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LEGISLATIVE ACTION

Senate

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House

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The Committee on Regulated Industries (Gaetz) recommended the following:

1           **Senate Substitute for Amendment (444212) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Subsection (1) of section 350.01, Florida  
7 Statutes, is amended to read:

8           350.01 Florida Public Service Commission; terms of  
9 commissioners; vacancies; election and duties of chair; quorum;  
10 proceedings; public records and public meetings exemptions.-



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11 (1) The Florida Public Service Commission shall be composed  
12 consist of seven ~~five~~ commissioners appointed pursuant to s.  
13 350.031. One member must be a certified public accountant, and  
14 one member must be a chartered financial analyst.

15 Section 2. Section 350.129, Florida Statutes, is created to  
16 read:

17 350.129 Orders of the Florida Public Service Commission.-

18 (1) All orders issued by the commission must contain  
19 adequate support for the commission's conclusions, including the  
20 specific facts and factors on which the conclusions are based.  
21 While the commission may make conclusions based upon the public  
22 interest, as provided in chapters 350-368, the commission shall  
23 specify in its orders a rationale for its conclusions.

24 (2) For commission orders that affect substantial interests  
25 pursuant to s. 120.569, when issuing an order accepting or  
26 denying a settlement agreement reached by any of the parties to  
27 a proceeding, the commission shall provide a reasoned  
28 explanation, citing the specific facts and factors on which it  
29 relied. In addition, the commission shall provide in its order a  
30 discussion of the major elements of the settlement and a  
31 rationale for its conclusions.

32 Section 3. Present subsection (4) of section 366.06,  
33 Florida Statutes, is redesignated as subsection (5), and a new  
34 subsection (4) is added to that section, to read:

35 366.06 Rates; procedure for fixing and changing.-

36 (4) In order to best meet the needs of Florida households,  
37 the commission shall work to keep the allowable return on equity  
38 for public utilities close to the risk-free rate of return and  
39 shall require that upward deviations from the risk-free rate be



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40 specifically justified by the public utility seeking a tariff  
41 modification.

42 Section 4. Section 366.07, Florida Statutes, is amended to  
43 read:

44 366.07 Rates; adjustment.—

45 (1) Whenever the commission, after public hearing either  
46 upon its own motion or upon complaint, shall find the rates,  
47 rentals, charges or classifications, or any of them, proposed,  
48 demanded, observed, charged or collected by any public utility  
49 for any service, or in connection therewith, or the rules,  
50 regulations, measurements, practices or contracts, or any of  
51 them, relating thereto, are unjust, unreasonable, insufficient,  
52 excessive, or unjustly discriminatory or preferential, or in  
53 anywise in violation of law, or any service is inadequate or  
54 cannot be obtained, the commission shall determine and by order  
55 fix the fair and reasonable rates, rentals, charges or  
56 classifications, and reasonable rules, regulations,  
57 measurements, practices, contracts or service, to be imposed,  
58 observed, furnished or followed in the future.

59 (2) The commission shall establish a schedule by which rate  
60 change requests may be submitted to the commission by each  
61 public utility company.

62 Section 5. Section 366.077, Florida Statutes, is created to  
63 read:

64 366.077 Report on rates.—The commission shall require each  
65 public utility to submit an annual report to the Governor and  
66 the Legislature by each March 1.

67 (1) The report must include all of the following:

68 (a) An investigation of contemporary economic analysis



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69 related to rate changes in this state.

70 (b) An analysis of potential cost impacts to utility  
71 customers in this state if excess returns on equity have  
72 occurred, and, if such excess returns have not occurred at a  
73 significant rate, any resulting cost savings to such customers.

74 (c) An analysis of returns on equity models presented by  
75 public utilities and used by the commission to determine  
76 approved returns on equity for public utilities in this state.  
77 Such analysis must:

78 1. Compare models used by federal agencies and other state  
79 utility regulatory bodies with those used by the commission;

80 2. Determine whether the models used are generally  
81 financially logical; and

82 3. Determine whether the models used comport with generally  
83 accepted economic theory both inside and outside of the utility  
84 industry.

85 (d) An assessment of long-term impacts, including the  
86 economic repercussions of rising rates of returns on equity, to  
87 utilities and their customers in the future.

88 (e) A summary providing detailed information regarding the  
89 compensation of the executive officers of each public utility  
90 providing service to the residents of this state, or the  
91 executive officers of public utility's affiliated companies or  
92 parent company. Such information must include, but need not be  
93 limited to, salaries, benefits, stock options, bonuses, stock  
94 buybacks, and other taxable payments, expressed both as dollar  
95 amounts and as a percentage of the entity's total revenue. The  
96 summary must include the profits and losses of each entity as  
97 reported in its financial statements and must highlight any



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98 compensation that exceeds the industry average. The commission  
99 shall also include any rationale provided by a public utility  
100 justifying compensation exceeding the industry average and, for  
101 each public utility, an explanation as to how specific data  
102 gathered during the compiling of information informed the  
103 commission's decisions on the public utility's rate change  
104 requests.

105 (2) The report must provide benchmarking, comparing public  
106 utilities providing service to the residents of this state with  
107 public utilities providing service to the residents of other  
108 states, including commentary on all findings.

109 Section 6. Subsections (4) and (11) of section 366.96,  
110 Florida Statutes, are amended to read:

111 366.96 Storm protection plan cost recovery.—

112 (4) At a minimum, any improvement included in a  
113 transmission and distribution storm protection plan filed  
114 pursuant to this section must have a forecasted customer benefit  
115 exceeding its forecasted cost. In addition, in its review of  
116 each ~~transmission and distribution storm protection~~ plan filed  
117 pursuant to this section, the commission shall consider:

118 (a) The extent to which the plan is expected to reduce  
119 restoration costs and outage times associated with extreme  
120 weather events and enhance reliability, including whether the  
121 plan prioritizes areas of lower reliability performance and  
122 whether the cost of implementing the plan is reasonable and  
123 prudent given the expected benefit.

124 (b) The extent to which storm protection of transmission  
125 and distribution infrastructure is feasible, reasonable, or  
126 practical in certain areas of the utility's service territory,



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127 including, but not limited to, flood zones and rural areas.

128 (c) The estimated costs and benefits to the utility and its  
129 customers of making the improvements proposed in the plan.

130 (d) The estimated annual rate impact resulting from  
131 implementation of the plan during the first 3 years addressed in  
132 the plan.

133 (e) The performance of previously approved plan  
134 improvements in reducing outage times and storm restoration  
135 costs.

136 (11) The commission shall adopt rules to implement and  
137 administer this section ~~and shall propose a rule for adoption as~~  
138 ~~soon as practicable after the effective date of this act, but~~  
139 ~~not later than October 31, 2019.~~

140 Section 7. Present subsections (7), (8), and (9) and (10)  
141 through (13) of section 367.021, Florida Statutes, are  
142 redesignated as subsections (8), (9), and (10) and (12) through  
143 (15), respectively, and new subsections (7) and (11) are added  
144 to that section, to read:

145 367.021 Definitions.—As used in this chapter, the following  
146 words or terms shall have the meanings indicated:

147 (7) "Governing board" means a board of directors, nonprofit  
148 board, board of trustees, corporate governing body as  
149 established in the in the bylaws or articles of incorporation of  
150 an organization, or similar body overseeing the operations of an  
151 organization.

152 (11) "Qualifying nonprofit organization" means an  
153 organization that meets all of the following criteria:

154 (a) The organization is a nonprofit corporation,  
155 association, or cooperative providing service solely to members



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156 who own and control such nonprofit corporation, association, or  
157 cooperative.

158 (b) The organization conducts open and fair elections to  
159 its governing board at an annual meeting of its members. The  
160 term of any one governing board member may not exceed 36 months;  
161 however, a candidate may run for reelection without any limit on  
162 the number of terms they may serve.

163 (c) At least 75 percent of the governing board of the  
164 organization is made up of the organization's members.

165 (d) The organization provides a mechanism for members of  
166 the organization to directly nominate candidates directly for  
167 the governing board. At a minimum, any member or candidate who  
168 obtains the signatures of at least 1 percent of members of the  
169 organization on a petition for nomination for a particular board  
170 position or election must, as established by that organization's  
171 bylaws, be allowed to stand for election in the same manner as  
172 if that member had been nominated by the existing governing  
173 board, a committee on nominations established by the board, or  
174 other nomination mechanism or procedure as established by the  
175 organization's governing documents. Such candidate must meet all  
176 other requirements established by law or by the organization's  
177 governing documents to serve on the board.

178 (e) The organization is not subject to disqualification  
179 pursuant to s. 367.24.

180 Section 8. Subsection (7) of section 367.022, Florida  
181 Statutes, is amended to read:

182 367.022 Exemptions.—The following are not subject to  
183 regulation by the commission as a utility nor are they subject  
184 to the provisions of this chapter, except as expressly provided:



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185           (7) Qualifying nonprofit organizations ~~Nonprofit~~  
186 ~~corporations, associations, or cooperatives providing service~~  
187 ~~solely to members who own and control such nonprofit~~  
188 ~~corporations, associations, or cooperatives.~~

189           Section 9. Section 367.24, Florida Statutes, is created to  
190 read:

191           367.24 Disqualification from exempt status.-

192           (1) The commission may, upon its own motion or petition by  
193 any person, initiate a proceeding to determine whether an  
194 organization meets the definition of a qualifying nonprofit  
195 organization under s. 367.021.

196           (a) A person must, before filing such a petition, notify  
197 the organization in writing of his or her intention to file such  
198 a petition. Such notification must:

199           1. Be delivered by certified mail, return receipt  
200 requested, to the name and mailing address provided by the  
201 organization for customer service or other external inquiries or  
202 be served upon organization's registered agent, if the  
203 organization has one; and

204           2. Make specific allegations regarding the manner in which  
205 the organization does not meet the definition of a qualifying  
206 nonprofit organization under s. 367.021.

207           (b) The organization shall have 90 days after receipt of  
208 such notice to respond to such writing, or by e-mail if the  
209 person has provided an e-mail address for such response.  
210 However, the organization may not respond to the notice if it so  
211 chooses;

212           (c) After the expiration of the 90 days provided in  
213 paragraph (b), if the person is dissatisfied with the response





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214 of the governing body, such person may file the petition to  
215 initiate the commission proceeding provided for in this  
216 subsection. In filing such a petition, the person must, at  
217 minimum, include the following:

218 1. The initial notification to the organization as provided  
219 in paragraph (a);

220 2. The response of the organization as provided in  
221 paragraph (b) or, if a response has not been received, a  
222 statement attesting to such; and

223 3. Specific allegations regarding the manner in which the  
224 organization does not meet the definition of a qualifying  
225 nonprofit organization under s. 367.021.

226 (2) In making its determination as to whether an  
227 organization meets the definition of a qualifying organization  
228 pursuant to a petition filed under subsection (1), the  
229 commission shall consider:

230 (a) The governing documents of the organization;

231 (b) The conduct of the organization;

232 (c) The conduct of the governing board of the organization;

233 and

234 (d) Any other relevant information provided by the  
235 organization, or other party to the proceeding, demonstrating  
236 whether the organization meets such definition.

237 (3) If the commission determines that an organization does  
238 not meet the definition of a qualifying nonprofit organization,  
239 the commission must provide the organization reasoning for its  
240 determination and allow the organization 90 days to address the  
241 commission's determination.

242 (4) If, after the expiration of the 90-day period specified



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243 in subsection (3), the commission maintains its determination  
244 that the organization does not meet the definition of a  
245 qualifying nonprofit organization, the commission must issue an  
246 order stating that the organization is not exempt from the  
247 jurisdiction of the commission pursuant to s. 367.022 and must  
248 be regulated as a utility under this chapter.

249 (5) The commission shall follow the procedures established  
250 in s. 367.171(2) for an organization determined to be not exempt  
251 from the jurisdiction of the commission under subsection (4).  
252 The commission shall follow such procedures as if the  
253 organization were an established utility in a county newly  
254 entering into the commission's jurisdiction.

255 (6) After a period of 24 months, an organization that is  
256 determined to be not exempt from the jurisdiction of the  
257 commission under subsection (4) may petition the commission to  
258 regain qualifying nonprofit organization status. In reviewing  
259 this petition, the commission shall use the procedure  
260 established in subsections (2), (3), and (4) of this section. If  
261 the commission does not approve the petition, the organization  
262 must wait an additional 24 months before petitioning the  
263 commission again for qualifying nonprofit organization status.

264 (7) Consistent with the commission's jurisdiction over  
265 utility rates and service, issues relating to whether an  
266 organization is exempt from its jurisdiction pursuant to this  
267 section, and the manner in which a utility is brought under its  
268 jurisdiction pursuant to this section, must be resolved by the  
269 commission.

270 (8) The commission shall adopt rules to implement and  
271 administer this section and shall propose a rule for adoption as



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272 soon as practicable after July 1, 2026.

273       Section 10. The Public Service Commission shall submit a  
274 proposed rule for adoption which implements the amendments made  
275 by this act to s. 366.96, Florida Statutes, as soon as  
276 practicable after the effective date of this act, but not later  
277 than October 31, 2025.

278       Section 11. Paragraph (b) of subsection (2) of section  
279 288.0655, Florida Statutes, is amended to read:

280       288.0655 Rural Infrastructure Fund.—

281       (2)

282       (b) To facilitate access of rural communities and rural  
283 areas of opportunity as defined by the Rural Economic  
284 Development Initiative to infrastructure funding programs of the  
285 Federal Government, such as those offered by the United States  
286 Department of Agriculture and the United States Department of  
287 Commerce, and state programs, including those offered by Rural  
288 Economic Development Initiative agencies, and to facilitate  
289 local government or private infrastructure funding efforts, the  
290 department may award grants for up to 75 percent of the total  
291 infrastructure project cost, or up to 100 percent of the total  
292 infrastructure project cost for a project located in a rural  
293 community as defined in s. 288.0656(2) which is also located in  
294 a fiscally constrained county as defined in s. 218.67(1) or a  
295 rural area of opportunity as defined in s. 288.0656(2). Eligible  
296 uses of funds may include improving any inadequate  
297 infrastructure that has resulted in regulatory action that  
298 prohibits economic or community growth and reducing the costs to  
299 community users of proposed infrastructure improvements that  
300 exceed such costs in comparable communities. Eligible uses of



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301 funds include improvements to public infrastructure for  
302 industrial or commercial sites and upgrades to or development of  
303 public tourism infrastructure. Authorized infrastructure may  
304 include the following public or public-private partnership  
305 facilities: storm water systems; telecommunications facilities;  
306 roads or other remedies to transportation impediments; nature-  
307 based tourism facilities; or other physical requirements  
308 necessary to facilitate tourism, trade, and economic development  
309 activities in the community. Authorized infrastructure may also  
310 include publicly or privately owned self-powered nature-based  
311 tourism facilities, publicly owned telecommunications  
312 facilities, and additions to the distribution facilities of the  
313 existing natural gas utility as defined in s. 366.04(3)(c), the  
314 existing electric utility as defined in s. 366.02, or the  
315 existing water or wastewater utility as defined in s.  
316 367.021(14) ~~s. 367.021(12)~~, or any other existing water or  
317 wastewater facility, which owns a gas or electric distribution  
318 system or a water or wastewater system in this state when:

319 1. A contribution-in-aid of construction is required to  
320 serve public or public-private partnership facilities under the  
321 tariffs of any natural gas, electric, water, or wastewater  
322 utility as defined herein; and

323 2. Such utilities as defined herein are willing and able to  
324 provide such service.

325 Section 12. Paragraph (b) of subsection (5) of section  
326 377.814, Florida Statutes, is amended to read:

327 377.814 Municipal Solid Waste-to-Energy Program.—

328 (5) FUNDING.—

329 (b) Funds awarded under the grant programs set forth in



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330 this section may not be used to support, subsidize, or enable  
331 the sale of electric power generated by a municipal solid waste-  
332 to-energy facility to any small electric utility eligible to  
333 petition the commission under s. 366.06(5) ~~s. 366.06(4)~~.

334 Section 13. Section 624.105, Florida Statutes, is amended  
335 to read:

336 624.105 Waiver of customer liability.—Any regulated company  
337 as defined in s. 350.111, any electric utility as defined in s.  
338 366.02(4), any utility as defined in s. 367.021(14) ~~s.~~  
339 ~~367.021(12)~~ or s. 367.022(2) and (7), and any provider of  
340 communications services as defined in s. 202.11(1) may charge  
341 for and include an optional waiver of liability provision in  
342 their customer contracts under which the entity agrees to waive  
343 all or a portion of the customer's liability for service from  
344 the entity for a defined period in the event of the customer's  
345 call to active military service, death, disability, involuntary  
346 unemployment, qualification for family leave, or similar  
347 qualifying event or condition. Such provisions may not be  
348 effective in the customer's contract with the entity unless  
349 affirmatively elected by the customer. No such provision shall  
350 constitute insurance so long as the provision is a contract  
351 between the entity and its customer.

352 Section 14. For the purpose of incorporating the amendment  
353 made by this act to section 366.82, Florida Statutes, in a  
354 reference thereto, section 553.975, Florida Statutes, is  
355 reenacted to read:

356 553.975 Report to the Governor and Legislature.—The Public  
357 Service Commission shall submit a biennial report to the  
358 Governor, the President of the Senate, and the Speaker of the



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359 House of Representatives, concurrent with the report required by  
360 s. 366.82(10), beginning in 1990. Such report shall include an  
361 evaluation of the effectiveness of these standards on energy  
362 conservation in this state.

363 Section 15. This act shall take effect July 1, 2025.

364

365 ===== T I T L E A M E N D M E N T =====

366 And the title is amended as follows:

367 Delete everything before the enacting clause  
368 and insert:

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A bill to be entitled

370

An act relating to the Florida Public Service

371

Commission; amending s. 350.01, F.S.; revising the

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membership of the Florida Public Service Commission;

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creating s. 350.129, F.S.; requiring that orders

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issued by the commission contain adequate support for

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any conclusions made by the commission; requiring the

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commission to provide an explanation and a discussion

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of major elements of the settlement when issuing an

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commission to keep the allowable return on equity for

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public utilities close to the risk-free rate of return

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and require that upward deviations away from the risk-

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free rate be specifically justified by the public

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utility seeking a tariff modification; amending s.

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366.07, F.S.; requiring the commission to establish a

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schedule by which rate change requests may be

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submitted to the commission by each public utility



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388 company; creating s. 366.077, F.S.; requiring the  
389 commission to require public utilities to provide a  
390 report to the Governor and the Legislature by a  
391 specified date each year; providing requirements for  
392 such report; amending s. 366.96, F.S.; requiring that  
393 improvements included in certain transmission and  
394 distribution storm protection plans have forecasted  
395 customer benefits exceeding their forecasted cost;  
396 revising the factors that the Public Service  
397 Commission must consider in reviewing such plans;  
398 deleting obsolete language; amending s. 367.021, F.S.;  
399 defining terms; amending s. 367.022, F.S.; revising  
400 the types of nonprofit organizations which are exempt  
401 from commission jurisdiction; creating s. 367.24,  
402 F.S.; authorizing the commission to initiate a  
403 proceeding to determine whether an organization is a  
404 qualifying nonprofit organization; requiring a person  
405 to notify an organization before filing a petition for  
406 such proceeding; providing requirements for such  
407 notification; authorizing an organization to respond  
408 to such notice in a certain manner and in a specified  
409 timeframe after receipt; authorizing a person to file  
410 a petition to initiate a proceeding to determine  
411 whether an organization is a qualifying nonprofit  
412 organization after a specified timeframe under certain  
413 circumstances; providing requirements for such  
414 petition; requiring the commission to consider certain  
415 information in making its determination of whether an  
416 organization is a qualifying nonprofit organization;



417 requiring the commission to provide its reasoning for  
418 a determination that an organization is not a  
419 qualifying nonprofit organization; requiring the  
420 commission to allow such organization a certain period  
421 of time in which to address the commission's  
422 determination; requiring the commission, under certain  
423 circumstances, to issue an order stating that the  
424 organization is not exempt from the jurisdiction of  
425 the commission and must be regulated as a utility;  
426 requiring the commission to follow specified  
427 procedures for an organization not exempt from the  
428 commission's jurisdiction; authorizing an organization  
429 to petition the commission to regain qualifying  
430 nonprofit organization status under certain  
431 circumstances; requiring a specified waiting period  
432 before certain organizations may petition to regain  
433 qualifying nonprofit organization status; requiring  
434 the commission to adopt rules for a certain purpose;  
435 requiring the commission to submit a proposed rule by  
436 a specified date; amending ss. 288.0655, 377.814, and  
437 624.105, F.S.; conforming cross-references; reenacting  
438 s. 553.975, F.S., relating to the report to the  
439 Governor and Legislature, to incorporate the amendment  
440 made to s. 366.82, F.S., in a reference thereto;  
441 providing an effective date.