

1                   A bill to be entitled  
2           An act relating to organization and standards of the  
3           Public Service Commission; amending s. 20.055, F.S.,  
4           relating to agency inspectors general; revising the  
5           definition of the term "agency head"; amending s. 112.324,  
6           F.S.; revising provisions for disposition of ethics  
7           complaints against the Public Counsel and employees of the  
8           Public Counsel; amending s. 350.001, F.S.; revising  
9           legislative intent; repealing s. 350.012, F.S., relating  
10          to the creation, organization, and duties of the Committee  
11          on Public Counsel Oversight; amending s. 350.031, F.S.,  
12          relating to terms of members of the Florida Public Service  
13          Commission Nominating Council; removing obsolete language;  
14          creating s. 350.035, F.S.; prohibiting attempts by certain  
15          persons to sway the judgment of the commission by bringing  
16          pressure to bear on certain persons; providing for the  
17          Commission on Ethics to receive and investigate complaints  
18          of violations pursuant to specified provisions;  
19          prohibiting commissioners from requiring or demanding that  
20          certain commission staff pursue particular positions or  
21          courses of action; requiring the inspector general of the  
22          commission to receive and investigate complaints of  
23          violations; amending s. 350.04, F.S.; requiring  
24          commissioners to complete a course of study developed by  
25          the executive director and general counsel; requiring  
26          commissioners to complete continuing professional  
27          education; providing training requirements for  
28          commissioners and commission employees; requiring

29 | certifications of compliance to be provided to the  
30 | Legislature; amending s. 350.041, F.S.; revising  
31 | legislative intent; revising standards of conduct for  
32 | commissioners; revising provisions for investigation and  
33 | reports of alleged violations; authorizing commission  
34 | employees to request opinions from the Commission on  
35 | Ethics; amending s. 350.042, F.S.; revising provisions for  
36 | communications concerning agency proceedings; providing  
37 | for application of such provisions to members of a  
38 | commissioner's direct staff; revising restrictions on such  
39 | communications by commissioners and members of their  
40 | direct staff; defining the term "ex parte communication";  
41 | providing a civil penalty; amending s. 350.06, F.S.;  
42 | revising provisions for the offices of the commission,  
43 | payment of moneys, and employment of personnel;  
44 | establishing the executive director as the agency head for  
45 | certain purposes; amending s. 350.061, F.S.; providing for  
46 | appointment of the Public Counsel by, and service of the  
47 | Public Counsel at the pleasure of, the Attorney General;  
48 | amending ss. 350.0613 and 350.0614, F.S.; providing powers  
49 | and duties of the Attorney General regarding the Public  
50 | Counsel and his or her employees to conform provisions to  
51 | the transfer of the Office of Public Counsel; transferring  
52 | the Office of Public Counsel from the legislative branch  
53 | to the Office of the Attorney General; repealing s.  
54 | 350.121, F.S.; relating to commission inquiries; creating  
55 | s. 350.122, F.S.; requiring persons testifying before the  
56 | Public Service Commission to disclose certain financial

57 | and fiduciary relationships; providing that a  
 58 | determination by the commission that a violation occurred  
 59 | constitutes agency action for which a hearing may be  
 60 | sought; providing an effective date.

61 |

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

63 |

64 | Section 1. Paragraph (b) of subsection (1) of section  
 65 | 20.055, Florida Statutes, is amended to read:

66 | 20.055 Agency inspectors general.—

67 | (1) For the purposes of this section:

68 | (b) "Agency head" means the Governor, a Cabinet officer, a  
 69 | secretary as defined in s. 20.03(5), or an executive director as  
 70 | defined in s. 20.03(6). It also includes ~~the chair of the Public~~  
 71 | ~~Service Commission,~~ the Director of the Office of Insurance  
 72 | Regulation of the Financial Services Commission, the Director of  
 73 | the Office of Financial Regulation of the Financial Services  
 74 | Commission, and the Chief Justice of the State Supreme Court.

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

77 | 112.324 Procedures on complaints of violations; public  
 78 | records and meeting exemptions.—

79 | (8) If, in cases pertaining to complaints other than  
 80 | complaints against impeachable officers or members of the  
 81 | Legislature, upon completion of a full and final investigation  
 82 | by the commission, the commission finds that there has been a  
 83 | violation of this part or of s. 8, Art. II of the State  
 84 | Constitution, it shall be the duty of the commission to report

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85 its findings and recommend appropriate action to the proper  
86 disciplinary official or body as follows, and such official or  
87 body shall have the power to invoke the penalty provisions of  
88 this part, including the power to order the appropriate  
89 elections official to remove a candidate from the ballot for a  
90 violation of s. 112.3145 or s. 8(a) and (i), Art. II of the  
91 State Constitution:

92 (a) The President of the Senate and the Speaker of the  
93 House of Representatives, jointly, in any case concerning ~~the~~  
94 ~~Public Counsel~~, members of the Public Service Commission,  
95 members of the Public Service Commission Nominating Council, the  
96 Auditor General, the director of the Office of Program Policy  
97 Analysis and Government Accountability, or members of the  
98 Legislative Committee on Intergovernmental Relations.

99 (c) The President of the Senate, in any case concerning an  
100 employee of the Senate; the Speaker of the House of  
101 Representatives, in any case concerning an employee of the House  
102 of Representatives; or the President and the Speaker, jointly,  
103 in any case concerning an employee of a committee of the  
104 Legislature whose members are appointed solely by the President  
105 and the Speaker or in any case concerning an employee of the  
106 ~~Public Counsel~~, Public Service Commission, Auditor General,  
107 Office of Program Policy Analysis and Government Accountability,  
108 or Legislative Committee on Intergovernmental Relations.

109 Section 3. Section 350.001, Florida Statutes, is amended  
110 to read:

111 350.001 Legislative intent.—

112 (1) The Florida Public Service Commission has been and

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113 shall continue to be an arm of the legislative branch of  
 114 government. In the exercise of its jurisdiction, the commission  
 115 may not establish or implement any regulatory policy that is  
 116 contrary to, or is an expansion of, the authority granted to it  
 117 by the Legislature.

118 (2) The Public Service Commission shall perform its duties  
 119 independently, impartially, professionally, honorably, and  
 120 without undue influence from any person, pursuant to s. 350.041.

121 (3) It is the desire of the Legislature that the Governor  
 122 participate in the appointment process of commissioners to the  
 123 Public Service Commission. The Legislature accordingly delegates  
 124 to the Governor a limited authority with respect to the Public  
 125 Service Commission by authorizing him or her to participate in  
 126 the selection of members only in the manner prescribed by s.  
 127 350.031.

128 Section 4. Section 350.012, Florida Statutes, is repealed.

129 Section 5. Paragraphs (b) and (d) of subsection (1) of  
 130 section 350.031, Florida Statutes, are amended to read:

131 350.031 Florida Public Service Commission Nominating  
 132 Council.—

133 (1)

134 (b) All terms shall be for 4 years except those members of  
 135 the House and Senate, who shall serve 2-year terms concurrent  
 136 with the 2-year elected terms of House members. ~~All terms of the~~  
 137 ~~members of the Public Service Commission Nominating Council~~  
 138 ~~existing on June 30, 2008, shall terminate upon the effective~~  
 139 ~~date of this act; however, such members may serve an additional~~  
 140 ~~term if reappointed by the Speaker of the House of~~

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141 ~~Representatives or the President of the Senate.~~ To establish  
 142 staggered terms, appointments of members shall be made for  
 143 initial terms to begin on July 1, 2008, with each appointing  
 144 officer to appoint three legislator members, one of whom shall  
 145 be a member of the minority party, to terms through the  
 146 remainder of the 2-year elected terms of House members; one  
 147 nonlegislator member to a 6-month term; one nonlegislator member  
 148 to an 18-month term; and one nonlegislator member to a 42-month  
 149 term. Thereafter, the terms of the nonlegislator members of the  
 150 Public Service Commission Nominating Council shall begin on  
 151 January 2 of the year the term commences and end 4 years later  
 152 on January 1.

153 (d) Vacancies on the council shall be filled for the  
 154 unexpired portion of the term in the same manner as original  
 155 appointments to the council. A member may not be reappointed to  
 156 the council, except for a member of the House of Representatives  
 157 or the Senate who may be appointed to two 2-year terms, ~~members~~  
 158 ~~who are reappointed pursuant to paragraph (b)~~, or a person who  
 159 is appointed to fill the remaining portion of an unexpired term.

160 Section 6. Section 350.035, Florida Statutes, is created  
 161 to read:

162 350.035 Prohibited influence on commissioners and  
 163 commission staff.-

164 (1) (a) Neither the Governor, the President of the Senate,  
 165 the Speaker of the House of Representatives, nor a member of the  
 166 Public Service Commission Nominating Council may attempt to sway  
 167 the independent judgment of the commission by bringing pressure  
 168 to bear upon a commissioner, an applicant to fill a vacancy on

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169 the commission, or a commission employee by threat or offer of  
 170 reward in relation to the nomination, appointment, or  
 171 confirmation of a commissioner.

172 (b) The Commission on Ethics shall receive and investigate  
 173 sworn complaints of violations of this subsection pursuant to  
 174 ss. 112.322-112.3241.

175 (2) (a) To ensure that each commissioner, as a member of a  
 176 collegial body, is afforded the benefit of unbiased and  
 177 independent analysis and advice from its professional and  
 178 technical staff, an individual commissioner may not demand or  
 179 require any member of the commission staff, other than the  
 180 commissioner's direct staff, to develop, present, or pursue a  
 181 particular opinion, position, or course of action in relation to  
 182 any substantive matter pending before the commission or a panel  
 183 of commissioners. This paragraph does not prohibit the  
 184 commission, as a collegial body, from directing its staff to  
 185 pursue a course of action consistent with direction provided by  
 186 the collegial body. Further, this paragraph is not intended to  
 187 prohibit an individual commissioner from any otherwise lawful  
 188 communication with commission staff, including any expression of  
 189 opinion, position, or concern regarding a matter within the  
 190 jurisdiction of the commission. A violation of this subsection  
 191 is an act of malfeasance for purposes of ss. 112.3187-112.31895.

192 (b) The inspector general of the commission shall receive  
 193 and investigate complaints of violations of this subsection.

194 Section 7. Section 350.04, Florida Statutes, is amended to  
 195 read:

196 350.04 Qualifications of commissioners; training and

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197 continuing education.—

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

200 (a)~~(1)~~ Have any financial interest, other than ownership  
201 of shares in a mutual fund, in any business entity which, either  
202 directly or indirectly, owns or controls any public utility  
203 regulated by the commission, in any public utility regulated by  
204 the commission, or in any business entity which, either directly  
205 or indirectly, is an affiliate or subsidiary of any public  
206 utility regulated by the commission.

207 (b)~~(2)~~ Be employed by or engaged in any business activity  
208 with any business entity which, either directly or indirectly,  
209 owns or controls any public utility regulated by the commission,  
210 by any public utility regulated by the commission, or by any  
211 business entity which, either directly or indirectly, is an  
212 affiliate or subsidiary of any public utility regulated by the  
213 commission.

214 (2) Before voting on any matter before the commission,  
215 each person appointed to the commission after July 1, 2011, must  
216 complete a comprehensive course of study that is developed by  
217 the commission's executive director and general counsel in  
218 coordination with the National Association of Regulatory Utility  
219 Commissioners Subcommittee on Education and Research and that  
220 addresses the substantive matters within the jurisdiction of the  
221 commission, administrative law applicable to commission  
222 proceedings, and standards of conduct applicable to  
223 commissioners.



224       (3) Each commissioner must annually complete no less than  
 225 10 hours of continuing professional education directly related  
 226 to substantive matters within the jurisdiction of the  
 227 commission.

228       (4) At least once every 12 months, each commissioner and  
 229 commission employee must receive training, in a form developed  
 230 by the commission's executive director and general counsel,  
 231 which addresses the ethical standards of conduct applicable to  
 232 commissioners and the commission's staff.

233       (5) The chair of the commission shall certify the  
 234 commission's compliance with the requirements provided in this  
 235 section, and each commissioner shall certify his or her  
 236 individual compliance with the continuing professional education  
 237 requirements provided in subsection (3). Each certification of  
 238 compliance shall be provided to the President of the Senate and  
 239 the Speaker of the House of Representatives.

240       Section 8. Section 350.041, Florida Statutes, is amended  
 241 to read:

242       350.041 Commissioners; standards of conduct.—

243       (1) STATEMENT OF INTENT.—

244       (a) Professional, impartial, and honorable commissioners  
 245 are indispensable to the effective performance of the  
 246 commission's duties. A commissioner shall maintain high  
 247 standards of conduct and shall personally observe those  
 248 standards so that the integrity and impartiality of the  
 249 commission may be preserved. The standards of conduct provided  
 250 in this section should be construed and applied to further that  
 251 objective.

252        (b) In addition to the provisions of part III of chapter  
253 112, which are applicable to public service commissioners by  
254 virtue of their being public officers and full-time employees of  
255 the legislative branch of government, the conduct of public  
256 service commissioners shall be governed by the standards of  
257 conduct provided in this section. Nothing shall prohibit the  
258 standards of conduct from being more restrictive than part III  
259 of chapter 112. Further, this section shall not be construed to  
260 contravene the restrictions of part III of chapter 112. In the  
261 event of a conflict between this section and part III of chapter  
262 112, the more restrictive provision shall apply.

263        (2) STANDARDS OF CONDUCT.—

264        (a) A commissioner may not accept anything from any  
265 business entity which, either directly or indirectly, owns or  
266 controls any public utility regulated by the commission, from  
267 any public utility regulated by the commission, or from any  
268 business entity which, either directly or indirectly, is an  
269 affiliate or subsidiary of any public utility regulated by the  
270 commission. A commissioner may attend conferences and associated  
271 meals and events that are generally available to all conference  
272 participants without payment of any fees in addition to the  
273 conference fee. Additionally, while attending a conference, a  
274 commissioner may attend meetings, meals, or events that are not  
275 sponsored, in whole or in part, by any representative of any  
276 public utility regulated by the commission and that are limited  
277 to commissioners only, committee members, or speakers if the  
278 commissioner is a member of a committee of the association of  
279 regulatory agencies that organized the conference or is a

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280 speaker at the conference. It is not a violation of this  
281 paragraph for a commissioner to attend a conference for which  
282 conference participants who are employed by a utility regulated  
283 by the commission have paid a higher conference registration fee  
284 than the commissioner, or to attend a meal or event that is  
285 generally available to all conference participants without  
286 payment of any fees in addition to the conference fee and that  
287 is sponsored, in whole or in part, by a utility regulated by the  
288 commission. If, during the course of an investigation by the  
289 Commission on Ethics into an alleged violation of this  
290 paragraph, allegations are made as to the identity of the person  
291 giving or providing the prohibited gift, that person must be  
292 given notice and an opportunity to participate in the  
293 investigation and relevant proceedings to present a defense. If  
294 the Commission on Ethics determines that the person gave or  
295 provided a prohibited gift, the person may not appear before the  
296 commission or otherwise represent anyone before the commission  
297 for a period of 2 years.

298 (b) A commissioner may not accept any form of employment  
299 with or engage in any business activity with any business entity  
300 which, either directly or indirectly, owns or controls any  
301 public utility regulated by the commission, any public utility  
302 regulated by the commission, or any business entity which,  
303 either directly or indirectly, is an affiliate or subsidiary of  
304 any public utility regulated by the commission.

305 (c) A commissioner may not have any financial interest,  
306 other than shares in a mutual fund, in any public utility  
307 regulated by the commission, in any business entity which,

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308 either directly or indirectly, owns or controls any public  
309 utility regulated by the commission, or in any business entity  
310 which, either directly or indirectly, is an affiliate or  
311 subsidiary of any public utility regulated by the commission. If  
312 a commissioner acquires any financial interest prohibited by  
313 this section during his or her term of office as a result of  
314 events or actions beyond the commissioner's control, he or she  
315 shall immediately sell such financial interest or place such  
316 financial interest in a blind trust at a financial institution.  
317 A commissioner may not attempt to influence, or exercise any  
318 control over, decisions regarding the blind trust.

319 (d) A commissioner may not accept anything from a party in  
320 a proceeding currently pending before the commission. If, during  
321 the course of an investigation by the Commission on Ethics into  
322 an alleged violation of this paragraph, allegations are made as  
323 to the identity of the person giving or providing the prohibited  
324 gift, that person must be given notice and an opportunity to  
325 participate in the investigation and relevant proceedings to  
326 present a defense. If the Commission on Ethics determines that  
327 the person gave or provided a prohibited gift, the person may  
328 not appear before the commission or otherwise represent anyone  
329 before the commission for a period of 2 years.

330 (e) A commissioner may not serve as the representative of  
331 any political party or on any executive committee or other  
332 governing body of a political party; serve as an executive  
333 officer or employee of any political party, committee,  
334 organization, or association; receive remuneration for  
335 activities on behalf of any candidate for public office; engage

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336 on behalf of any candidate for public office in the solicitation  
337 of votes or other activities on behalf of such candidacy; or  
338 become a candidate for election to any public office without  
339 first resigning from office.

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

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

347 (h) The commission chair shall require order and decorum  
348 in proceedings before the commission. In the absence of the  
349 chair, the commissioner presiding over a commission proceeding  
350 shall require order and decorum in the proceeding.

351 (i) A commissioner shall be patient, dignified, and  
352 courteous to litigants, other commissioners, witnesses, lawyers,  
353 commission staff, and others with whom the commissioner deals in  
354 an official capacity.

355 (j) A commissioner shall perform his or her official  
356 duties without bias or prejudice. A commissioner may not, in the  
357 performance of his or her official duties, by words or conduct  
358 manifest bias or prejudice.

359 (k) A commissioner may not, with respect to parties or  
360 classes of parties, cases, controversies, or issues likely to  
361 come before the commission, make pledges, promises, or  
362 commitments that are inconsistent with the impartial performance  
363 of the commissioner's official duties.

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

366           ~~(m)-(h)~~ A commissioner must avoid impropriety in all of his  
 367 or her activities and must act at all times in a manner that  
 368 promotes public confidence in the integrity and impartiality of  
 369 the commission.

370           ~~(n)-(i)~~ A commissioner may not directly or indirectly,  
 371 through staff or other means, solicit anything of value from any  
 372 public utility regulated by the commission, or from any business  
 373 entity that, whether directly or indirectly, is an affiliate or  
 374 subsidiary of any public utility regulated by the commission, or  
 375 from any party appearing in a proceeding considered by the  
 376 commission in the last 2 years.

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

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

381           (b) The Commission on Ethics shall provide the Governor  
 382 and the Florida Public Service Commission Nominating Council  
 383 with a report of its findings and recommendations with respect  
 384 to alleged violations by a public service commissioner. The  
 385 Governor is authorized to enforce such ~~the~~ findings and  
 386 recommendations ~~of the Commission on Ethics,~~ pursuant to part  
 387 III of chapter 112.

388           (c) A public service commissioner, a commission employee,  
 389 or a member of the Florida Public Service Commission Nominating  
 390 Council may request an advisory opinion from the Commission on  
 391 Ethics, pursuant to s. 112.322(3)(a), regarding the standards of

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392 conduct or prohibitions set forth in this section and ss.  
 393 350.031, 350.04, and 350.042.

394 Section 9. Section 350.042, Florida Statutes, is amended  
 395 to read:

396 350.042 Ex parte communications.—

397 (1) Each A commissioner and member of a commissioner's  
 398 direct staff shall ~~should~~ accord to every person who is a party  
 399 to or registered with the commission as an interested person in  
 400 a proposed agency action proceeding or a party to a proceeding  
 401 under s. 120.565, s. 120.569, or s. 120.57 ~~legally interested in~~  
 402 ~~a proceeding~~, or the person's lawyer, full right to be heard  
 403 according to law, and, except as authorized by law, shall not  
 404 ~~neither~~ initiate, solicit, or ~~nor~~ consider ex parte  
 405 communications concerning a pending proposed agency action ~~the~~  
 406 ~~merits, threat, or offer of reward in any proceeding or a~~  
 407 proceeding under s. 120.565, s. 120.569, or s. 120.57 ~~other than~~  
 408 ~~a proceeding under s. 120.54 or s. 120.565, workshops, or~~  
 409 ~~internal affairs meetings~~. No individual shall discuss ex parte  
 410 with a commissioner or a member of a commissioner's direct staff  
 411 the merits of any issue that he or she reasonably foresees ~~knows~~  
 412 will be filed with the commission ~~within 90 days~~. The provisions  
 413 of this subsection shall not apply to commission staff other  
 414 than members of a commissioner's direct staff.

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

417 1. If it is a written or printed communication or a  
 418 communication in electronic form, is not served on all parties  
 419 to a proceeding; or

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420           2. If it is an oral communication, is made without  
421 adequate notice to the parties and without an opportunity for  
422 the parties to be present and heard.

423           (b) When circumstances require, ex parte communications  
424 concerning scheduling, administrative purposes, or emergencies  
425 that do not deal with substantive matters or issues on the  
426 merits are authorized, if:

427           1. The commissioner or member of a commissioner's direct  
428 staff reasonably believes that no party will gain a procedural  
429 or tactical advantage as a result of the ex parte communication;  
430 and

431           2. The commissioner or member of a commissioner's direct  
432 staff makes provision promptly to notify all parties of the  
433 substance of the ex parte communication and, if possible, allows  
434 all parties an opportunity to respond.

435           (2) The provisions of this section shall not prohibit an  
436 individual residential ratepayer from communicating with a  
437 commissioner or member of a commissioner's direct staff,  
438 provided that the ratepayer is representing only himself or  
439 herself, without compensation.

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

444           (4) If a commissioner or member of a commissioner's direct  
445 staff knowingly receives an ex parte communication prohibited by  
446 this section relative to a proceeding other than as set forth in  
447 subsection (1), to which he or she is assigned, he or she must



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448 place on the record of the proceeding copies of all written  
 449 communications received, all written responses to the  
 450 communications, and a memorandum stating the substance of all  
 451 oral communications received and all oral responses made, and  
 452 shall give written notice to all parties to the communication  
 453 that such matters have been placed on the record. Any party to  
 454 the proceeding who desires to respond to the ~~an ex parte~~  
 455 communication may do so. The response must be received by the  
 456 commission within 10 days after receiving notice that the ~~ex~~  
 457 ~~parte~~ communication has been placed on the record. The  
 458 commissioner may, if he or she deems it necessary to eliminate  
 459 the effect of an ex parte communication received by him or her,  
 460 withdraw from the proceeding, in which case the chair shall  
 461 substitute another commissioner for the proceeding.

462 (5) Any individual who makes an ex parte communication  
 463 prohibited by this section shall submit to the commission a  
 464 written statement describing the nature of such communication,  
 465 to include the name of the person making the communication, the  
 466 name of each ~~the~~ commissioner or direct staff member of a  
 467 commissioner ~~commissioners~~ receiving the communication, copies  
 468 of all written communications made, all written responses to  
 469 such communications, and a memorandum stating the substance of  
 470 all oral communications received and all oral responses made.  
 471 The commission shall place on the record of a proceeding all  
 472 such communications.

473 (6) Any commissioner or member of a commissioner's direct  
 474 staff who knowingly fails to place on the record any ex parte  
 475 communication prohibited by this section ~~such communications~~, in

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476 violation of this ~~the~~ section, within 15 days after ~~of~~ the date  
 477 of the ~~such~~ communication is subject to removal or dismissal and  
 478 may be assessed a civil penalty not to exceed \$5,000. Any  
 479 individual who knowingly fails to comply with subsection (5) may  
 480 be assessed a civil penalty not to exceed \$5,000.

481 (7) (a) It is ~~shall be~~ the duty of the Commission on Ethics  
 482 to receive and investigate sworn complaints of violations of  
 483 this section pursuant to the procedures contained in ss.  
 484 112.322-112.3241.

485 (b) If the Commission on Ethics finds that there has been  
 486 a violation of this section by a public service commissioner or  
 487 member of a commissioner's direct staff, it shall provide the  
 488 Governor and the Florida Public Service Commission Nominating  
 489 Council with a report of its findings and recommendations. The  
 490 Governor is authorized to enforce the findings and  
 491 recommendations of the Commission on Ethics, pursuant to part  
 492 III of chapter 112.

493 (c) If a commissioner, a member of a commissioner's direct  
 494 staff, or any other individual fails or refuses to pay the  
 495 Commission on Ethics any civil penalties assessed pursuant to  
 496 ~~the provisions of~~ this section, the Commission on Ethics may  
 497 bring an action in any circuit court to enforce the ~~such~~  
 498 penalty.

499 (d) If, during the course of an investigation by the  
 500 Commission on Ethics into an alleged violation of this section,  
 501 allegations are made as to the identity of the person who  
 502 participated in the ex parte communication, that person must be  
 503 given notice and an opportunity to participate in the

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504 investigation and relevant proceedings to present a defense. If  
505 the Commission on Ethics determines that the person participated  
506 in the ex parte communication, the person may not appear before  
507 the commission or otherwise represent anyone before the  
508 commission for a period of 2 years.

509 Section 10. Subsections (1), (2), and (3) of section  
510 350.06, Florida Statutes, are amended to read:

511 350.06 Place of meeting; expenditures; employment of  
512 personnel; records availability and fees.—

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

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

519 (3)(a) The commission shall ~~commissioners may~~ employ an  
520 executive director, a general counsel, and an inspector general  
521 ~~clerical, technical, and professional personnel reasonably~~  
522 ~~necessary for the performance of their duties and may also~~  
523 ~~employ one or more persons capable of stenographic court~~  
524 ~~reporting, to be known as the official reporters of the~~  
525 ~~commission.~~ The executive director shall serve as the agency  
526 head for the purposes of chapters 110, 112, 216, 282, and 287.  
527 Selection of the executive director shall be subject to  
528 confirmation by the Senate. Until such time as the Senate  
529 confirms the selection of the executive director, the individual  
530 selected shall perform the functions of the position. If the  
531 Senate refuses to confirm or fails to consider the selection

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532 during its next regular session, the commission shall, within 30  
533 days, select another individual for Senate confirmation. This  
534 process shall continue until the Senate has confirmed a  
535 selection. In case of a vacancy in the position of executive  
536 director, the commission shall select a new executive director  
537 in the same manner as the original selection.

538 (b) Each commissioner may employ a chief advisor and an  
539 executive assistant to serve as the direct staff of the  
540 commissioner.

541 (c) Notwithstanding any other provision of law, the  
542 executive director shall employ clerical, technical, and  
543 professional personnel reasonably necessary to assist the  
544 commission in the performance of its duties and may employ one  
545 or more persons capable of stenographic court reporting to be  
546 known as the official reporters of the commission. The executive  
547 director shall have sole authority with respect to employment,  
548 compensation, supervision, and direction of agency personnel  
549 other than those personnel employed by the commission and  
550 individual commissioners under paragraphs (a) and (b).

551 (d) The general counsel shall, in consultation with the  
552 executive director, employ attorneys, paralegals, legal  
553 secretaries, and other personnel reasonably necessary to assist  
554 the commission in the performance of its duties.

555 Section 11. Subsection (1) of section 350.061, Florida  
556 Statutes, is amended to read:

557 350.061 Public Counsel; appointment; oath; restrictions on  
558 Public Counsel and his or her employees.—

559 (1) The Attorney General ~~Committee on Public Counsel~~

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560 ~~Oversight shall appoint a Public Counsel by majority vote of the~~  
561 ~~members of the committee~~ to represent the general public of  
562 Florida before the Florida Public Service Commission. The Public  
563 Counsel shall be an attorney admitted to practice before the  
564 Florida Supreme Court and shall serve at the pleasure of the  
565 Attorney General ~~Committee on Public Counsel Oversight, subject~~  
566 ~~to biennial reconfirmation by the committee.~~ The Public Counsel  
567 shall perform his or her duties independently. Vacancies in the  
568 office shall be filled in the same manner as the original  
569 appointment.

570 Section 12. Section 350.0613, Florida Statutes, is amended  
571 to read:

572 350.0613 Public Counsel; employees; receipt of pleadings.-  
573 The Attorney General ~~committee~~ may authorize the Public Counsel  
574 to employ clerical and technical assistants whose  
575 qualifications, duties, and responsibilities the Attorney  
576 General ~~committee~~ shall from time to time prescribe. The  
577 Attorney General ~~committee~~ may from time to time authorize  
578 retention of the services of additional attorneys or experts to  
579 the extent that the best interests of the people of the state  
580 will be better served thereby, including the retention of expert  
581 witnesses and other technical personnel for participation in  
582 contested proceedings before the commission. The commission  
583 shall furnish the Public Counsel with copies of the initial  
584 pleadings in all proceedings before the commission, and if the  
585 Public Counsel intervenes as a party in any proceeding he or she  
586 shall be served with copies of all subsequent pleadings,  
587 exhibits, and prepared testimony, if used. Upon filing notice of

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588 intervention, the Public Counsel shall serve all interested  
 589 parties with copies of such notice and all of his or her  
 590 subsequent pleadings and exhibits.

591 Section 13. Section 350.0614, Florida Statutes, is amended  
 592 to read:

593 350.0614 Public Counsel; compensation and expenses.-

594 ~~(1)~~ The salaries and expenses of the Public Counsel and  
 595 his or her employees shall be allocated by the Attorney General  
 596 ~~committee~~ only from moneys appropriated to the Public Counsel by  
 597 the Legislature.

598 ~~(2) The Legislature declares and determines that the~~  
 599 ~~Public Counsel is under the legislative branch of government~~  
 600 ~~within the intention of the legislation as expressed in chapter~~  
 601 ~~216, and no power shall be in the Executive Office of the~~  
 602 ~~Governor or its successor to release or withhold funds~~  
 603 ~~appropriated to it, but the same shall be available for~~  
 604 ~~expenditure as provided by law and the rules or decisions of the~~  
 605 ~~Committee on Public Counsel Oversight.~~

606 ~~(3) Neither the Executive Office of the Governor nor the~~  
 607 ~~Department of Management Services or its successor shall have~~  
 608 ~~power to determine the number, or fix the compensation, of the~~  
 609 ~~employees of the Public Counsel or to exercise any manner of~~  
 610 ~~control over them.~~

611 Section 14. (1) All powers, duties, functions, records,  
 612 offices, personnel, property, pending issues, and existing  
 613 contracts, administrative authority, administrative rules, and  
 614 unexpended balances of appropriations, allocations, and other  
 615 funds relating to the Office of Public Counsel pursuant to s.

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616 350.061, Florida Statutes, are transferred by a type two  
617 transfer, as defined in s. 20.06(2), Florida Statutes, from the  
618 Legislature to the Office of the Attorney General. The Office of  
619 Public Counsel shall be funded from the General Revenue Fund.

620 (2) Notwithstanding ss. 216.292 and 216.351, Florida  
621 Statutes, upon approval by the Legislative Budget Commission,  
622 the Executive Office of the Governor shall transfer funds and  
623 positions between the Legislature and the Office of the Attorney  
624 General to implement this act.

625 Section 15. Section 350.121, Florida Statutes, is  
626 repealed.

627 Section 16. Section 350.122, Florida Statutes, is created  
628 to read:

629 350.122 Testimony; public disclosure of affiliation.—

630 (1) Each person offering testimony at a meeting, workshop,  
631 hearing, or other scheduled event of the commission shall  
632 disclose any financial or fiduciary relationship with any party  
633 to the proceedings at the time the testimony is provided to the  
634 commission.

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

638 Section 17. This act shall take effect July 1, 2011.