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LEGISLATIVE ACTION

Senate

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House

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 submit an
65 annual report to the Governor and the Legislature by each March
66 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:

369 A bill to be entitled
370 An act relating to the Florida Public Service
371 Commission; amending s. 350.01, F.S.; revising the
372 membership of the Florida Public Service Commission;
373 creating s. 350.129, F.S.; requiring that orders
374 issued by the commission contain adequate support for
375 any conclusions made by the commission; requiring the
376 commission to provide an explanation and a discussion
377 of major elements of the settlement when issuing an
378 order accepting or denying certain settlement
379 agreements; amending s. 366.06, F.S.; requiring the
380 commission to keep the allowable return on equity for
381 public utilities close to the risk-free rate of return
382 and require that upward deviations away from the risk-
383 free rate be specifically justified by the public
384 utility seeking a tariff modification; amending s.
385 366.07, F.S.; requiring the commission to establish a
386 schedule by which rate change requests may be
387 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 provide a report to the Governor and the
390 Legislature by a specified date each year; providing
391 requirements for such report; amending s. 366.96,
392 F.S.; requiring that improvements included in certain
393 transmission and distribution storm protection plans
394 have forecasted customer benefits exceeding their
395 forecasted cost; revising the factors that the Public
396 Service Commission must consider in reviewing such
397 plans; deleting obsolete language; amending s.
398 367.021, F.S.; defining terms; amending s. 367.022,
399 F.S.; revising the types of nonprofit organizations
400 which are exempt from commission jurisdiction;
401 creating s. 367.24, F.S.; authorizing the commission
402 to initiate a proceeding to determine whether an
403 organization is a qualifying nonprofit organization;
404 requiring a person to notify an organization before
405 filing a petition for such proceeding; providing
406 requirements for such notification; authorizing an
407 organization to respond to such notice in a certain
408 manner and in a specified timeframe after receipt;
409 authorizing a person to file a petition to initiate a
410 proceeding to determine whether an organization is a
411 qualifying nonprofit organization after a specified
412 timeframe under certain circumstances; providing
413 requirements for such petition; requiring the
414 commission to consider certain information in making
415 its determination of whether an organization is a
416 qualifying nonprofit organization; requiring the



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417 commission to provide its reasoning for a
418 determination that an organization is not a qualifying
419 nonprofit organization; requiring the commission to
420 allow such organization a certain period of time in
421 which to address the commission's determination;
422 requiring the commission, under certain circumstances,
423 to issue an order stating that the organization is not
424 exempt from the jurisdiction of the commission and
425 must be regulated as a utility; requiring the
426 commission to follow specified procedures for an
427 organization not exempt from the commission's
428 jurisdiction; authorizing an organization to petition
429 the commission to regain qualifying nonprofit
430 organization status under certain circumstances;
431 requiring a specified waiting period before certain
432 organizations may petition to regain qualifying
433 nonprofit organization status; requiring the
434 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.