

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7006

INTRODUCER: Regulated Industries Committee

SUBJECT: OGSR/Florida Public Service Commission

DATE: January 26, 2026

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Schrader	Imhof		<b>RI Submitted as Comm. Bill/Fav</b>
1.	McVaney	McVaney	GO	<b>Favorable</b>
2.	Schrader	Kruse	RC	<b>Favorable</b>

**I. Summary:**

SB 7006 saves from repeal the current public meeting and records exemptions codified in s. 350.01(9), F.S., for portions of a hearing conducted by the Florida Public Service Commission (PSC) wherein proprietary confidential business information that is confidential or exempt from s. 119.07(1), F.S., pursuant to ss. 364.183, 366.093, 367.156, or 368.108, F.S., is discussed. Section 350.01(9), F.S., provides that such exempt portions of a meeting may not be off the record, and the exempt portions of such meetings must be recorded and transcribed. However, such recordings and transcripts are confidential and exempt from s. 119.07(1), F.S., and article I, s. 24(a) of the State Constitution.

The exemptions are required to allow the PSC to close portions of its meetings where confidential business information is discussed. These exemptions allow the PSC to continue its specialized role of fact-finding and making decisions in the public interest in utility regulatory matters where the primary aspects of a matter are so inextricably intertwined with confidential information, and the volume of that information was so substantial, that it would otherwise have to refer such matters to the Florida Division of Administrative Hearings in order to conduct a full and fair hearing. Such a circumstance would contrast with the PSC's practice of generally conducting all utility regulatory proceedings within its jurisdiction itself.

The Open Government Sunset Review Act requires the Legislature to review each public record and public meeting exemption five years after enactment. These exemptions are scheduled to repeal on October 2, 2026. The bill removes the scheduled repeals to continue the exempt status of the records and portions of the meetings.

The bill is not expected to affect state and local government revenues and expenditures.

The bill takes effect upon becoming a law.

## II. Present Situation:

### Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

Additional requirements and exemptions that relate to public records are found in various statutes and rules, depending on the branch of government involved.<sup>3</sup> For instance, Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature. Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, ch. 119, F.S., the Public Records Act, provides requirements for public records held by executive agencies and constitutes the main body of public records laws.

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person. Each agency has a duty to provide access to public records.<sup>5</sup>

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”<sup>6</sup>

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

<sup>2</sup> *Id.*; see also, *Sarasota Citizens for Responsible Gov’t v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

<sup>3</sup> Chapter 119, F.S., does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

<sup>4</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4<sup>th</sup> DCA 2018).

<sup>5</sup> Section 119.01(1), F.S.

<sup>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid & Assoc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>7</sup> Section 119.07(1)(a), F.S.

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

Only the Legislature may create an exemption to public records requirements.<sup>9</sup> An exemption must be created by general law and must specifically state the public necessity justifying the exemption.<sup>10</sup> Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions<sup>11</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>12</sup>

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.<sup>13</sup> Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.<sup>14</sup> Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>15</sup>

General exemptions from the public records requirements are typically contained in the Public Records Act.<sup>16</sup> Specific exemptions are often placed in the substantive statutes which relate to a particular agency or program.<sup>17</sup>

### Open Meetings Laws

The State Constitution provides that the public has a right to access governmental meetings.<sup>18</sup> Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.<sup>19</sup> This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.<sup>20</sup>

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<sup>9</sup> FLA. CONST. art. I, s. 24(c).

<sup>10</sup> *Id.*

<sup>11</sup> The bill may, however, contain multiple exemptions that relate to one subject.

<sup>12</sup> FLA. CONST. art. I, s. 24(c)

<sup>13</sup> *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5<sup>th</sup> DCA 2004).

<sup>14</sup> *Id.*

<sup>15</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5<sup>th</sup> DCA 1991).

<sup>16</sup> *See, e.g.*, s. 119.071(1)(a), F.S., exempting from public disclosure examination questions and answer sheets of exams administered by a governmental agency for the purpose of licensure.

<sup>17</sup> *See, e.g.*, s. 213.053(2), F.S., exempting from public disclosure information received by the Department of Revenue, including investigative reports and information.

<sup>18</sup> FLA. CONST., art. I, s. 24(b).

<sup>19</sup> *Id.*

<sup>20</sup> FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law”<sup>21</sup> or the “Sunshine Law,”<sup>22</sup> requires all meetings of any board or commission of any state or local agency or authority at which official acts are taken be open to the public.<sup>23</sup> The board or commission must provide the public reasonable notice of such meetings.<sup>24</sup> Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.<sup>25</sup> Minutes of a public meeting must be promptly recorded and open to public inspection.<sup>26</sup> Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.<sup>27</sup> A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.<sup>28</sup>

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.<sup>29</sup> The exemption must explicitly lay out the public necessity justifying the exemption and be no broader than necessary to accomplish the stated purpose of the exemption.<sup>30</sup> A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.<sup>31</sup>

### **Florida Public Service Commission**

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.<sup>32</sup> The role of the PSC is to ensure Florida’s consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe and reliable manner and at fair prices.<sup>33</sup> In order to do so, the PSC exercises authority over utilities in one or more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.<sup>34</sup>

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<sup>21</sup> *Times Pub. Co. v. Williams*, 222 So.2d 470, 472 (Fla. 2d DCA 1969).

<sup>22</sup> *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 695 (Fla. 1969).

<sup>23</sup> Section 286.011(1)-(2), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 286.011(6), F.S.

<sup>26</sup> Section 286.011(2), F.S.

<sup>27</sup> Section 286.011(1), F.S.

<sup>28</sup> Section 286.011(3), F.S.

<sup>29</sup> FLA. CONST., art. I, s. 24(c).

<sup>30</sup> *Id.*

<sup>31</sup> *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

<sup>32</sup> Section 350.001, F.S.

<sup>33</sup> Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Nov. 14, 2025).

<sup>34</sup> Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited Nov. 14, 2025).

## Electric and Gas Utilities

The PSC monitors the safety and reliability of the electric power grid<sup>35</sup> and may order the addition or repair of infrastructure as necessary.<sup>36</sup> The PSC has broad jurisdiction over the rates and service of investor-owned electric and gas utilities<sup>37</sup> (defined as “public utilities” under ch. 366, F.S.).<sup>38</sup> However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC does have jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, and bulk power supply operations and planning.<sup>39</sup> Municipally-owned utility rates and revenues are regulated by their respective local governments or local utility boards. Rates and revenues for a cooperative utility are regulated by its governing body elected by the cooperative’s membership.

### *Municipal Electric and Gas Utilities, and Special Gas Districts, in Florida*

A municipal electric or gas utility is an electric or gas utility owned and operated by a municipality. Chapter 366, F.S., provides the majority of electric and gas utility regulations for Florida. While ch. 366, F.S., does not provide a definition, per se, for a “municipal utility,” variations of this terminology and the concept of these types of utilities appear throughout the chapter. Currently, Florida has 33 municipal electric utilities that serve over 14 percent of the state’s electric utility customers.<sup>40</sup> Florida also has 27 municipally-owned gas utilities and four special gas districts.<sup>41</sup>

### *Rural Electric Cooperatives in Florida*

At present, Florida has 18 rural electric cooperatives, with 16 of these cooperatives being distribution cooperatives and two being generation and transmission cooperatives.<sup>42</sup> These cooperatives operate in 57 of Florida’s 67 counties and have more than 2.7 million customers.<sup>43</sup> Florida rural electric cooperatives serve a large percentage of area but have a low customer density. Specifically, Florida cooperatives serve approximately 10 percent of Florida’s total electric utility customers, but their service territory covers 60 percent of Florida’s total land mass. Each cooperative is governed by a board of cooperative members elected by the cooperative’s membership.<sup>44</sup>

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<sup>35</sup> Section 366.04(5) and (6), F.S.

<sup>36</sup> Section 366.05(1) and (8), F.S.

<sup>37</sup> Section 366.05, F.S.

<sup>38</sup> Section 366.02(8), F.S.

<sup>39</sup> Florida Public Service Commission, *About the PSC*, *supra* note 34.

<sup>40</sup> Florida Municipal Electric Association, *About Us*, <https://www.flpublicpower.com/about-us> (last visited Nov. 14, 2025).

<sup>41</sup> Florida Public Service Commission, *2025 Facts and Figures of the Florida Utility Industry*, pg. 14 (Apr. 2025), available at <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202025.pdf> (last visited Dec. 16, 2025). A “special gas district” is a dependent or independent special district, setup pursuant to ch. 189, F.S., to provide natural gas service. Section 189.012(6), F.S., defines a “special district” as “a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.”

<sup>42</sup> Florida Electric Cooperative Association, *Members*, <https://feca.com/members/> (last visited Nov. 14, 2025).

<sup>43</sup> Florida Electric Cooperative Association, *Our History*, <https://feca.com/our-history/> (last visited Nov. 14, 2025).

<sup>44</sup> *Id.*

### ***Public Electric and Gas Utilities in Florida***

There are four investor-owned electric utility companies (electric IOUs) in Florida: Florida Power & Light Company (FPL), Duke Energy Florida (Duke), Tampa Electric Company (TECO), and Florida Public Utilities Corporation (FPUC).<sup>45</sup> In addition, there are five investor-owned natural gas utility companies (gas IOUs) in Florida: Florida City Gas, FPUC, Peoples Gas System, Sebring Gas System, and St. Joe Natural Gas Company. Of these five gas IOUs, four engage in the merchant function servicing residential, commercial, and industrial customers: Florida City Gas, FPUC, Peoples Gas System, and St. Joe Natural Gas Company. Sebring Gas System is only engaged in firm transportation service.<sup>46</sup>

Electric IOU and gas IOU rates and revenues are regulated by the PSC and the utilities must file periodic earnings reports, which allow the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.<sup>47</sup> If a utility believes it is earning below a reasonable level, it can petition the PSC for a change in rates.<sup>48</sup>

Section 366.041(2), F.S., requires public utilities to provide adequate service to customers. As compensation for fulfilling that obligation, s. 366.06, F.S., requires the PSC to allow the IOUs to recover honestly and prudently invested costs of providing service, including investments in infrastructure and operating expenses used to provide electric service.<sup>49</sup>

### ***Water and Wastewater Utilities***

Florida's Water and Wastewater System Regulatory Law, ch. 367, F.S., regulates water and wastewater systems in the state. Section 367.011, F.S., grants the PSC exclusive jurisdiction over each utility with respect to its authority, service, and rates. For the chapter, a "utility" is defined as "a water or wastewater utility and, except as provided in s. 367.022, [F.S.] includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation." In 2024, the PSC had jurisdiction over 153 investor-owned water and/or wastewater utilities in 40 of Florida's 67 counties.<sup>50</sup>

Section 367.022, F.S., exempts certain types of water and wastewater operations from PSC jurisdiction and the provisions of ch. 367, F.S. (except as expressly provided in the chapter). Such exempt operations include: municipal water and wastewater systems, public lodging systems that only provide service to their guests, systems with a 100-person or less capacity, landlords that include service to their tenants without specific compensation for such service, and mobile home parks operating both as a mobile home park and a mobile home subdivision that provide "service within the park and subdivision to a combination of both tenants and lot owners, provided that the service to tenants is without specific compensation," and others.<sup>51</sup> The PSC

<sup>45</sup> Florida Public Service Commission, *2025 Facts and Figures of the Florida Utility Industry*, *supra* note 41, at 4.

<sup>46</sup> *Id.* at 15. Firm transportation service is offered to customers under schedules or contracts which anticipate no interruption under almost all operating conditions. See Firm transportation service, 18 CFR s. 284.7.

<sup>47</sup> PSC, *2024 Annual Report*, p. 6, available at <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/AnnualReports/2024.pdf> (last visited Nov. 11, 2025).

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> Florida Public Service Commission, *2025 Facts and Figures of the Florida Utility Industry*, *supra* note 41, at 4.

<sup>51</sup> Section 367.022, F.S.

also does not regulate utilities in counties that have exempted themselves from PSC regulation pursuant to s. 367.171, F.S. However, under s. 367.171(7), F.S., the PSC retains exclusive jurisdiction over all utility systems whose service crosses county boundaries, except for utility systems that are subject to interlocal utility agreements.

### ***Municipal Water and Sewer Utilities in Florida***

A municipality<sup>52</sup> may establish a utility by resolution or ordinance under s. 180.03, F.S. A municipality may establish a service area within its municipal boundary or within five miles of its corporate limits of the municipality.<sup>53</sup>

Under s. 180.19, F.S., a municipality may permit another municipality and the owners or association of owners of lands outside of its corporate limits or within another municipality's corporate limits to connect to its utilities upon such terms and conditions as may be agreed upon between the municipalities.

The PSC does not have jurisdiction over municipal water and sewer utilities, and as such, has no authority over the rates for such utilities. Municipally-owned water and sewer utility rates and revenues are regulated by their respective local governments, sometimes through a utility board or commission.

### **PSC Public Records Exemptions**

Section 350.121, F.S., protects from public records inspection and copying requirements records, documents, papers, maps, books, tapes, photographs, files, sound recordings, and other business material, regardless of form or characteristics obtained by the PSC through an inquiry. Much of this material is confidential and exempt from public disclosure pursuant to s. 119.07(1), F.S.

In addition, ss. 364.183, 366.093, 367.156, and 368.108, F.S., provide processes for communications services, public utilities, water and wastewater utilities, and gas transmission and distribution companies, respectively, to protect from public disclosure proprietary confidential business information provided pursuant to discovery in a PSC docket or proceeding. Such proprietary confidential business information is confidential and exempt from public disclosure pursuant to s. 119.07(1), F.S.

### **Open Government Sunset Review Act**

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,<sup>54</sup> with specified exceptions.<sup>55</sup> The act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment. To save an

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<sup>52</sup> Defined by s. 180.01, F.S., "as any city, town, or village duly incorporated under the laws of the state."

<sup>53</sup> Section 180.02, F.S., *see also* s. 180.06, F.S.

<sup>54</sup> Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered substantially amended if it is expanded to include more records or information or to include meetings.

<sup>55</sup> Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.<sup>56</sup> In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>57</sup> An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>58</sup>
- It protects sensitive, personal information, the release of which would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>59</sup> or
- It protects trade or business secrets.<sup>60</sup>

The act also requires specified questions to be considered during the review process.<sup>61</sup> In examining an exemption, the act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.<sup>62</sup> If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.<sup>63</sup>

### Closure of PSC Meetings

In addition to the above, in 2021, the Legislature created a public meeting exemption in s. 350.01(9), F.S., to protect those portions of a PSC meeting wherein proprietary confidential business information that is confidential or exempt from s. 119.07(1), pursuant to ss. 364.183, 366.093, 367.156, or 368.108, F.S., is discussed. The subsection provides that such exempt portions of a meeting may not be off the record, and the exempt portions of such meeting must

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<sup>56</sup> Section 119.15(3), F.S.

<sup>57</sup> Section 119.15(6)(b), F.S.

<sup>58</sup> Section 119.15(6)(b)1., F.S.

<sup>59</sup> Section 119.15(6)(b)2., F.S.

<sup>60</sup> Section 119.15(6)(b)3., F.S.

<sup>61</sup> Section 119.15(6)(a), F.S. The specified questions are:

What specific records or meetings are affected by the exemption?

Whom does the exemption uniquely affect, as opposed to the general public?

What is the identifiable public purpose or goal of the exemption?

Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?

Is the record or meeting protected by another exemption?

Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>62</sup> FLA. CONST. art. I, s. 24(c).

<sup>63</sup> Section 119.15(7), F.S.



be recorded and transcribed. However, such recording and transcripts are confidential and exempt from s. 119.07(1), F.S., and article I, s. 24(a) of the State Constitution, unless a court of competent jurisdiction, after an in-camera review, determines that the hearing was not specifically restricted to the discussion of proprietary confidential business information made confidential and exempt pursuant to ss. 364.183, 366.093, 367.156, or 368.108, F.S. In which case, the previously protected portions of the meeting which revealed non-exempt information may be disclosed by the PSC.

Section 350.01(8), F.S., requires that, without exception, every meeting, workshop, hearing, or other proceeding which is attended by two or more PSC commissioners, and each such meeting, workshop, hearing, or other proceeding where a decision that concerns the rights or obligations of any person is made by the PSC, must be streamed live on the Internet. In addition, a recorded copy of the meeting, workshop, hearing, or proceeding must be available on the PSC's website.

This requirement, prior to the passage of the public meeting exemption under review here, presented difficulty for the PSC, and parties practicing before it, when confidential information must be discussed or argued during a PSC proceeding. According to the PSC, it "established practices and procedures that have allowed hearings to be conducted in a manner that complies with the Sunshine Law and protects confidential information from disclosure."<sup>64</sup> For most such hearings "the confidential material has been a relatively minor portion of any particular issue, and the parties have worked around public disclosure by stipulating to certain matters and keeping discussions of confidential matters... minimal and without mention of critical details."<sup>65</sup> However, prior to the enactment of s. 350.01(9), F.S., the PSC was faced with a proceeding "where fact-finding on one or more issues was so inextricably intertwined with confidential information, and the volume of that information was so substantial, that it could not afford the parties a full and fair hearing in the public and also protect the sensitive confidential information." In order to properly conduct the proceeding, the PSC had to refer the docket to Florida's Division of Administrative Hearings (DOAH) since Florida's Sunshine Law did not apply at DOAH and the proceeding could be closed to the public.<sup>66</sup> This was a departure from the PSC's usual process where it generally conducts its own proceedings using its "specialized knowledge and expertise" as a fact finder.<sup>67</sup>

By referring the matter to DOAH, the PSC had to give up its typical role as a fact-finder, as the DOAH administrative law judge (ALJ) becomes the fact-finder with the "sole authority to weigh the evidence and credibility of witnesses,"<sup>68</sup> instead of the PSC. The PSC's role is reduced to considering a Recommended Order issued by the ALJ with limited ability to revise the factual findings of the ALJ.<sup>69</sup> This prevented the PSC from relying upon its typical role as an arm of the

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<sup>64</sup> Public Service Commission Response to Open Government Sunset Review Questionnaire Regarding Section 350.01(9), F.S., Aug. 4, 2025 (on file with the Regulated Industries Committee).

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Citizens of State v. Fay*, 396 So. 3d 549, 554–55 (Fla. 2024).

<sup>68</sup> Public Service Commission Response to Open Government Sunset Review Questionnaire Regarding Section 350.01(9), F.S., *supra* note 64, and *see* ss. 120.569 and 120.57, F.S.

<sup>69</sup> Public Service Commission Response to Open Government Sunset Review Questionnaire Regarding Section 350.01(9), F.S., *supra* note 64, and s. 120.57(1)(l), F.S., which states, in part, that an agency may not reject or modify an ALJ's finding of fact in a recommended order unless it finds "that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law."

legislative branch<sup>70</sup> with a broad grant of legislative authority over regulated utilities and limited the PSC from fully utilizing its considerable and specialized expertise in utility regulation and to make decisions in the public interest.<sup>71</sup>

### **Open Government Sunset Review Findings and Recommendations**

The staff of the Senate Committee on Regulated Industries and the House of Representatives Ethics, Elections & Open Government Subcommittee<sup>72</sup> jointly developed a survey requesting that the Florida Public Service Commission provide feedback on the public meeting and records exception in s. 350.01(9), F.S.

In addition, the Senate Committee on Regulated Industries staff sent additional surveys to Florida's Office of Public Counsel and selected representatives from Florida's public electric and gas utility and water and wastewater utility industries.

Staff of the Senate Committee on Regulated Industries received a total of seven responses to this survey. All these responses indicated that the exemption should be reenacted "as is."

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 350.01(9), F.S. to remove the scheduled repeal date—which is October 2, 2026—of the current public meeting and records exemptions for portions of a hearing conducted by the Florida Public Service Commission (PSC) wherein proprietary confidential business information that is confidential or exempt from s. 119.07(1), pursuant to ss. 364.183, 366.093, 367.156, or 368.108, F.S., as discussed. The subsection provides that such exempt portions of a meeting may not be off the record and the exempt portions of such meeting must be recorded and transcribed. However, such recordings and transcripts are confidential and exempt from s. 119.07(1), F.S., and article I, s. 24(a) of the Constitution. The amendment would thereby continue this public meeting and record exemption.

**Section 2** provides that the bill is effective upon becoming a law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

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<sup>70</sup> Section 350.001, F.S.

<sup>71</sup> See *Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 910 (Fla. 2023), *Citizens of State v. Pub. Serv. Com'n*, 425 So. 2d 534, 540 (Fla. 1982), *Gulf Coast Elec. Co-op., Inc. v. Johnson*, 727 So. 2d 259, 262 (Fla. 1999), and *Floridians Against Increased Rates, Inc. v. Clark*, 371 So. 3d 905, 910 (Fla. 2023), for examples of such authority and citations to the PSC's expertise.

<sup>72</sup> Renamed the Government Operations Subcommittee by House Rule 7.1(a)(8)a.

**B. Public Records/Open Meetings Issues:****Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records or public meetings requirements. This bill continues a current public records and public meetings exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

**Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues the current public records and public meetings exemptions without expansion and thus does not require a statement of public necessity.

**Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires an exemption from the public records inspection and copying requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect regulated utilities' confidential business information from disclosure at PSC hearings. This bill exempts only those portions of records and meetings that contain relevant information and therefore does not appear to be broader than necessary to accomplish the purposes of the law.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The private sector will continue to be subject to the cost associated with an agency's review and redactions of exempt records in response to a public records request.

**C. Government Sector Impact:**

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

**VI. Technical Deficiencies:**

None identified.

**VII. Related Issues:**

None identified.

**VIII. Statutes Affected:**

This bill substantially amends s. 350.01(9), F.S. of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.