

The Florida Senate  
**HOUSE MESSAGE SUMMARY**

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Prepared By: The Professional Staff of the Communications, Energy, And Public Utilities Committee

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BILL: CS/SB 1034, 1st Eng.  
INTRODUCER: Rules Committee and Senator Fasano and others  
SUBJECT: Public Service Commission  
DATE: April 27, 2010

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**I. Amendments Contained in Message:**

**House Amendment 1 – 884785 (body with title)**

**House Amendment 2 –148795 (body)**

**II. Summary of Amendments Contained in Message:**

**House Amendment 1** creates a prohibition against commissioners individually influencing staff and political entities influencing commissioners. The commission’s Inspector General is charged with receiving and investigating complaints of such violations.

The amendment requires that each applicant for the PSC have a bachelor’s degree, or a more advanced degree, from an accredited institution of higher learning, plus a commensurate amount of professional experience in one or more of eight specific fields related to the functions of the PSC. The Nominating Council may determine if a person has enough professional experience to perform commissioner duties and to substitute for the standards set forth in the amendment. The amendment requires commissioners to complete a comprehensive course of study before voting on matters before the commission. It also requires commissioners and staff to annually attend ethics training.

The amendment adapts certain provisions from the Code of Judicial Conduct as standards of conduct applicable to commissioners. These provisions are similar to the CS/SB 1034. However, CS/SB 1034 requires commissioners to follow all Codes of Judicial Conduct, some of which could conflict with current law applicable to commissioners.

The amendment defines ex parte communications (consistent with the Code of Judicial Conduct) and prohibits commissioners and their direct reporting staff from engaging in ex parte communications concerning the merits of proposed agency action proceedings and formal proceedings under ss. 120.565, 120.569, or 120.57, F.S. The timing provision prohibiting discussion of the merits of any issues that will be filed before the commission is changed to “reasonably foresees” from “within 90 days.” The amendment does not include a provision in CS/SB 1034 that may penalize the regulated entity represented by the individual who has been found to have made an ex parte communication, if applicable, of up to one-tenth of one percent of the entity’s annual operating revenue for the most recent calendar year.

The amendment provides that the commission shall employ an executive director, a general counsel, and an inspector general. The executive director is subject to confirmation by the Senate. Procedures are set forth in the amendment for such selection. The executive director has the sole authority to employ and supervise the commission's technical, professional, and support staff. The amendment further allows the commissioners to employ a chief advisor and executive assistant to serve as its direct staff.

The amendment creates a provision that requires each person offering testimony in a commission proceeding to disclose, at the time the testimony is offered, any financial or fiduciary relationship between the person and any party to the proceeding.

The amendment provides for a study and evaluation of the structure and processes of the commission to determine whether the commission should be restructured in a manner that establishes the commission's primary role as an independent and impartial decision making body, enhances due process, ensures public interest position is presented and allows staff to freely gather necessary information.

The amendment removes the provision in CS/SB 1034 that extends the employment prohibition with entities regulated by the commission to four years from two and expands such prohibition to lobbying the Legislature and Executive Branch. It also removes the provision extending the reconfirmation process to four years from two of the Public Counsel.

**House Amendment 2** changes the effective date to upon becoming a law from July 1, 2010.