 Determination of need for transmission line;  
2181 powers and duties.—

2182 (1) (a) Upon request by an applicant or upon petition by  
2183 the Office of Regulatory Staff ~~its own motion~~, the Florida

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2184 Public Service Commission shall schedule a public hearing, after  
 2185 notice, to determine the need for a transmission line regulated  
 2186 by the Florida Electric Transmission Line Siting Act, ss.  
 2187 403.52-403.5365. The notice shall be published at least 21 days  
 2188 before the date set for the hearing and shall be published by  
 2189 the applicant in at least one-quarter page size notice in  
 2190 newspapers of general circulation, and by the commission in the  
 2191 manner specified in chapter 120, by giving notice to counties  
 2192 and regional planning councils in whose jurisdiction the  
 2193 transmission line could be placed, and by giving notice to any  
 2194 persons who have requested to be placed on the mailing list of  
 2195 the commission for this purpose. Within 21 days after receipt of  
 2196 a request for determination by an applicant, the commission  
 2197 shall set a date for the hearing. The hearing shall be held  
 2198 pursuant to s. 350.01 within 45 days after the filing of the  
 2199 request, and a decision shall be rendered within 60 days after  
 2200 such filing.

2201 Section 70. Paragraph (a) of subsection (1) of section  
 2202 403.9422, Florida Statutes, is amended to read:

2203 403.9422 Determination of need for natural gas  
 2204 transmission pipeline; powers and duties.—

2205 (1)(a) Upon request by an applicant or upon petition by  
 2206 the Office of Regulatory Staff ~~its own motion~~, the commission  
 2207 shall schedule a public hearing, after notice, to determine the  
 2208 need for a natural gas transmission pipeline regulated by ss.  
 2209 403.9401-403.9425. Such notice shall be published at least 45  
 2210 days before the date set for the hearing and shall be published  
 2211 in at least one-quarter page size in newspapers of general

2212 circulation and in the Florida Administrative Weekly, by giving  
 2213 notice to counties and regional planning councils in whose  
 2214 jurisdiction the natural gas transmission pipeline could be  
 2215 placed, and by giving notice to any persons who have requested  
 2216 to be placed on the mailing list of the commission for this  
 2217 purpose. Within 21 days after receipt of a request for  
 2218 determination by an applicant, the commission shall set a date  
 2219 for the hearing. The hearing shall be held pursuant to s. 350.01  
 2220 within 75 days after the filing of the request, and a decision  
 2221 shall be rendered within 90 days after such filing.

2222 Section 71. Subsection (6) of section 196.012, Florida  
 2223 Statutes, is amended to read:

2224 196.012 Definitions.—For the purpose of this chapter, the  
 2225 following terms are defined as follows, except where the context  
 2226 clearly indicates otherwise:

2227 (6) Governmental, municipal, or public purpose or function  
 2228 shall be deemed to be served or performed when the lessee under  
 2229 any leasehold interest created in property of the United States,  
 2230 the state or any of its political subdivisions, or any  
 2231 municipality, agency, special district, authority, or other  
 2232 public body corporate of the state is demonstrated to perform a  
 2233 function or serve a governmental purpose which could properly be  
 2234 performed or served by an appropriate governmental unit or which  
 2235 is demonstrated to perform a function or serve a purpose which  
 2236 would otherwise be a valid subject for the allocation of public  
 2237 funds. For purposes of the preceding sentence, an activity  
 2238 undertaken by a lessee which is permitted under the terms of its  
 2239 lease of real property designated as an aviation area on an



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2240 | airport layout plan which has been approved by the Federal  
2241 | Aviation Administration and which real property is used for the  
2242 | administration, operation, business offices and activities  
2243 | related specifically thereto in connection with the conduct of  
2244 | an aircraft full service fixed base operation which provides  
2245 | goods and services to the general aviation public in the  
2246 | promotion of air commerce shall be deemed an activity which  
2247 | serves a governmental, municipal, or public purpose or function.  
2248 | Any activity undertaken by a lessee which is permitted under the  
2249 | terms of its lease of real property designated as a public  
2250 | airport as defined in s. 332.004(14) by municipalities,  
2251 | agencies, special districts, authorities, or other public bodies  
2252 | corporate and public bodies politic of the state, a spaceport as  
2253 | defined in s. 331.303, or which is located in a deepwater port  
2254 | identified in s. 403.021(9)(b) and owned by one of the foregoing  
2255 | governmental units, subject to a leasehold or other possessory  
2256 | interest of a nongovernmental lessee that is deemed to perform  
2257 | an aviation, airport, aerospace, maritime, or port purpose or  
2258 | operation shall be deemed an activity that serves a  
2259 | governmental, municipal, or public purpose. The use by a lessee,  
2260 | licensee, or management company of real property or a portion  
2261 | thereof as a convention center, visitor center, sports facility  
2262 | with permanent seating, concert hall, arena, stadium, park, or  
2263 | beach is deemed a use that serves a governmental, municipal, or  
2264 | public purpose or function when access to the property is open  
2265 | to the general public with or without a charge for admission. If  
2266 | property deeded to a municipality by the United States is  
2267 | subject to a requirement that the Federal Government, through a

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2268 | schedule established by the Secretary of the Interior, determine  
2269 | that the property is being maintained for public historic  
2270 | preservation, park, or recreational purposes and if those  
2271 | conditions are not met the property will revert back to the  
2272 | Federal Government, then such property shall be deemed to serve  
2273 | a municipal or public purpose. The term "governmental purpose"  
2274 | also includes a direct use of property on federal lands in  
2275 | connection with the Federal Government's Space Exploration  
2276 | Program or spaceport activities as defined in s. 212.02(22).  
2277 | Real property and tangible personal property owned by the  
2278 | Federal Government or Space Florida and used for defense and  
2279 | space exploration purposes or which is put to a use in support  
2280 | thereof shall be deemed to perform an essential national  
2281 | governmental purpose and shall be exempt. "Owned by the lessee"  
2282 | as used in this chapter does not include personal property,  
2283 | buildings, or other real property improvements used for the  
2284 | administration, operation, business offices and activities  
2285 | related specifically thereto in connection with the conduct of  
2286 | an aircraft full service fixed based operation which provides  
2287 | goods and services to the general aviation public in the  
2288 | promotion of air commerce provided that the real property is  
2289 | designated as an aviation area on an airport layout plan  
2290 | approved by the Federal Aviation Administration. For purposes of  
2291 | determination of "ownership," buildings and other real property  
2292 | improvements which will revert to the airport authority or other  
2293 | governmental unit upon expiration of the term of the lease shall  
2294 | be deemed "owned" by the governmental unit and not the lessee.  
2295 | Providing two-way telecommunications services to the public for

2296 hire by the use of a telecommunications facility, as defined in  
 2297 s. 364.02 (16) ~~(15)~~, and for which a certificate is required under  
 2298 chapter 364 does not constitute an exempt use for purposes of s.  
 2299 196.199, unless the telecommunications services are provided by  
 2300 the operator of a public-use airport, as defined in s. 332.004,  
 2301 for the operator's provision of telecommunications services for  
 2302 the airport or its tenants, concessionaires, or licensees, or  
 2303 unless the telecommunications services are provided by a public  
 2304 hospital.

2305 Section 72. Paragraph (b) of subsection (1) of section  
 2306 199.183, Florida Statutes, is amended to read:

2307 199.183 Taxpayers exempt from nonrecurring taxes.—

2308 (1) Intangible personal property owned by this state or  
 2309 any of its political subdivisions or municipalities shall be  
 2310 exempt from taxation under this chapter. This exemption does not  
 2311 apply to:

2312 (b) Property related to the provision of two-way  
 2313 telecommunications services to the public for hire by the use of  
 2314 a telecommunications facility, as defined in s. 364.02 (16) ~~(15)~~,  
 2315 and for which a certificate is required under chapter 364, when  
 2316 the service is provided by any county, municipality, or other  
 2317 political subdivision of the state. Any immunity of any  
 2318 political subdivision of the state or other entity of local  
 2319 government from taxation of the property used to provide  
 2320 telecommunication services that is taxed as a result of this  
 2321 paragraph is hereby waived. However, intangible personal  
 2322 property related to the provision of telecommunications services  
 2323 provided by the operator of a public-use airport, as defined in

2324 s. 332.004, for the operator's provision of telecommunications  
 2325 services for the airport or its tenants, concessionaires, or  
 2326 licensees, and intangible personal property related to the  
 2327 provision of telecommunications services provided by a public  
 2328 hospital, are exempt from taxation under this chapter.

2329 Section 73. Subsection (6) of section 212.08, Florida  
 2330 Statutes, is amended to read:

2331 212.08 Sales, rental, use, consumption, distribution, and  
 2332 storage tax; specified exemptions.—The sale at retail, the  
 2333 rental, the use, the consumption, the distribution, and the  
 2334 storage to be used or consumed in this state of the following  
 2335 are hereby specifically exempt from the tax imposed by this  
 2336 chapter.

2337 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—There are also  
 2338 exempt from the tax imposed by this chapter sales made to the  
 2339 United States Government, a state, or any county, municipality,  
 2340 or political subdivision of a state when payment is made  
 2341 directly to the dealer by the governmental entity. This  
 2342 exemption shall not inure to any transaction otherwise taxable  
 2343 under this chapter when payment is made by a government employee  
 2344 by any means, including, but not limited to, cash, check, or  
 2345 credit card when that employee is subsequently reimbursed by the  
 2346 governmental entity. This exemption does not include sales of  
 2347 tangible personal property made to contractors employed either  
 2348 directly or as agents of any such government or political  
 2349 subdivision thereof when such tangible personal property goes  
 2350 into or becomes a part of public works owned by such government  
 2351 or political subdivision. A determination whether a particular

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2352 transaction is properly characterized as an exempt sale to a  
 2353 government entity or a taxable sale to a contractor shall be  
 2354 based on the substance of the transaction rather than the form  
 2355 in which the transaction is cast. The department shall adopt  
 2356 rules that give special consideration to factors that govern the  
 2357 status of the tangible personal property before its affixation  
 2358 to real property. In developing these rules, assumption of the  
 2359 risk of damage or loss is of paramount consideration in the  
 2360 determination. This exemption does not include sales, rental,  
 2361 use, consumption, or storage for use in any political  
 2362 subdivision or municipality in this state of machines and  
 2363 equipment and parts and accessories therefor used in the  
 2364 generation, transmission, or distribution of electrical energy  
 2365 by systems owned and operated by a political subdivision in this  
 2366 state for transmission or distribution expansion. Likewise  
 2367 exempt are charges for services rendered by radio and television  
 2368 stations, including line charges, talent fees, or license fees  
 2369 and charges for films, videotapes, and transcriptions used in  
 2370 producing radio or television broadcasts. The exemption provided  
 2371 in this subsection does not include sales, rental, use,  
 2372 consumption, or storage for use in any political subdivision or  
 2373 municipality in this state of machines and equipment and parts  
 2374 and accessories therefor used in providing two-way  
 2375 telecommunications services to the public for hire by the use of  
 2376 a telecommunications facility, as defined in s. 364.02 (16) ~~(15)~~,  
 2377 and for which a certificate is required under chapter 364, which  
 2378 facility is owned and operated by any county, municipality, or  
 2379 other political subdivision of the state. Any immunity of any

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2380 political subdivision of the state or other entity of local  
2381 government from taxation of the property used to provide  
2382 telecommunication services that is taxed as a result of this  
2383 section is hereby waived. However, the exemption provided in  
2384 this subsection includes transactions taxable under this chapter  
2385 which are for use by the operator of a public-use airport, as  
2386 defined in s. 332.004, in providing such telecommunications  
2387 services for the airport or its tenants, concessionaires, or  
2388 licensees, or which are for use by a public hospital for the  
2389 provision of such telecommunications services.

2390 Section 74. Paragraph (b) of subsection (2) of section  
2391 288.0655, Florida Statutes, is amended to read:

2392 288.0655 Rural Infrastructure Fund.—

2393 (2)

2394 (b) To facilitate access of rural communities and rural  
2395 areas of critical economic concern as defined by the Rural  
2396 Economic Development Initiative to infrastructure funding  
2397 programs of the Federal Government, such as those offered by the  
2398 United States Department of Agriculture and the United States  
2399 Department of Commerce, and state programs, including those  
2400 offered by Rural Economic Development Initiative agencies, and  
2401 to facilitate local government or private infrastructure funding  
2402 efforts, the office may award grants for up to 30 percent of the  
2403 total infrastructure project cost. If an application for funding  
2404 is for a catalyst site, as defined in s. 288.0656, the office  
2405 may award grants for up to 40 percent of the total  
2406 infrastructure project cost. Eligible projects must be related  
2407 to specific job-creation or job-retention opportunities.

2408 Eligible projects may also include improving any inadequate  
 2409 infrastructure that has resulted in regulatory action that  
 2410 prohibits economic or community growth or reducing the costs to  
 2411 community users of proposed infrastructure improvements that  
 2412 exceed such costs in comparable communities. Eligible uses of  
 2413 funds shall include improvements to public infrastructure for  
 2414 industrial or commercial sites and upgrades to or development of  
 2415 public tourism infrastructure. Authorized infrastructure may  
 2416 include the following public or public-private partnership  
 2417 facilities: storm water systems; telecommunications facilities;  
 2418 broadband facilities; roads or other remedies to transportation  
 2419 impediments; nature-based tourism facilities; or other physical  
 2420 requirements necessary to facilitate tourism, trade, and  
 2421 economic development activities in the community. Authorized  
 2422 infrastructure may also include publicly or privately owned  
 2423 self-powered nature-based tourism facilities, publicly owned  
 2424 telecommunications facilities, and broadband facilities, and  
 2425 additions to the distribution facilities of the existing natural  
 2426 gas utility as defined in s. 366.04(3)(c), the existing electric  
 2427 utility as defined in s. 366.02, or the existing water or  
 2428 wastewater utility as defined in s. 367.021(13)~~(12)~~, or any  
 2429 other existing water or wastewater facility, which owns a gas or  
 2430 electric distribution system or a water or wastewater system in  
 2431 this state where:

- 2432 1. A contribution-in-aid of construction is required to
- 2433 serve public or public-private partnership facilities under the
- 2434 tariffs of any natural gas, electric, water, or wastewater
- 2435 utility as defined herein; and

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2436           2. Such utilities as defined herein are willing and able  
2437 to provide such service.

2438           Section 75. Subsection (8) of section 290.007, Florida  
2439 Statutes, is amended to read:

2440           290.007 State incentives available in enterprise zones.—  
2441 The following incentives are provided by the state to encourage  
2442 the revitalization of enterprise zones:

2443           (8) Notwithstanding any law to the contrary, the Public  
2444 Service Commission may allow public utilities and  
2445 telecommunications companies to grant discounts of up to 50  
2446 percent on tariffed rates for services to small businesses  
2447 located in an enterprise zone designated pursuant to s.  
2448 290.0065. Such discounts may be granted for a period not to  
2449 exceed 5 years. For purposes of this subsection, the term  
2450 "public utility" has the same meaning as in s. 366.02(1) and the  
2451 term "telecommunications company" has the same meaning as in s.  
2452 364.02 (15) ~~(14)~~.

2453           Section 76. Subsection (4) of section 364.602, Florida  
2454 Statutes, is amended to read:

2455           364.602 Definitions.—For purposes of this part:

2456           (4) "Originating party" means any person, firm,  
2457 corporation, or other entity, including a telecommunications  
2458 company or a billing clearinghouse, that provides any  
2459 telecommunications service or information service to a customer  
2460 or bills a customer through a billing party, except the term  
2461 "originating party" does not include any entity specifically  
2462 exempted from the definition of "telecommunications company" as  
2463 provided in s. 364.02 (15) ~~(14)~~.



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2464 Section 77. Subsection (5) of section 489.103, Florida  
 2465 Statutes, is amended to read:

2466 489.103 Exemptions.—This part does not apply to:

2467 (5) Public utilities, including special gas districts as  
 2468 defined in chapter 189, telecommunications companies as defined  
 2469 in s. 364.02 (15) ~~(14)~~, and natural gas transmission companies as  
 2470 defined in s. 368.103(4), on construction, maintenance, and  
 2471 development work performed by their employees, which work,  
 2472 including, but not limited to, work on bridges, roads, streets,  
 2473 highways, or railroads, is incidental to their business. The  
 2474 board shall define, by rule, the term "incidental to their  
 2475 business" for purposes of this subsection.

2476 Section 78. Section 624.105, Florida Statutes, is amended  
 2477 to read:

2478 624.105 Waiver of customer liability.—Any regulated  
 2479 company as defined in s. 350.111, any electric utility as  
 2480 defined in s. 366.02(2), any utility as defined in s.  
 2481 367.021 (13) ~~(12)~~ or s. 367.022(2) and (7), and any provider of  
 2482 communications services as defined in s. 202.11(2) may charge  
 2483 for and include an optional waiver of liability provision in  
 2484 their customer contracts under which the entity agrees to waive  
 2485 all or a portion of the customer's liability for service from  
 2486 the entity for a defined period in the event of the customer's  
 2487 call to active military service, death, disability, involuntary  
 2488 unemployment, qualification for family leave, or similar  
 2489 qualifying event or condition. Such provisions may not be  
 2490 effective in the customer's contract with the entity unless  
 2491 affirmatively elected by the customer. No such provision shall

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2492 | constitute insurance so long as the provision is a contract  
2493 | between the entity and its customer.

2494 |       Section 79. This act shall take effect October 1, 2010.