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CHAMBER ACTION

Senate

House

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Floor: 7/AD/3R
4/30/2008 10:43 AM



1 Senator Saunders moved the following amendment:

2

3 Senate Amendment

4 Between line(s) 2043-2044

5 and insert:

6 Section 30. Section 350.01, Florida Statutes, is amended to
7 read:

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

11 (1) The Florida Public Service Commission shall consist of
12 five commissioners appointed pursuant to s. 350.031.

13 (2) (a) Each commissioner serving on July 1, 1978, shall be
14 permitted to remain in office until the completion of his or her
15 current term. Upon the expiration of the term, a successor shall
16 be appointed in the manner prescribed by s. 350.031(5), (6), and

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17 ~~(7)~~ for a 4-year term, except that the terms of the initial
18 members appointed under this act shall be as follows:

19 1. The vacancy created by the present term ending in
20 January, 1981, shall be filled by appointment for a 4-year term
21 and for 4-year terms thereafter; and

22 2. The vacancies created by the two present terms ending in
23 January, 1979, shall be filled by appointment for a 3-year term
24 and for 4-year terms thereafter.

25 (b) Two additional commissioners shall be appointed in the
26 manner prescribed by s. 350.031~~(5), (6), and (7)~~ for 4-year terms
27 beginning the first Tuesday after the first Monday in January,
28 1979, and successors shall be appointed for 4-year terms
29 thereafter with each term beginning on January 2 of the year the
30 term commences and ending 4 years later on January 1.

31 (c) Vacancies on the commission shall be filled for the
32 unexpired portion of the term in the same manner as original
33 appointments to the commission.

34 (3) Any person serving on the commission who seeks to be
35 appointed or reappointed shall file with the nominating council
36 no later than June 1 prior to the year in which his or her term
37 expires at least 210 days before the expiration of his or her
38 ~~term~~ a statement that he or she desires to serve an additional
39 term.

40 (4) One member of the commission shall be elected by
41 majority vote to serve as chair for a term of 2 years, beginning
42 on January 1 of the first year of the term ~~with the first Tuesday~~
43 ~~after the first Monday in January 1979~~. A member may not serve
44 two consecutive terms as chair.

45 (5) The primary duty of the chair is to serve as chief
46 administrative officer of the commission; however, the chair may



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47 | participate in any proceedings pending before the commission when
48 | administrative duties and time permit. In order to distribute the
49 | workload and expedite the commission's calendar, the chair, in
50 | addition to other administrative duties, has authority to assign
51 | the various proceedings pending before the commission requiring
52 | hearings to two or more commissioners or to the commission's
53 | staff of hearing examiners under the supervision of the office of
54 | general counsel. Only those commissioners assigned to a
55 | proceeding requiring hearings are entitled to participate in the
56 | final decision of the commission as to that proceeding; provided,
57 | if only two commissioners are assigned to a proceeding requiring
58 | hearings and cannot agree on a final decision, the chair shall
59 | cast the deciding vote for final disposition of the proceeding.
60 | If more than two commissioners are assigned to any proceeding, a
61 | majority of the members assigned shall constitute a quorum and a
62 | majority vote of the members assigned shall be essential to final
63 | commission disposition of those proceedings requiring actual
64 | participation by the commissioners. If a commissioner becomes
65 | unavailable after assignment to a particular proceeding, the
66 | chair shall assign a substitute commissioner. In those
67 | proceedings assigned to a hearing examiner, following the
68 | conclusion of the hearings, the designated hearing examiner is
69 | responsible for preparing recommendations for final disposition
70 | by a majority vote of the commission. A petition for
71 | reconsideration shall be voted upon by those commissioners
72 | participating in the final disposition of the proceeding.

73 | (6) A majority of the commissioners may determine that the
74 | full commission shall sit in any proceeding. The public counsel
75 | or a person regulated by the Public Service Commission and
76 | substantially affected by a proceeding may file a petition that



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77 | the proceeding be assigned to the full commission. Within 15 days
78 | of receipt by the commission of any petition or application, the
79 | full commission shall dispose of such petition by majority vote
80 | and render a written decision thereon prior to assignment of less
81 | than the full commission to a proceeding. In disposing of such
82 | petition, the commission shall consider the overall general
83 | public interest and impact of the pending proceeding, including
84 | but not limited to the following criteria: the magnitude of a
85 | rate filing, including the number of customers affected and the
86 | total revenues requested; the services rendered to the affected
87 | public; the urgency of the requested action; the needs of the
88 | consuming public and the utility; value of service involved; the
89 | effect on consumer relations, regulatory policies, conservation,
90 | economy, competition, public health, and safety of the area
91 | involved. If the petition is denied, the commission shall set
92 | forth the grounds for denial.

93 | (7) This section does not prohibit a commissioner,
94 | designated by the chair, from conducting a hearing as provided
95 | under ss. 120.569 and 120.57(1) and the rules of the commission
96 | adopted pursuant thereto.

97 | Section 31. Section 350.012, Florida Statutes, is amended
98 | to read:

99 | 350.012 Committee on Public Counsel ~~Service Commission~~
100 | Oversight; creation; membership; powers and duties.--

101 | (1) There is created a standing joint committee of the
102 | Legislature, designated the Committee on Public Counsel ~~Service~~
103 | ~~Commission~~ Oversight, and composed of 12 members appointed as
104 | follows: six members of the Senate appointed by the President of
105 | the Senate, two of whom must be members of the minority party;
106 | and six members of the House of Representatives appointed by the

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107 Speaker of the House of Representatives, two of whom must be
108 members of the minority party. The terms of members shall be for
109 2 years and shall run from the organization of one Legislature to
110 the organization of the next Legislature. The President shall
111 appoint the chair of the committee in even-numbered years and the
112 vice chair in odd-numbered years, and the Speaker of the House of
113 Representatives shall appoint the chair of the committee in odd-
114 numbered years and the vice chair in even-numbered years, from
115 among the committee membership. Vacancies shall be filled in the
116 same manner as the original appointment. Members shall serve
117 without additional compensation, but shall be reimbursed for
118 expenses.

119 (2) The committee shall:

120 ~~(a) Recommend to the Governor nominees to fill a vacancy on~~
121 ~~the Public Service Commission, as provided by general law; and~~

122 ~~(b) Appoint a Public Counsel as provided by general law.~~

123 (3) The committee is authorized to file a complaint with
124 the Commission on Ethics alleging a violation of this chapter by
125 a commissioner, former commissioner, former commission employee,
126 or member of the Public Service Commission Nominating Council.

127 (4) The committee will not have a permanent staff, but the
128 President of the Senate and the Speaker of the House of
129 Representatives shall select staff members from among existing
130 legislative staff, when and as needed.

131 Section 32. Subsections (1), (5), (6), (7), and (8) of
132 section 350.031, Florida Statutes, are amended, and subsection
133 (9) is added to that section, to read:

134 350.031 Florida Public Service Commission Nominating
135 Council.--

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136 (1) (a) There is created a Florida Public Service Commission
137 Nominating Council consisting of 12 ~~nine~~ members. At least one
138 member of the council must be 60 years of age or older. Six ~~Three~~
139 members, including three members ~~one member~~ of the House of
140 Representatives, one of whom shall be a member of the minority
141 party, shall be appointed by and serve at the pleasure of the
142 Speaker of the House of Representatives. Six; ~~three~~ members,
143 including three members ~~one member~~ of the Senate, one of whom
144 shall be a member of the minority party, shall be appointed by
145 and serve at the pleasure of the President of the Senate; ~~and~~
146 ~~three members shall be selected and appointed by a majority vote~~
147 ~~of the other six members of the council.~~

148 (b) All terms shall be for 4 years except those members of
149 the House and Senate, who shall serve 2-year terms concurrent
150 with the 2-year elected terms of House members. All terms of the
151 members of the Public Service Commission Nominating Council
152 existing on June 30, 2008, shall terminate upon the effective
153 date of this act; however, such members may serve an additional
154 term if reappointed by the Speaker of the House of
155 Representatives or the President of the Senate. To establish
156 staggered terms, appointments of members shall be made for
157 initial terms to begin on July 1, 2008, with each appointing
158 officer to appoint three legislator members, one of whom shall be
159 a member of the minority party, to terms through the remainder of
160 the 2-year elected terms of House members; one nonlegislator
161 member to a 6-month term; one nonlegislator member to an 18-month
162 term; and one nonlegislator member to a 42-month term.
163 Thereafter, the terms of the nonlegislator members of the Public
164 Service Commission Nominating Council shall begin on January 2 of
165 the year the term commences and end 4 years later on January 1.



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166 (c) The President of the Senate shall appoint the chair of
167 the council in even-numbered years and the vice chair in odd-
168 numbered years, and the Speaker of the House of Representatives
169 shall appoint the chair of the council in odd-numbered years and
170 the vice chair in even-numbered years, from among the council
171 membership.

172 (d) Vacancies on the council shall be filled for the
173 unexpired portion of the term in the same manner as original
174 appointments to the council. A member may not be reappointed to
175 the council, except for a member of the House of Representatives
176 or the Senate who may be appointed to two 2-year terms, members
177 who are reappointed pursuant to paragraph (b), or a person who is
178 appointed to fill the remaining portion of an unexpired term.

179 (5) A person may not be nominated to the Governor for
180 appointment to the ~~Committee on~~ Public Service Commission
181 ~~Oversight~~ until the council has determined that the person is
182 competent and knowledgeable in one or more fields, which shall
183 include, but not be limited to: public affairs, law, economics,
184 accounting, engineering, finance, natural resource conservation,
185 energy, or another field substantially related to the duties and
186 functions of the commission. The commission shall fairly
187 represent the above-stated fields. Recommendations of the council
188 shall be nonpartisan.

189 (6) It is the responsibility of the council to nominate to
190 the Governor no fewer than three ~~Committee on Public Service~~
191 ~~Commission Oversight~~ six persons for each vacancy occurring on
192 the Public Service Commission. The council shall submit the
193 recommendations to the Governor by September 15 ~~committee by~~
194 ~~August 1~~ of those years in which the terms are to begin the



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195 following January, or within 60 days after a vacancy occurs for
196 any reason other than the expiration of the term.

197 ~~(7) The Committee on Public Service Commission Oversight~~
198 ~~shall select from the list of nominees provided by the nominating~~
199 ~~council three nominees for recommendation to the Governor for~~
200 ~~appointment to the commission. The recommendations must be~~
201 ~~provided to the Governor within 45 days after receipt of the list~~
202 ~~of nominees.~~ The Governor shall fill a vacancy occurring on the
203 Public Service Commission by appointment of one of the applicants
204 nominated by the council ~~committee~~ only after a background
205 investigation of such applicant has been conducted by the Florida
206 Department of Law Enforcement. If the Governor has not made an
207 appointment within 30 consecutive calendar days after the receipt
208 of the recommendation, the council ~~committee~~, by majority vote,
209 shall appoint, within 30 days after the expiration of the
210 Governor's time to make an appointment, one person from the
211 applicants previously nominated to the Governor to fill the
212 vacancy.

213 (8) Each appointment to the Public Service Commission shall
214 be subject to confirmation by the Senate during the next regular
215 session after the vacancy occurs. If the Senate refuses to
216 confirm or fails to consider ~~rejects~~ the Governor's appointment,
217 the council shall initiate, in accordance with this section, the
218 nominating process within 30 days.

219 (9) When the Governor makes an appointment, to fill a
220 vacancy occurring due to expiration of the term, and that
221 appointment has not been confirmed by the Senate before the
222 appointing Governor's term ends, a successor Governor may, within
223 30 days after taking office, recall the appointment and, prior to
224 the first day of the next regular session, make a replacement

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225 appointment from the list provided to the previous Governor by
226 the council. Such an appointment is subject to confirmation by
227 the Senate at the next regular session following the creation of
228 the vacancy to which the appointments are being made. If the
229 replacement appointment is not timely made, or if the appointment
230 is not confirmed by the Senate for any reason, the council, by
231 majority vote, shall appoint, within 30 days after the
232 Legislature adjourns sine die, one person from the applicants
233 previously nominated to the Governor to fill the vacancy, and
234 this appointee is subject to confirmation by the Senate during
235 the next regular session following the appointment.

236 (Renumber subsequent subsections)