

By the Committee on Regulated Industries

580-03277-21

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1 A bill to be entitled
2 An act relating to public records and public meetings;
3 amending s. 286.0113, F.S.; exempting discussions of
4 certain confidential information by the Public Service
5 Commission during certain hearings from public
6 meetings requirements; requiring such hearings to be
7 recorded by a certified court reporter; providing that
8 only redacted transcripts are subject to public
9 records requirements; requiring certain parties to
10 request, within a specified timeframe, that portions
11 of the transcript remain exempt from disclosure;
12 providing that failure to timely file a redacted
13 version of the transcript and a request for
14 confidentiality constitutes a waiver of a claim of
15 confidentiality to that portion of the transcript;
16 providing requirements for the redacted transcripts;
17 providing for future legislative review and repeal of
18 the exemptions; amending s. 350.01, F.S.; exempting
19 certain closed hearings or portions of hearings of the
20 Public Service Commission from the requirement that
21 each hearing of the commission be streamed live and
22 made available on the commission's website; providing
23 a statement of public necessity; providing an
24 effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:
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28 Section 1. Present subsection (4) of section 286.0113,
29 Florida Statutes, is redesignated as subsection (5), and a new

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30 subsection (4) is added to that section, to read:

31 286.0113 General exemptions from public meetings.—

32 (4) (a) Any hearing or portion of a hearing before the
33 Public Service Commission conducted pursuant to ss. 120.569 and
34 120.57 which the commission finds cannot be fully and fairly
35 conducted without necessarily revealing information that has
36 been made confidential by prior order of the commission, or for
37 which a request for confidentiality has been filed pursuant to
38 s. 366.093, s. 367.156, or s. 368.108 or a claim of proprietary
39 confidential business information has been filed pursuant to s.
40 364.183, is exempt from s. 286.011 and s. 24(b), Art. I of the
41 State Constitution. The commission must make any such finding no
42 later than 20 days before the scheduled hearing.

43 (b) The entire hearing, including any confidential portion,
44 must be recorded by a certified court reporter. Only the
45 redacted version of the transcript prepared as set forth in
46 paragraph (d) is subject to disclosure under s. 119.07(1) and s.
47 24(a), Art. I of the State Constitution, in accordance with s.
48 364.183, s. 366.093, s. 367.156, or s. 368.108, as applicable.

49 (c) Within 21 days after filing the transcript, or a
50 shorter timeframe if required by the commission, each party
51 asserting that one or more portions of the transcript contains
52 confidential information that should remain exempt from
53 disclosure under s. 119.07(1) and s. 24(a), Art. I of the State
54 Constitution shall provide to the commission clerk redacted
55 versions of that information and an accompanying request for
56 confidential treatment. Failure to timely file such redacted
57 versions and request constitutes a waiver of any continued claim
58 of confidentiality to only that portion of the transcript.

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59 (d) The commission clerk shall prepare a transcript
60 redacting all information requested by a party pursuant to
61 paragraph (c) and for which confidentiality orders have been
62 entered. The redacted transcript must be made part of the public
63 record at the conclusion of the underlying hearing. The
64 information redacted in the transcript shall remain exempt from
65 disclosure under s. 119.07(1) and s. 24(a), Art. I of the State
66 Constitution unless a court of competent jurisdiction, after an
67 in camera review of the transcript, determines that any
68 information redacted does not comply with applicable
69 confidentiality orders. In the event of such a judicial
70 determination, only the portion of the recording or transcript
71 which the court determines reveals nonexempt data and
72 information may be disclosed to the public.

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, must ~~shall~~ be streamed live
87 on the Internet, and a recorded copy of the meeting, workshop,

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88 hearing, or proceeding ~~must shall~~ be made available on the
89 commission's website. This subsection does not apply to any
90 hearing or portion of a hearing before the Public Service
91 Commission conducted pursuant to ss. 120.569 and 120.57 which
92 has been closed to the public pursuant to s. 286.0113(4) and s.
93 24(b), Art. 1 of the State Constitution.

94 Section 3. (1) The Legislature finds that it is a public
95 necessity that those portions of hearings of the Public Service
96 Commission conducted pursuant to ss. 120.569 and 120.57, Florida
97 Statutes, at which proprietary confidential business information
98 under ss. 364.183, 366.093, 367.156, and 368.108, Florida
99 Statutes, is discussed be made exempt from public meetings
100 requirements. As used in this section, the term "proprietary
101 confidential business information" has the same meaning as in s.
102 364.183, s. 366.093, s. 367.156, or s. 368.108, Florida
103 Statutes, and includes information that has been made
104 confidential by prior order of the commission and is necessary
105 for the commission to discuss in order to evaluate it and make a
106 determination in the public interest.

107 (2) The Legislature further finds that the commission and
108 parties to commission hearings are constrained from asking
109 questions about essential proprietary confidential business
110 information important to the outcome of a case. Pursuant to its
111 legislative directive under chapters 364, 366, 367, and 368,
112 Florida Statutes, the commission is the tribunal charged with
113 establishing just, fair, and compensatory rates for utilities or
114 companies under its jurisdiction. As such, the commission has
115 the authority to adjudicate all matters within its jurisdiction,
116 and its administrative hearings are conducted in compliance with

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117 chapter 120, Florida Statutes. The fact-finding role of the
118 commission is integral to its decisionmaking, and all commission
119 decisions must be supported by competent, substantial record
120 evidence. Accordingly, under certain circumstances, the
121 commission must be able to fully evaluate and discuss
122 proprietary confidential business information in order to make a
123 determination in the public interest. In addition, parties must
124 be allowed to conduct full and fair cross-examination when
125 testimony is taken or documents are made a part of the record
126 pursuant to s. 120.569(2)(j), Florida Statutes.

127 (3) The Legislature further finds that the public
128 disclosure of proprietary confidential business information,
129 through discussion of such information in a formal
130 administrative hearing or portion thereof conducted in the
131 sunshine pursuant to ss. 120.569 and 120.57, Florida Statutes,
132 would significantly harm utilities by impairing the ability of
133 utilities regulated by the Public Service Commission to fairly
134 negotiate with third parties and compete for goods and services
135 within the marketplace. Such disclosure would also harm the
136 businesses with which such utilities contract by disclosing such
137 businesses' proprietary or confidential information and make it
138 less likely for such businesses to do business with regulated
139 utilities in the future. Additionally, the Legislature finds
140 that the public disclosure of proprietary confidential business
141 information would cause harm to the company's ratepayers or
142 business operations, resulting in higher utility prices or lower
143 quality of service.

144 (4) The Legislature further finds that the public and
145 private harm in the public disclosure of the information made

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146 exempt by this act outweighs any public benefit derived from the
147 disclosure of such information.

148 (5) Therefore, the Legislature finds that it is a public
149 necessity to make those portions of hearings of the Florida
150 Public Service Commission at which proprietary confidential
151 business information is discussed exempt from public meetings
152 requirements and the commission's livestreaming requirements,
153 and to make the recordings and transcripts thereof exempt from
154 public records requirements.

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