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1 A bill to be entitled
2 An act relating to organization and standards of the
3 Public Service Commission; amending s. 112.324, F.S.;
4 revising provisions for disposition of ethics complaints
5 against the Public Counsel and employees of the Public
6 Counsel; amending s. 350.001, F.S.; revising legislative
7 intent; repealing s. 350.012, F.S., relating to the
8 creation, organization, and duties of the Committee on
9 Public Counsel Oversight; amending s. 350.031, F.S.,
10 relating to terms of members of the Florida Public Service
11 Commission Nominating Council; removing obsolete language;
12 creating s. 350.035, F.S.; prohibiting attempts by certain
13 persons to sway the judgment of commissioners; providing
14 for the Commission on Ethics to receive and investigate
15 complaints of violations pursuant to specified provisions;
16 prohibiting commissioners from requiring or demanding that
17 certain commission staff pursue particular positions or
18 courses of action; requiring the inspector general of the
19 commission to receive and investigate complaints of
20 violations; amending s. 350.04, F.S.; requiring
21 commissioners to complete a course of study developed by
22 the executive director and general counsel; requiring
23 commissioners to complete continuing professional
24 education; providing training requirements for
25 commissioners and commission employees; requiring
26 certifications of compliance to be provided to the
27 Legislature; amending s. 350.041, F.S.; revising
28 legislative intent; revising standards of conduct for

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29 | commissioners; revising provisions for investigation and
30 | reports of alleged violations; authorizing commission
31 | employees to request opinions from the Commission on
32 | Ethics; amending s. 350.042, F.S.; revising provisions for
33 | communications concerning agency proceedings; providing
34 | for application of such provisions to members of a
35 | commissioner's direct staff; revising restrictions on such
36 | communications by commissioners and members of their
37 | direct staff; defining the term "ex parte communication";
38 | providing a civil penalty; amending s. 350.06, F.S.;
39 | revising provisions for the offices of the commission,
40 | payment of moneys, and employment of personnel; amending
41 | s. 350.061, F.S.; providing for appointment of the Public
42 | Counsel by, and service of the Public Counsel at the
43 | pleasure of, the Attorney General; amending ss. 350.0613
44 | and 350.0614, F.S.; providing powers and duties of the
45 | Attorney General regarding the Public Counsel and his or
46 | her employees to conform provisions to the transfer of the
47 | Office of Public Counsel; transferring the Office of
48 | Public Counsel from the legislative branch to the Office
49 | of the Attorney General; repealing s. 350.121, F.S.;
50 | relating to commission inquiries; creating s. 350.122,
51 | F.S.; requiring persons testifying before the Public
52 | Service Commission to disclose certain financial and
53 | fiduciary relationships; providing that a determination by
54 | the commission that a violation occurred constitutes
55 | agency action for which a hearing may be sought; providing
56 | an effective date.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (a) and (c) of subsection (8) of section 112.324, Florida Statutes, are amended to read:

112.324 Procedures on complaints of violations; public records and meeting exemptions.—

(8) If, in cases pertaining to complaints other than complaints against impeachable officers or members of the Legislature, upon completion of a full and final investigation by the commission, the commission finds that there has been a violation of this part or of s. 8, Art. II of the State Constitution, it shall be the duty of the commission to report its findings and recommend appropriate action to the proper disciplinary official or body as follows, and such official or body shall have the power to invoke the penalty provisions of this part, including the power to order the appropriate elections official to remove a candidate from the ballot for a violation of s. 112.3145 or s. 8(a) and (i), Art. II of the State Constitution:

(a) The President of the Senate and the Speaker of the House of Representatives, jointly, in any case concerning ~~the Public Counsel,~~ members of the Public Service Commission, members of the Public Service Commission Nominating Council, the Auditor General, the director of the Office of Program Policy Analysis and Government Accountability, or members of the Legislative Committee on Intergovernmental Relations.

(c) The President of the Senate, in any case concerning an

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85 employee of the Senate; the Speaker of the House of
 86 Representatives, in any case concerning an employee of the House
 87 of Representatives; or the President and the Speaker, jointly,
 88 in any case concerning an employee of a committee of the
 89 Legislature whose members are appointed solely by the President
 90 and the Speaker or in any case concerning an employee of the
 91 ~~Public Counsel~~, Public Service Commission, Auditor General,
 92 Office of Program Policy Analysis and Government Accountability,
 93 or Legislative Committee on Intergovernmental Relations.

94 Section 2. Section 350.001, Florida Statutes, is amended
 95 to read:

96 350.001 Legislative intent.—

97 (1) The Florida Public Service Commission has been and
 98 shall continue to be an arm of the legislative branch of
 99 government. In the exercise of its jurisdiction, the commission
 100 may not establish or implement any regulatory policy that is
 101 contrary to, or is an expansion of, the authority granted to it
 102 by the Legislature.

103 (2) The Public Service Commission shall perform its duties
 104 independently, impartially, professionally, honorably, and
 105 without undue influence from any person, pursuant to s. 350.041.

106 (3) It is the desire of the Legislature that the Governor
 107 participate in the appointment process of commissioners to the
 108 Public Service Commission. The Legislature accordingly delegates
 109 to the Governor a limited authority with respect to the Public
 110 Service Commission by authorizing him or her to participate in
 111 the selection of members only in the manner prescribed by s.
 112 350.031.

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113 Section 3. Section 350.012, Florida Statutes, is repealed.

114 Section 4. Paragraphs (b) and (d) of subsection (1) of
115 section 350.031, Florida Statutes, are amended to read:

116 350.031 Florida Public Service Commission Nominating
117 Council.—

118 (1)

119 (b) All terms shall be for 4 years except those members of
120 the House and Senate, who shall serve 2-year terms concurrent
121 with the 2-year elected terms of House members. ~~All terms of the~~
122 ~~members of the Public Service Commission Nominating Council~~
123 ~~existing on June 30, 2008, shall terminate upon the effective~~
124 ~~date of this act; however, such members may serve an additional~~
125 ~~term if reappointed by the Speaker of the House of~~
126 ~~Representatives or the President of the Senate.~~ To establish
127 staggered terms, appointments of members shall be made for
128 initial terms to begin on July 1, 2008, with each appointing
129 officer to appoint three legislator members, one of whom shall
130 be a member of the minority party, to terms through the
131 remainder of the 2-year elected terms of House members; one
132 nonlegislator member to a 6-month term; one nonlegislator member
133 to an 18-month term; and one nonlegislator member to a 42-month
134 term. Thereafter, the terms of the nonlegislator members of the
135 Public Service Commission Nominating Council shall begin on
136 January 2 of the year the term commences and end 4 years later
137 on January 1.

138 (d) Vacancies on the council shall be filled for the
139 unexpired portion of the term in the same manner as original
140 appointments to the council. A member may not be reappointed to

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141 the council, except for a member of the House of Representatives
 142 or the Senate who may be appointed to two 2-year terms, ~~members~~
 143 ~~who are reappointed pursuant to paragraph (b)~~, or a person who
 144 is appointed to fill the remaining portion of an unexpired term.

145 Section 5. Section 350.035, Florida Statutes, is created
 146 to read:

147 350.035 Prohibited influence on commissioners and
 148 commission staff.-

149 (1) (a) Neither the Governor, the President of the Senate,
 150 the Speaker of the House of Representatives, nor a member of the
 151 Public Service Commission Nominating Council may attempt to sway
 152 the independent judgment of the commission by bringing pressure
 153 to bear upon a commissioner or commission employee through that
 154 person's role in the nomination, appointment, or confirmation of
 155 commissioners.

156 (b) The Commission on Ethics shall receive and investigate
 157 sworn complaints of violations of this subsection pursuant to
 158 ss. 112.322-112.3241.

159 (2) (a) To ensure that each commissioner, as a member of a
 160 collegial body, is afforded the benefit of unbiased and
 161 independent analysis and advice from its professional and
 162 technical staff, an individual commissioner may not demand or
 163 require any member of the commission staff, other than the
 164 commissioner's direct staff, to develop, present, or pursue a
 165 particular opinion, position, or course of action in relation to
 166 any substantive matter pending before the commission or a panel
 167 of commissioners. This paragraph does not prohibit the
 168 commission, as a collegial body, from directing its staff to

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169 pursue a course of action consistent with direction provided by
 170 the collegial body. Further, this paragraph is not intended to
 171 prohibit an individual commissioner from any otherwise lawful
 172 communication with commission staff, including any expression of
 173 opinion, position, or concern regarding a matter within the
 174 jurisdiction of the commission. A violation of this subsection
 175 is an act of malfeasance for purposes of ss. 112.3187-112.31895.

176 (b) The inspector general of the commission shall receive
 177 and investigate complaints of violations of this subsection.

178 Section 6. Section 350.04, Florida Statutes, is amended to
 179 read:

180 350.04 Qualifications of commissioners; training and
 181 continuing education.-

182 (1) A commissioner may not, at the time of appointment or
 183 during his or her term of office:

184 (a)~~(1)~~ Have any financial interest, other than ownership
 185 of shares in a mutual fund, in any business entity which, either
 186 directly or indirectly, owns or controls any public utility
 187 regulated by the commission, in any public utility regulated by
 188 the commission, or in any business entity which, either directly
 189 or indirectly, is an affiliate or subsidiary of any public
 190 utility regulated by the commission.

191 (b)~~(2)~~ Be employed by or engaged in any business activity
 192 with any business entity which, either directly or indirectly,
 193 owns or controls any public utility regulated by the commission,
 194 by any public utility regulated by the commission, or by any
 195 business entity which, either directly or indirectly, is an
 196 affiliate or subsidiary of any public utility regulated by the

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197 | commission.

198 | (2) Before voting on any matter before the commission,
 199 | each person appointed to the commission after July 1, 2011, must
 200 | complete a comprehensive course of study that is developed by
 201 | the commission's executive director and general counsel in
 202 | coordination with the National Association of Regulatory Utility
 203 | Commissioners Subcommittee on Education and Research and that
 204 | addresses the substantive matters within the jurisdiction of the
 205 | commission, administrative law applicable to commission
 206 | proceedings, and standards of conduct applicable to
 207 | commissioners. Thereafter, each commissioner must annually
 208 | complete no less than 10 hours of continuing professional
 209 | education directly related to substantive matters within the
 210 | jurisdiction of the commission.

211 | (3) At least once every 12 months, each commissioner and
 212 | commission employee must receive training, in a form developed
 213 | by the commission's executive director and general counsel,
 214 | which addresses the ethical standards of conduct applicable to
 215 | commissioners and the commission's staff.

216 | (4) The chair of the commission shall certify the
 217 | commission's compliance with the requirements provided in this
 218 | section, and each commissioner shall certify his or her
 219 | individual compliance with the continuing professional education
 220 | requirements provided in subsection (2). Each certification of
 221 | compliance shall be provided to the President of the Senate and
 222 | the Speaker of the House of Representatives.

223 | Section 7. Section 350.041, Florida Statutes, is amended
 224 | to read:

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225 | 350.041 Commissioners; standards of conduct.—

226 | (1) STATEMENT OF INTENT.—

227 | (a) Professional, impartial, and honorable commissioners
 228 | are indispensable to the effective performance of the
 229 | commission's duties. A commissioner shall maintain high
 230 | standards of conduct and shall personally observe those
 231 | standards so that the integrity and impartiality of the
 232 | commission may be preserved. The standards of conduct provided
 233 | in this section should be construed and applied to further that
 234 | objective.

235 | (b) In addition to the provisions of part III of chapter
 236 | 112, which are applicable to public service commissioners by
 237 | virtue of their being public officers and full-time employees of
 238 | the legislative branch of government, the conduct of public
 239 | service commissioners shall be governed by the standards of
 240 | conduct provided in this section. Nothing shall prohibit the
 241 | standards of conduct from being more restrictive than part III
 242 | of chapter 112. Further, this section shall not be construed to
 243 | contravene the restrictions of part III of chapter 112. In the
 244 | event of a conflict between this section and part III of chapter
 245 | 112, the more restrictive provision shall apply.

246 | (2) STANDARDS OF CONDUCT.—

247 | (a) A commissioner may not accept anything from any
 248 | business entity which, either directly or indirectly, owns or
 249 | controls any public utility regulated by the commission, from
 250 | any public utility regulated by the commission, or from any
 251 | business entity which, either directly or indirectly, is an
 252 | affiliate or subsidiary of any public utility regulated by the

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253 | commission. A commissioner may attend conferences and associated
254 | meals and events that are generally available to all conference
255 | participants without payment of any fees in addition to the
256 | conference fee. Additionally, while attending a conference, a
257 | commissioner may attend meetings, meals, or events that are not
258 | sponsored, in whole or in part, by any representative of any
259 | public utility regulated by the commission and that are limited
260 | to commissioners only, committee members, or speakers if the
261 | commissioner is a member of a committee of the association of
262 | regulatory agencies that organized the conference or is a
263 | speaker at the conference. It is not a violation of this
264 | paragraph for a commissioner to attend a conference for which
265 | conference participants who are employed by a utility regulated
266 | by the commission have paid a higher conference registration fee
267 | than the commissioner, or to attend a meal or event that is
268 | generally available to all conference participants without
269 | payment of any fees in addition to the conference fee and that
270 | is sponsored, in whole or in part, by a utility regulated by the
271 | commission. If, during the course of an investigation by the
272 | Commission on Ethics into an alleged violation of this
273 | paragraph, allegations are made as to the identity of the person
274 | giving or providing the prohibited gift, that person must be
275 | given notice and an opportunity to participate in the
276 | investigation and relevant proceedings to present a defense. If
277 | the Commission on Ethics determines that the person gave or
278 | provided a prohibited gift, the person may not appear before the
279 | commission or otherwise represent anyone before the commission
280 | for a period of 2 years.

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281 (b) A commissioner may not accept any form of employment
282 with or engage in any business activity with any business entity
283 which, either directly or indirectly, owns or controls any
284 public utility regulated by the commission, any public utility
285 regulated by the commission, or any business entity which,
286 either directly or indirectly, is an affiliate or subsidiary of
287 any public utility regulated by the commission.

288 (c) A commissioner may not have any financial interest,
289 other than shares in a mutual fund, in any public utility
290 regulated by the commission, in any business entity which,
291 either directly or indirectly, owns or controls any public
292 utility regulated by the commission, or in any business entity
293 which, either directly or indirectly, is an affiliate or
294 subsidiary of any public utility regulated by the commission. If
295 a commissioner acquires any financial interest prohibited by
296 this section during his or her term of office as a result of
297 events or actions beyond the commissioner's control, he or she
298 shall immediately sell such financial interest or place such
299 financial interest in a blind trust at a financial institution.
300 A commissioner may not attempt to influence, or exercise any
301 control over, decisions regarding the blind trust.

302 (d) A commissioner may not accept anything from a party in
303 a proceeding currently pending before the commission. If, during
304 the course of an investigation by the Commission on Ethics into
305 an alleged violation of this paragraph, allegations are made as
306 to the identity of the person giving or providing the prohibited
307 gift, that person must be given notice and an opportunity to
308 participate in the investigation and relevant proceedings to

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309 present a defense. If the Commission on Ethics determines that
310 the person gave or provided a prohibited gift, the person may
311 not appear before the commission or otherwise represent anyone
312 before the commission for a period of 2 years.

313 (e) A commissioner may not serve as the representative of
314 any political party or on any executive committee or other
315 governing body of a political party; serve as an executive
316 officer or employee of any political party, committee,
317 organization, or association; receive remuneration for
318 activities on behalf of any candidate for public office; engage
319 on behalf of any candidate for public office in the solicitation
320 of votes or other activities on behalf of such candidacy; or
321 become a candidate for election to any public office without
322 first resigning from office.

323 (f) A commissioner, during his or her term of office, may
324 not make any public comment regarding the merits of any
325 proceeding under ss. 120.569 and 120.57 currently pending before
326 the commission.

327 (g) A commissioner may not conduct himself or herself in
328 an unprofessional manner at any time during the performance of
329 his or her official duties.

330 (h) The commission chair shall require order and decorum
331 in proceedings before the commission. In the absence of the
332 chair, the commissioner presiding over a commission proceeding
333 shall require order and decorum in the proceeding.

334 (i) A commissioner shall be patient, dignified, and
335 courteous to litigants, other commissioners, witnesses, lawyers,
336 commission staff, and others with whom the commissioner deals in

337 an official capacity.

338 (j) A commissioner shall perform his or her official
 339 duties without bias or prejudice. A commissioner may not, in the
 340 performance of his or her official duties, by words or conduct
 341 manifest bias or prejudice.

342 (k) A commissioner may not, with respect to parties or
 343 classes of parties, cases, controversies, or issues likely to
 344 come before the commission, make pledges, promises, or
 345 commitments that are inconsistent with the impartial performance
 346 of the commissioner's official duties.

347 (l) A commissioner may not be swayed by partisan
 348 interests, public clamor, or fear of criticism.

349 (m)~~(h)~~ A commissioner must avoid impropriety in all of his
 350 or her activities and must act at all times in a manner that
 351 promotes public confidence in the integrity and impartiality of
 352 the commission.

353 (n)~~(i)~~ A commissioner may not directly or indirectly,
 354 through staff or other means, solicit anything of value from any
 355 public utility regulated by the commission, or from any business
 356 entity that, whether directly or indirectly, is an affiliate or
 357 subsidiary of any public utility regulated by the commission, or
 358 from any party appearing in a proceeding considered by the
 359 commission in the last 2 years.

360 (3) INVESTIGATIONS; REPORTS; ADVISORY OPINIONS.—

361 (a) The Commission on Ethics shall accept and investigate
 362 any alleged violations of this section pursuant to the
 363 procedures contained in ss. 112.322-112.3241.

364 (b) The Commission on Ethics shall provide the Governor

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365 and the Florida Public Service Commission Nominating Council
 366 with a report of its findings and recommendations with respect
 367 to alleged violations by a public service commissioner. The
 368 Governor is authorized to enforce such ~~the~~ findings and
 369 recommendations ~~of the Commission on Ethics~~, pursuant to part
 370 III of chapter 112.

371 (c) A public service commissioner, a commission employee,
 372 or a member of the Florida Public Service Commission Nominating
 373 Council may request an advisory opinion from the Commission on
 374 Ethics, pursuant to s. 112.322(3)(a), regarding the standards of
 375 conduct or prohibitions set forth in this section and ss.
 376 350.031, 350.04, and 350.042.

377 Section 8. Section 350.042, Florida Statutes, is amended
 378 to read:

379 350.042 Ex parte communications.—

380 (1) Each A commissioner and member of a commissioner's
 381 direct staff shall ~~should~~ accord to every person who is a party
 382 to or registered with the commission as an interested person in
 383 a proposed agency action proceeding or a party to a proceeding
 384 under s. 120.565, s. 120.569, or s. 120.57 ~~legally interested in~~
 385 ~~a proceeding~~, or the person's lawyer, full right to be heard
 386 according to law, and, except as authorized by law, shall not
 387 ~~neither~~ initiate, solicit, or ~~nor~~ consider ex parte
 388 communications concerning a pending proposed agency action ~~the~~
 389 ~~merits, threat, or offer of reward in any proceeding or a~~
 390 proceeding under s. 120.565, s. 120.569, or s. 120.57 ~~other than~~
 391 ~~a proceeding under s. 120.54 or s. 120.565, workshops, or~~
 392 ~~internal affairs meetings~~. No individual shall discuss ex parte

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393 with a commissioner or a member of a commissioner's direct staff
 394 the merits of any issue that he or she reasonably foresees ~~knows~~
 395 will be filed with the commission ~~within 90 days~~. The provisions
 396 of this subsection shall not apply to commission staff other
 397 than members of a commissioner's direct staff.

398 (a) As used in this section, the term "ex parte
 399 communication" means any communication that:

400 1. If it is a written or printed communication or a
 401 communication in electronic form, is not served on all parties
 402 to a proceeding; or

403 2. If it is an oral communication, is made without
 404 adequate notice to the parties and without an opportunity for
 405 the parties to be present and heard.

406 (b) When circumstances require, ex parte communications
 407 concerning scheduling, administrative purposes, or emergencies
 408 that do not deal with substantive matters or issues on the
 409 merits are authorized, if:

410 1. The commissioner or member of a commissioner's direct
 411 staff reasonably believes that no party will gain a procedural
 412 or tactical advantage as a result of the ex parte communication;
 413 and

414 2. The commissioner or member of a commissioner's direct
 415 staff makes provision promptly to notify all parties of the
 416 substance of the ex parte communication and, if possible, allows
 417 all parties an opportunity to respond.

418 (2) The provisions of this section shall not prohibit an
 419 individual residential ratepayer from communicating with a
 420 commissioner or member of a commissioner's direct staff,

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421 provided that the ratepayer is representing only himself or
 422 herself, without compensation.

423 (3) This section shall not apply to oral communications or
 424 discussions in scheduled and noticed open public meetings of
 425 educational programs or of a conference or other meeting of an
 426 association of regulatory agencies.

427 (4) If a commissioner or member of a commissioner's direct
 428 staff knowingly receives an ex parte communication prohibited by
 429 this section ~~relative to a proceeding other than as set forth in~~
 430 ~~subsection (1), to which he or she is assigned,~~ he or she must
 431 place on the record of the proceeding copies of all written
 432 communications received, all written responses to the
 433 communications, and a memorandum stating the substance of all
 434 oral communications received and all oral responses made, and
 435 shall give written notice to all parties to the communication
 436 that such matters have been placed on the record. Any party to
 437 the proceeding who desires to respond to the ~~an ex parte~~
 438 communication may do so. The response must be received by the
 439 commission within 10 days after receiving notice that the ~~ex~~
 440 ~~parte~~ communication has been placed on the record. The
 441 commissioner may, if he or she deems it necessary to eliminate
 442 the effect of an ex parte communication received by him or her,
 443 withdraw from the proceeding, in which case the chair shall
 444 substitute another commissioner for the proceeding.

445 (5) Any individual who makes an ex parte communication
 446 prohibited by this section shall submit to the commission a
 447 written statement describing the nature of such communication,
 448 to include the name of the person making the communication, the

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449 name of each ~~the~~ commissioner or direct staff member of a
450 commissioner ~~commissioners~~ receiving the communication, copies
451 of all written communications made, all written responses to
452 such communications, and a memorandum stating the substance of
453 all oral communications received and all oral responses made.
454 The commission shall place on the record of a proceeding all
455 such communications.

456 (6) Any commissioner or member of a commissioner's direct
457 staff who knowingly fails to place on the record any ex parte
458 communication prohibited by this section ~~such communications~~, in
459 violation of this ~~the~~ section, within 15 days after ~~of~~ the date
460 of the ~~such~~ communication is subject to removal or dismissal and
461 may be assessed a civil penalty not to exceed \$5,000. Any
462 individual who knowingly fails to comply with subsection (5) may
463 be assessed a civil penalty not to exceed \$5,000.

464 (7) (a) It is ~~shall be~~ the duty of the Commission on Ethics
465 to receive and investigate sworn complaints of violations of
466 this section pursuant to the procedures contained in ss.
467 112.322-112.3241.

468 (b) If the Commission on Ethics finds that there has been
469 a violation of this section by a public service commissioner or
470 member of a commissioner's direct staff, it shall provide the
471 Governor and the Florida Public Service Commission Nominating
472 Council with a report of its findings and recommendations. The
473 Governor is authorized to enforce the findings and
474 recommendations of the Commission on Ethics, pursuant to part
475 III of chapter 112.

476 (c) If a commissioner, a member of a commissioner's direct

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477 staff, or any other individual fails or refuses to pay the
 478 Commission on Ethics any civil penalties assessed pursuant to
 479 ~~the provisions of~~ this section, the Commission on Ethics may
 480 bring an action in any circuit court to enforce the ~~such~~
 481 penalty.

482 (d) If, during the course of an investigation by the
 483 Commission on Ethics into an alleged violation of this section,
 484 allegations are made as to the identity of the person who
 485 participated in the ex parte communication, that person must be
 486 given notice and an opportunity to participate in the
 487 investigation and relevant proceedings to present a defense. If
 488 the Commission on Ethics determines that the person participated
 489 in the ex parte communication, the person may not appear before
 490 the commission or otherwise represent anyone before the
 491 commission for a period of 2 years.

492 Section 9. Subsections (1), (2), and (3) of section
 493 350.06, Florida Statutes, are amended to read:

494 350.06 Place of meeting; expenditures; employment of
 495 personnel; records availability and fees.-

496 (1) The offices of the commission ~~said commissioners~~ shall
 497 be in the vicinity of Tallahassee, but the commissioners may
 498 hold sessions anywhere in the state at their discretion.

499 (2) All sums of money authorized to be paid on account of
 500 the commission ~~said commissioners~~ shall be paid out of the State
 501 Treasury only on the order of the Chief Financial Officer.

502 (3)(a) The commission shall ~~commissioners may~~ employ an
 503 executive director, a general counsel, and an inspector general
 504 ~~clerical, technical, and professional personnel reasonably~~

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505 ~~necessary for the performance of their duties and may also~~
506 ~~employ one or more persons capable of stenographic court~~
507 ~~reporting, to be known as the official reporters of the~~
508 ~~commission.~~ Selection of the executive director shall be subject
509 to confirmation by the Senate. Until such time as the Senate
510 confirms the selection of the executive director, the individual
511 selected shall perform the functions of the position. If the
512 Senate refuses to confirm or fails to consider the selection
513 during its next regular session, the commission shall, within 30
514 days, select another individual for Senate confirmation. This
515 process shall continue until the Senate has confirmed a
516 selection. In case of a vacancy in the position of executive
517 director, the commission shall select a new executive director
518 in the same manner as the original selection.

519 (b) Each commissioner may employ a chief advisor and an
520 executive assistant to serve as the direct staff of the
521 commissioner.

522 (c) Notwithstanding any other provision of law, the
523 executive director shall employ clerical, technical, and
524 professional personnel reasonably necessary to assist the
525 commission in the performance of its duties and may employ one
526 or more persons capable of stenographic court reporting to be
527 known as the official reporters of the commission. The executive
528 director shall have sole authority with respect to employment,
529 compensation, supervision, and direction of agency personnel
530 other than those personnel employed by the commission and
531 individual commissioners under paragraphs (a) and (b).

532 (d) The general counsel shall, in consultation with the

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533 executive director, employ attorneys, paralegals, legal
 534 secretaries, and other personnel reasonably necessary to assist
 535 the commission in the performance of its duties.

536 Section 10. Subsection (1) of section 350.061, Florida
 537 Statutes, is amended to read:

538 350.061 Public Counsel; appointment; oath; restrictions on
 539 Public Counsel and his or her employees.—

540 (1) The Attorney General ~~Committee on Public Counsel~~
 541 ~~Oversight~~ shall appoint a Public Counsel ~~by majority vote of the~~
 542 ~~members of the committee~~ to represent the general public of
 543 Florida before the Florida Public Service Commission. The Public
 544 Counsel shall be an attorney admitted to practice before the
 545 Florida Supreme Court and shall serve at the pleasure of the
 546 Attorney General ~~Committee on Public Counsel Oversight~~, subject
 547 ~~to biennial reconfirmation by the committee~~. The Public Counsel
 548 shall perform his or her duties independently. Vacancies in the
 549 office shall be filled in the same manner as the original
 550 appointment.

551 Section 11. Section 350.0613, Florida Statutes, is amended
 552 to read:

553 350.0613 Public Counsel; employees; receipt of pleadings.—
 554 The Attorney General ~~committee~~ may authorize the Public Counsel
 555 to employ clerical and technical assistants whose
 556 qualifications, duties, and responsibilities the Attorney
 557 General ~~committee~~ shall from time to time prescribe. The
 558 Attorney General ~~committee~~ may from time to time authorize
 559 retention of the services of additional attorneys or experts to
 560 the extent that the best interests of the people of the state

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561 will be better served thereby, including the retention of expert
 562 witnesses and other technical personnel for participation in
 563 contested proceedings before the commission. The commission
 564 shall furnish the Public Counsel with copies of the initial
 565 pleadings in all proceedings before the commission, and if the
 566 Public Counsel intervenes as a party in any proceeding he or she
 567 shall be served with copies of all subsequent pleadings,
 568 exhibits, and prepared testimony, if used. Upon filing notice of
 569 intervention, the Public Counsel shall serve all interested
 570 parties with copies of such notice and all of his or her
 571 subsequent pleadings and exhibits.

572 Section 12. Section 350.0614, Florida Statutes, is amended
 573 to read:

574 350.0614 Public Counsel; compensation and expenses.—

575 ~~(1)~~ The salaries and expenses of the Public Counsel and
 576 his or her employees shall be allocated by the Attorney General
 577 ~~committee~~ only from moneys appropriated to the Public Counsel by
 578 the Legislature.

579 ~~(2) The Legislature declares and determines that the~~
 580 ~~Public Counsel is under the legislative branch of government~~
 581 ~~within the intention of the legislation as expressed in chapter~~
 582 ~~216, and no power shall be in the Executive Office of the~~
 583 ~~Governor or its successor to release or withhold funds~~
 584 ~~appropriated to it, but the same shall be available for~~
 585 ~~expenditure as provided by law and the rules or decisions of the~~
 586 ~~Committee on Public Counsel Oversight.~~

587 ~~(3) Neither the Executive Office of the Governor nor the~~
 588 ~~Department of Management Services or its successor shall have~~

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589 ~~power to determine the number, or fix the compensation, of the~~
590 ~~employees of the Public Counsel or to exercise any manner of~~
591 ~~control over them.~~

592 Section 13. (1) All powers, duties, functions, records,
593 offices, personnel, property, pending issues, and existing
594 contracts, administrative authority, administrative rules, and
595 unexpended balances of appropriations, allocations, and other
596 funds relating to the Office of Public Counsel pursuant to s.
597 350.061, Florida Statutes, are transferred by a type two
598 transfer, as defined in s. 20.06(2), Florida Statutes, from the
599 Legislature to the Office of the Attorney General. The Office of
600 Public Counsel shall be funded from the General Revenue Fund.

601 (2) Notwithstanding ss. 216.292 and 216.351, Florida
602 Statutes, upon approval by the Legislative Budget Commission,
603 the Executive Office of the Governor shall transfer funds and
604 positions between the Legislature and the Office of the Attorney
605 General to implement this act.

606 Section 14. Section 350.121, Florida Statutes, is
607 repealed.

608 Section 15. Section 350.122, Florida Statutes, is created
609 to read:

610 350.122 Testimony; public disclosure of affiliation.—

611 (1) Each person offering testimony at a meeting, workshop,
612 hearing, or other scheduled event of the commission shall
613 disclose any financial or fiduciary relationship with any party
614 to the proceedings at the time the testimony is provided to the
615 commission.

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616 | (2) The determination by the commission that a person has
617 | knowingly violated this section constitutes agency action for
618 | which a hearing may be sought under chapter 120.

619 | Section 16. This act shall take effect July 1, 2011.