

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Dudley offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 65-185 and insert:

5 Section 1. Paragraph (a) of subsection (8) of section
6 112.324, Florida Statutes, is amended to read:

7 112.324 Procedures on complaints of violations and
8 referrals; public records and meeting exemptions.-

9 (8) If, in cases other than complaints or referrals
10 against impeachable officers or members of the Legislature, upon
11 completion of a full and final investigation by the commission,
12 the commission finds that there has been a violation of this
13 part or of s. 8, Art. II of the State Constitution, it is the
14 duty of the commission to report its findings and recommend

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15 appropriate action to the proper disciplinary official or body
16 as follows, and such official or body has the power to invoke
17 the penalty provisions of this part, including the power to
18 order the appropriate elections official to remove a candidate
19 from the ballot for a violation of s. 112.3145 or s. 8(a) and
20 (i), Art. II of the State Constitution:

21 (a) The President of the Senate and the Speaker of the
22 House of Representatives, jointly, in any case concerning the
23 Public Counsel, members of the Public Service Commission,
24 ~~members of the Public Service Commission Nominating Council,~~ the
25 Auditor General, or the director of the Office of Program Policy
26 Analysis and Government Accountability.

27 Section 2. Section 350.001, Florida Statutes, is amended
28 to read:

29 350.001 Legislative intent.—The Florida Public Service
30 Commission has been and shall continue to be an arm of the
31 legislative branch of government. The Public Service Commission
32 shall perform its duties independently. ~~It is the desire of the~~
33 ~~Legislature that the Governor participate in the appointment~~
34 ~~process of commissioners to the Public Service Commission. The~~
35 ~~Legislature accordingly delegates to the Governor a limited~~
36 ~~authority with respect to the Public Service Commission by~~
37 ~~authorizing him or her to participate in the selection of~~
38 ~~members only in the manner prescribed by s. 350.031.~~

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39 Section 3. Subsections (1), (2), and (3) of section
40 350.01, Florida Statutes, are amended, and subsection (8) is
41 added to that section, to read:

42 350.01 Florida Public Service Commission; election and
43 terms of commissioners; vacancies; election and duties of chair;
44 quorum; proceedings.—

45 (1) The Florida Public Service Commission shall consist of
46 five commissioners elected for terms of 2 years each by the
47 qualified electors of this state voting in nonpartisan elections
48 within each of the following commission districts: ~~appointed~~
49 pursuant to s. 350.031.

50 (a) District one.—One commissioner shall be elected within
51 a district comprising the First Appellate District described in
52 s. 35.02.

53 (b) District two.—One commissioner shall be elected within
54 a district comprising the Second Appellate District described in
55 s. 35.03.

56 (c) District three.—One commissioner shall be elected
57 within a district comprising the Third Appellate District
58 described in s. 35.04.

59 (d) District four.—One commissioner shall be elected
60 within a district comprising the Fourth Appellate District
61 described in s. 35.042.

62 (e) District five.—One commissioner shall be elected
63 within a district comprising the Fifth Appellate District
64 described in s. 35.043.

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65 (2) (a) Each appointed commissioner serving on July 1,
66 2015, shall remain in office until January 2, 2016, unless the
67 commissioner vacates the office or is otherwise removed from the
68 commission before that date. ~~July 1, 1978, shall be permitted to~~
69 ~~remain in office until the completion of his or her current~~
70 ~~term. Upon the expiration of the term, a successor shall be~~
71 ~~appointed in the manner prescribed by s. 350.031 for a 4-year~~
72 ~~term, except that the terms of the initial members appointed~~
73 ~~under this act shall be as follows:~~

74 1. ~~The vacancy created by the present term ending in~~
75 ~~January, 1981, shall be filled by appointment for a 4-year term~~
76 ~~and for 4-year terms thereafter; and~~

77 2. ~~The vacancies created by the two present terms ending~~
78 ~~in January, 1979, shall be filled by appointment for a 3-year~~
79 ~~term and for 4-year terms thereafter.~~

80 ~~(b) Two additional commissioners shall be appointed in the~~
81 ~~manner prescribed by s. 350.031 for 4-year terms beginning the~~
82 ~~first Tuesday after the first Monday in January, 1979, and~~
83 ~~successors shall be appointed for 4-year terms thereafter with~~
84 ~~each term beginning on January 2 of the year the term commences~~
85 ~~and ending 4 years later on January 1.~~

86 (b)(e) Vacancies on the commission shall be filled for the
87 unexpired portion of the term by appointment by the Governor
88 subject to confirmation by the Senate ~~in the same manner as~~
89 ~~original appointments to the commission.~~

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90 (3) Any person serving on the commission may seek election
91 or reelection to the commission; however, a person may not
92 appear on the ballot for reelection as a commissioner if, by the
93 end of the current term of office, the person will have served,
94 or, but for resignation, would have served, as commissioner for
95 8 or more years, inclusive of service as an elected or who seeks
96 to be appointed commissioner or reappointed shall file with the
97 nominating council no later than June 1 prior to the year in
98 which his or her term expires a statement that he or she desires
99 to serve an additional term.

100 (8) Each meeting, including each internal affairs meeting,
101 workshop, hearing, or other proceeding that is attended by two
102 or more commissioners and each meeting, workshop, hearing, or
103 other proceeding at which a decision is made which concerns the
104 rights or obligations of any person, shall be streamed live on
105 the Internet and a recorded copy of such meeting, workshop,
106 hearing, or proceeding shall be made available on the
107 commission's web page.

108 Section 4. Section 350.031, Florida Statutes, is repealed.

109 Section 5. Section 350.04, Florida Statutes, is amended to
110 read:

111 350.04 Qualifications of commissioners.—A commissioner may
112 not, at the time of election ~~appointment~~ or during his or her
113 term of office:

114 (1) Have any financial interest, other than ownership of
115 shares in a mutual fund, in any business entity which, either

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116 directly or indirectly, owns or controls any public utility
117 regulated by the commission, in any public utility regulated by
118 the commission, or in any business entity which, either directly
119 or indirectly, is an affiliate or subsidiary of any public
120 utility regulated by the commission.

121 (2) Be employed by or engaged in any business activity
122 with any business entity which, either directly or indirectly,
123 owns or controls any public utility regulated by the commission,
124 by any public utility regulated by the commission, or by any
125 business entity which, either directly or indirectly, is an
126 affiliate or subsidiary of any public utility regulated by the
127 commission.

128 Section 6. Subsection (3) of section 350.041, Florida
129 Statutes, is renumbered as subsection (4) and amended, and a new
130 subsection (3) is added to that section, to read:

131 350.041 Commissioners; standards of conduct.—

132 (3) ETHICS TRAINING.—Beginning January 1, 2016, a
133 commissioner must annually complete at least 4 hours of ethics
134 training that addresses, at a minimum, s. 8, Art. II of the
135 State Constitution, the Code of Ethics for Public Officers and
136 Employees, and the public records and public meetings laws of
137 this state. This requirement may be satisfied by completion of a
138 continuing legal education class or other continuing
139 professional education class, seminar, or presentation, if the
140 required subjects are covered.

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141 ~~(4)~~⁽³⁾ The Commission on Ethics shall accept and
142 investigate any alleged violations of this section pursuant to
143 the procedures contained in ss. 112.322-112.3241. The Commission
144 on Ethics shall provide the Governor ~~and the Florida Public~~
145 ~~Service Commission Nominating Council~~ with a report of its
146 findings and recommendations. The Governor is authorized to
147 enforce the findings and recommendations of the Commission on
148 Ethics, pursuant to part III of chapter 112. A public service
149 commissioner ~~or a member of the Florida Public Service~~
150 ~~Commission Nominating Council~~ may request an advisory opinion
151 from the Commission on Ethics, pursuant to s. 112.322(3)(a),
152 regarding the standards of conduct or prohibitions set forth in
153 this section and ss. ~~350.031~~, 350.04~~7~~ and 350.042.

154 Section 7. Subsections (1) and (3) and paragraph (b) of
155 subsection (7) of section 350.042, Florida Statutes, are amended
156 to read:

157 350.042 Ex parte communications.—

158 (1) A commissioner should accord to every person who is
159 legally interested in a proceeding, or the person's lawyer, full
160 right to be heard according to law, and, except as authorized by
161 law, shall neither initiate nor consider ex parte communications
162 concerning the merits, threat, or offer of reward in any
163 proceeding under s. 120.569 or s. 120.57 that is currently
164 pending before the commission or that he or she knows or
165 reasonably expects will be filed with the commission within 180
166 days after the date of any such communication, other than a

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167 proceeding under s. 120.54 or s. 120.565, workshops, or internal
168 affairs meetings. An ~~No~~ individual may not ~~shall~~ discuss ex
169 parte with a commissioner the merits of any issue that he or she
170 knows will be filed with the commission within 180 ~~90~~ days. ~~The~~
171 ~~provisions of~~ This subsection does ~~shall~~ not apply to commission
172 staff.

173 (3) (a) The Legislature finds that it is important to have
174 commissioners who are educated and informed on regulatory
175 policies and developments in science, technology, business
176 management, finance, law, and public policy which are associated
177 with the industries that the commissioners regulate. The
178 Legislature also finds that it is in the public interest for
179 commissioners to become educated and informed on these matters
180 through active participation in meetings that are scheduled by
181 organizations that sponsor such educational or informational
182 sessions, programs, conferences, and similar events and that are
183 duly noticed and open to the public.

184 (b) As used in this subsection, the term "active
185 participation" or "participating in" includes, but is not
186 limited to, attending or speaking at educational sessions,
187 participating in organization governance by attending meetings,
188 servicing on committees or in leadership positions, participating
189 in panel discussions, and attending meals and receptions
190 associated with such events that are open to all attendees.

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191 (c) The prohibition in subsection (1) remains in effect at
192 all times at such meetings wherever located. While participating
193 in such meetings, a commissioner shall:

194 1. Refrain from commenting on or discussing any proceeding
195 under s. 120.569 or s. 120.57 which is currently pending before
196 the commission or that he or she knows or reasonably expects
197 will be filed with the commission within 180 days after the
198 meeting.

199 2. Use reasonable care to ensure that the content of the
200 educational session or other session in which the commissioner
201 participates is not designed to address or create a forum to
202 influence the commissioner on any proceeding under s. 120.569 or
203 s. 120.57 which is currently pending before the commission or
204 that he or she knows or reasonably expects will be filed with
205 the commission within 180 days after the meeting ~~This section~~
206 ~~shall not apply to oral communications or discussions in~~
207 ~~scheduled and noticed open public meetings of educational~~
208 ~~programs or of a conference or other meeting of an association~~
209 ~~of regulatory agencies.~~

210 (7)

211 (b) If the Commission on Ethics finds that there has been
212 a violation of this section by a public service commissioner, it
213 shall provide the Governor ~~and the Florida Public Service~~
214 ~~Commission Nominating Council~~ with a report of its findings and
215 recommendations. The Governor is authorized to enforce the
216 findings and recommendations of the Commission on Ethics,

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217 | pursuant to part III of chapter 112 and to remove from office a
 218 | commissioner who is found by the Commission on Ethics to have
 219 | willfully and knowingly violated this section. The Governor
 220 | shall remove from office a commissioner who is found by the
 221 | Commission on Ethics to have willfully and knowingly violated
 222 | this section after a previous finding by the Commission on
 223 | Ethics that the commissioner willfully and knowingly violated
 224 | this section in a separate matter.

225 | Section 8. Section 350.043, Florida Statutes, is amended
 226 | to read:

227 | 350.043 Enforcement and interpretation.—Any violation of
 228 | ~~s. 350.031,~~ s. 350.04, s. 350.041, s. 350.042, or s. 350.0605 by
 229 | a commissioner, former commissioner, or former employee, ~~or~~
 230 | ~~Public Service Commission Nominating Council member~~ shall be
 231 | punishable as provided in ss. 112.317 and 112.324. The
 232 | Commission on Ethics is hereby given the power and authority to
 233 | investigate complaints of violation of this chapter in the
 234 | manner provided in part III of chapter 112, as if this section
 235 | were included in that part. A commissioner may request an
 236 | advisory opinion from the Commission on Ethics as provided by s.
 237 | 112.322 (3) (a).

238 | -----
 239 |

240 | **T I T L E A M E N D M E N T**

241 | Remove lines 3-23 and insert:

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242 Commission; amending s. 112.324, F.S.; conforming
243 provisions to changes made by the act; amending s.
244 350.001, F.S.; deleting a provision relating to the
245 Governor's duty to appoint public service
246 commissioners; amending s. 350.01, F.S.; providing for
247 the nonpartisan election of commissioners; providing
248 for commission districts; providing for terms of
249 commissioners; providing for the filling of vacancies
250 on the commission; limiting the number of years that a
251 commissioner may serve; requiring that specified
252 meetings, workshops, hearings, and proceedings of the
253 commission be streamed live and recorded copies be
254 made available on the commission's web page; repealing
255 s. 350.031, F.S., relating to the Florida Public
256 Service Commission Nominating Council; amending ss.
257 350.04, and 350.043, F.S.; conforming provisions;
258 amending s. 350.041, F.S.; requiring public service
259 commissioners to annually complete ethics training;
260 conforming provisions to changes made by the act;
261 amending s. 350.042, F.S.; revising the prohibition
262 against ex parte communications to include any matter
263 that a commissioner knows or reasonably expects will
264 be filed within a certain timeframe; providing
265 legislative intent; providing definitions; applying
266 the prohibition against ex parte communications to
267 specified meetings; specifying conditions under which

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268 | the Governor must remove from office any commissioner
269 | found to have willfully and knowingly violated the ex
270 | parte communications law; conforming provisions to
271 | changes made by the act;

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