

1 A bill to be entitled
2 An act relating to public meetings; amending s.
3 286.0113, F.S.; providing an exemption from public
4 meetings requirements for portions of hearings before
5 the Public Service Commission which would reveal
6 certain proprietary confidential business information;
7 requiring a certified court reporter to record the
8 hearing; specifying that only the redacted version of
9 the transcript is subject to public records
10 requirements; requiring a party claiming that a
11 portion of a transcript contains confidential
12 information to provide redactions and a request for
13 confidential treatment to the commission clerk within
14 a certain period in order to maintain confidentiality;
15 providing that the redacted transcript prepared by the
16 clerk shall be made a part of the public record at a
17 certain time unless a certain judicial determination
18 is made; providing for future legislative review and
19 repeal of the exemption; amending s. 350.01, F.S.;
20 providing an exception for a hearing or portion of a
21 hearing before the Public Service Commission which is
22 exempt from public meetings requirements from a
23 requirement that such hearing be streamed live on the
24 Internet and that a recording of such hearing be made
25 available on a certain website; providing a statement

26 | of public necessity; providing an effective date.

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

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30 | Section 1. Subsection (4) of section 286.0113, Florida
 31 | Statutes, is renumbered as subsection (5) and a new subsection
 32 | (4) is added to that section, to read:

33 | 286.0113 General exemptions from public meetings.—

34 | (4) (a) Any portion of a hearing before the Florida Public
 35 | Service Commission under ss. 120.569 and 120.57 which the
 36 | commission finds cannot be fully and fairly conducted without
 37 | necessarily revealing proprietary confidential business
 38 | information that is exempt from s. 119.07(1) pursuant to a claim
 39 | or commission finding made under s. 364.183 or pursuant to a
 40 | pending request or commission finding made under s. 366.093, s.
 41 | 367.156, or s. 368.108, is exempt from s. 286.011 and s. 24(b),
 42 | Art. I of the State Constitution.

43 | (b) The entire hearing, including any portion made exempt
 44 | under this subsection, shall be recorded by a certified court
 45 | reporter. Only the redacted version of the transcript prepared
 46 | as provided in paragraph (d) shall be subject to disclosure
 47 | under s. 119.07(1) and s. 24(a), Art. I of the State
 48 | Constitution.

49 | (c) Not later than 21 days after the transcript is filed
 50 | with the commission clerk, each party making a claim that one or

51 more portions of the transcript contains confidential
52 information that is exempt from disclosure under s. 119.07(1)
53 and s. 24(a), Art. I of the State Constitution shall provide to
54 the commission clerk redactions of that information and a
55 request for confidential treatment. Failure to timely file such
56 redactions and request shall constitute a waiver of any
57 continued claim of confidentiality only to that portion of the
58 transcript.

59 (d) The commission clerk shall prepare a transcript
60 redacting all information for which a claim under paragraph (c)
61 has been approved by the commission. This redacted transcript
62 shall be made part of the public record at the conclusion of the
63 underlying proceeding. The redacted portions of the transcript
64 remain exempt from disclosure under s. 119.07(1) and s. 24(a),
65 Art. I of the State Constitution unless a court of competent
66 jurisdiction, following an in-camera review, determines that the
67 hearing or portion thereof documented in the portion of the
68 transcript that was redacted was not restricted to the
69 discussion of data and information made exempt by this section.
70 In the event of such a judicial determination, only the redacted
71 portion of the transcript which reveals nonexempt data and
72 information may be disclosed to a third party.

73 (e) This subsection is subject to the Open Government
74 Sunset Review Act in accordance with s. 119.15 and shall stand
75 repealed on October 2, 2026, unless reviewed and saved from

76 repeal through reenactment by the Legislature.

77 Section 2. Subsection (8) of section 350.01, Florida
78 Statutes, is amended to read:

79 350.01 Florida Public Service Commission; terms of
80 commissioners; vacancies; election and duties of chair; quorum;
81 proceedings.—

82 (8) Each meeting, including each internal affairs meeting,
83 workshop, hearing, or other proceeding attended by two or more
84 commissioners, and each such meeting, workshop, hearing, or
85 other proceeding where a decision that concerns the rights or
86 obligations of any person is made, shall be streamed live on the
87 Internet, and a recorded copy of the meeting, workshop, hearing,
88 or proceeding shall be made available on the commission's
89 website, except for any hearing or portion of a hearing before
90 the Florida Public Service Commission under ss. 120.569 and
91 120.57 which, pursuant to s. 286.011(4), is exempt from s.
92 286.011 and s. 24(b), Art. I of the State Constitution.

93 Section 3. (1) The Legislature finds that it is a public
94 necessity that those portions of hearings of the Florida Public
95 Service Commission under ss. 120.569 and 120.57, Florida
96 Statutes, at which proprietary confidential business information
97 is discussed be made exempt from s. 286.011, Florida Statutes,
98 and s. 24(b), Article I of the State Constitution. As used in
99 this section, "proprietary confidential business information"
100 means information that is exempt from s. 119.07(1), Florida

101 Statutes, pursuant to a claim or commission finding made under
102 s. 364.183, Florida Statutes, or pursuant to a pending request
103 or commission finding made under s. 366.093, s. 367.156, or s.
104 368.108, Florida Statutes, and that is necessary for the
105 commission to discuss in order to evaluate and make a
106 determination in the public interest.

107 (2) The Legislature finds that the commission and parties
108 to commission proceedings are constrained from asking questions
109 about essential proprietary confidential business information
110 important to the outcome of a case. Pursuant to its legislative
111 directive under chapters 364, 366, 367, and 368, Florida
112 Statutes, the commission is the tribunal charged with
113 establishing just, fair, and compensatory utility rates. As
114 such, the commission has the authority to adjudicate all matters
115 within its jurisdiction, and its administrative hearings are
116 conducted in compliance with chapter 120, Florida Statutes. The
117 fact-finding role of the commission is integral in its
118 decisionmaking, and all commission decisions must be supported
119 by record competent, substantial evidence. Accordingly, under
120 certain circumstances, the commission must be able to evaluate
121 and discuss proprietary confidential business information in
122 order to make a determination in the public interest. In
123 addition, parties must be permitted to conduct cross-examination
124 when testimony is taken or documents are made a part of the
125 record under s. 120.569(2)(j), Florida Statutes.

126 (3) The Legislature finds that the exposure of proprietary
127 confidential business information could significantly impair the
128 ability of utilities regulated by the Public Service Commission
129 to fairly compete within the marketplace by revealing
130 information that would typically be considered proprietary,
131 confidential, or otherwise private. Furthermore, such exposure
132 could harm the businesses with which such utilities contract by
133 disclosing such businesses' proprietary or confidential
134 information and make it less likely for such businesses to do
135 business with regulated utilities in the future. The Legislature
136 further finds that the exposure of proprietary confidential
137 business information would cause harm to the company's
138 ratepayers or business operations. Given such harms, the
139 exposure of this information could negatively impact customers
140 of regulated utilities and result in higher utility prices or
141 lower quality of service overall.

142 (4) The Legislature finds that the public and private harm
143 in disclosing proprietary confidential business information made
144 exempt by this act outweighs any public benefit derived from the
145 disclosure of such information.

146 (5) Therefore, the Legislature finds that it is a public
147 necessity to make those portions of hearings of the Florida
148 Public Service Commission under ss. 120.569 and 120.57, Florida
149 Statutes, at which proprietary confidential business information
150 is discussed exempt from s. 286.011, Florida Statutes, and s.

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151 | 24(b), Article I of the State Constitution.

152 | Section 4. This act shall take effect upon becoming a law.