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1 A bill to be entitled
2 An act relating to public records; amending s. 364.183,
3 F.S.; providing the Office of Regulatory Staff within the
4 Financial Services Commission access to specified records
5 of telecommunications companies and their affiliates;
6 limiting the authority of the Public Service Commission to
7 access records; providing that records received by the
8 office which are claimed by the telecommunications company
9 or other person providing the records as proprietary
10 confidential business information are, upon request,
11 confidential and exempt from public records requirements;
12 providing for future legislative review and repeal of the
13 exemption under the Open Government Sunset Review Act;
14 amending s. 366.093, F.S.; providing the Office of
15 Regulatory Staff access to specified records of public
16 utilities and their affiliates; limiting the authority of
17 the Public Service Commission to access records; providing
18 that records received by the office which are shown by the
19 public utility or other person providing the records and
20 found by the commission to be proprietary confidential
21 business information are, upon request, confidential and
22 exempt from public records requirements; providing for
23 future legislative review and repeal of the exemption
24 under the Open Government Sunset Review Act; amending s.
25 367.156, F.S.; providing the Office of Regulatory Staff
26 access to specified records of utilities and their
27 affiliates; limiting the authority of the Public Service
28 Commission to access records; providing that records

29 received by the office which are shown by the utility or
 30 other person providing the records and found by the
 31 commission to be proprietary confidential business
 32 information are, upon request, confidential and exempt
 33 from public records requirements; providing for future
 34 legislative review and repeal of the exemption under the
 35 Open Government Sunset Review Act; amending s. 368.108,
 36 F.S.; providing the Office of Regulatory Staff access to
 37 specified records of natural gas transmission companies
 38 and their affiliates; limiting the authority of the Public
 39 Service Commission to access records; providing that
 40 records received by the office which are shown by the
 41 natural gas transmission company or other person providing
 42 the records and found by the commission to be proprietary
 43 confidential business information are, upon request,
 44 confidential and exempt from public records requirements;
 45 providing for future legislative review and repeal of the
 46 exemption under the Open Government Sunset Review Act;
 47 providing a finding of public necessity; providing a
 48 contingent effective date.

49
 50 Be It Enacted by the Legislature of the State of Florida:

51
 52 Section 1. Subsection (1) of section 364.183, Florida
 53 Statutes, is amended to read:

54 364.183 Access to company records.—

55 (1) (a) The commission and the office shall have access to
 56 all records of a telecommunications company that are reasonably

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57 necessary for the disposition of matters within the commission's
58 jurisdiction. The commission and the office shall also have
59 access to those records of a local exchange telecommunications
60 company's affiliated companies, including its parent company,
61 that are reasonably necessary for the disposition of any matter
62 concerning an affiliated transaction or a claim of
63 anticompetitive behavior including claims of cross-subsidization
64 and predatory pricing. Both the commission and the office may
65 require a telecommunications company to file records, reports,
66 or other data directly related to matters within the
67 commission's jurisdiction in the form specified in the request
68 ~~by the commission~~ and may require such company to retain such
69 information for a designated period of time. The authority of
70 the commission to access records under this section is granted
71 subject to the limitations set forth in s. 350.011(3) and (4).

72 (b) Upon request of the company or other person, any
73 records received by the commission which are claimed by the
74 company or other person to be proprietary confidential business
75 information shall be kept confidential and shall be exempt from
76 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

77 (c) Upon request of a company or other person providing
78 records to the office pursuant to paragraph (a), any such
79 records received by the office which are claimed by the company
80 or other person providing the records to be proprietary
81 confidential business information shall be kept confidential and
82 shall be exempt from s. 119.07(1) and s. 24(a), Art. I of the
83 State Constitution. This paragraph is subject to the Open
84 Government Sunset Review Act in accordance with s. 119.15 and

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85 shall stand repealed on October 2, 2015, unless reviewed and
 86 saved from repeal through reenactment by the Legislature.

87 Section 2. Subsection (1) of section 366.093, Florida
 88 Statutes, is amended to read:

89 366.093 Public utility records; confidentiality.—

90 (1)(a) The commission and the office shall ~~continue to~~
 91 have reasonable access to all public utility records and records
 92 of the utility's affiliated companies, including its parent
 93 company, regarding transactions or cost allocations among the
 94 utility and such affiliated companies, and such records
 95 necessary to ensure that a utility's ratepayers do not subsidize
 96 nonutility activities. The authority of the commission to access
 97 records under this section is granted subject to the limitations
 98 set forth in s. 350.011(3) and (4).

99 (b) Upon request of the public utility or other person,
 100 any records received by the commission which are shown and found
 101 by the commission to be proprietary confidential business
 102 information shall be kept confidential and shall be exempt from
 103 s. 119.07(1).

104 (c) Upon request of a public utility or other person
 105 providing records to the office pursuant to paragraph (a), any
 106 such records received by the office which are shown by the
 107 public utility or other person providing the records and found
 108 by the commission to be proprietary confidential business
 109 information shall be confidential and exempt from s. 119.07(1)
 110 and s. 24(a), Art. I of the State Constitution. This paragraph
 111 is subject to the Open Government Sunset Review Act in
 112 accordance with s. 119.15 and shall stand repealed on October 2,

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113 2015, unless reviewed and saved from repeal through reenactment
114 by the Legislature.

115 Section 3. Subsection (1) of section 367.156, Florida
116 Statutes, is amended to read:

117 367.156 Public utility records; confidentiality.—

118 (1)(a) The commission and the office shall ~~continue to~~
119 have reasonable access to all utility records and records of
120 affiliated companies, including its parent company, regarding
121 transactions or cost allocations among the utility and such
122 affiliated companies, and such records necessary to ensure that
123 a utility's ratepayers do not subsidize nonutility activities.
124 The authority of the commission to access records under this
125 section is granted subject to the limitations set forth in s.
126 350.011(3) and (4).

127 (b) Upon request of the utility or any other person, any
128 records received by the commission which are shown and found by
129 the commission to be proprietary confidential business
130 information shall be kept confidential and shall be exempt from
131 s. 119.07(1).

132 (c) Upon request of a utility or other person providing
133 records to the office pursuant to paragraph (a), any such
134 records received by the office which are shown by the utility or
135 other person providing the records and found by the commission
136 to be proprietary confidential business information shall be
137 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
138 of the State Constitution. This paragraph is subject to the Open
139 Government Sunset Review Act in accordance with s. 119.15 and
140 shall stand repealed on October 2, 2015, unless reviewed and

141 saved from repeal through reenactment by the Legislature.

142 Section 4. Subsection (1) of section 368.108, Florida
 143 Statutes, is amended to read:

144 368.108 Confidentiality; discovery.—

145 (1) (a) The commission and the office shall ~~continue to~~
 146 have reasonable access to all natural gas transmission company
 147 records and records of the natural gas transmission company's
 148 affiliated companies, including its parent company, regarding
 149 transactions or cost allocations among the natural gas
 150 transmission company and such affiliated companies, and such
 151 records necessary to ensure that a natural gas transmission
 152 company's ratepayers do not subsidize unregulated activities.
 153 The authority of the commission to access records under this
 154 section is granted subject to the limitations set forth in s.
 155 350.011(3) and (4).

156 (b) Upon request of the natural gas transmission company
 157 or other person, any records received by the commission which
 158 are shown and found by the commission to be proprietary
 159 confidential business information shall be confidential and
 160 exempt from s. 119.07(1).

161 (c) Upon request of the natural gas transmission company
 162 or other person providing records to the office pursuant to
 163 paragraph (a), any such records received by the office which are
 164 shown by the natural gas transmission company or other person
 165 providing the records and found by the commission to be
 166 proprietary confidential business information shall be
 167 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 168 of the State Constitution. This paragraph is subject to the Open

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169 Government Sunset Review Act in accordance with s. 119.15 and
170 shall stand repealed on October 2, 2015, unless reviewed and
171 saved from repeal through reenactment by the Legislature.

172 Section 5. The Legislature finds that it is a public
173 necessity that proprietary confidential business information of
174 telecommunications companies, public utilities, natural gas
175 transmission companies, affiliated entities of such companies
176 and utilities, and other persons that is provided to the Office
177 of Regulatory Staff of the Financial Services Commission be made
178 confidential and exempt from s. 119.07(1), Florida Statutes, and
179 s. 24(a), Art. I of the State Constitution. To effectively carry
180 out its duties to represent the public interest in proceedings
181 before the Public Service Commission, it is necessary for the
182 Office of Regulatory Staff of the Financial Services Commission
183 to request and obtain records from entities subject to the
184 regulatory jurisdiction of the commission and from related
185 business entities. These records may be obtained for multiple
186 purposes including, but not limited to, financial, operations,
187 and management audits; compliance investigations; earnings
188 surveillance; assistance in processing changes in rates; and
189 review for subsidies between related entities. Many of these
190 records contain proprietary confidential business information,
191 which, if disclosed to the public, could harm the competitive
192 interests of the regulated entity and its affiliates and the
193 competitive interests of private entities with which a regulated
194 entity does business. In addition, disclosure of proprietary
195 confidential business information could impair the efforts of
196 the regulated entity or its affiliates to contract for goods or

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197 services on favorable terms, in turn increasing costs to utility
198 ratepayers, or could compromise security measures, systems, and
199 procedures related to the provision of the essential services
200 provided by these regulated entities. Consequently, the
201 Legislature finds that it is a public necessity to make
202 confidential and exempt from public records requirements
203 proprietary confidential business information of
204 telecommunications companies, public utilities, natural gas
205 transmission companies, affiliated entities of such companies
206 and utilities, and other persons provided to the Office of
207 Regulatory Staff of the Financial Services Commission in order
208 to ensure the effective and efficient administration of the
209 duties and responsibilities of the office.

210 Section 6. This act shall take effect October 1, 2010, if
211 HB 7209 or similar legislation establishing an Office of
212 Regulatory Staff separate from the Public Service Commission for
213 purposes of representing the public interest on matters within
214 the jurisdiction of the Public Service Commission is adopted in
215 the same legislative session or an extension thereof and becomes
216 law.