

1 A bill to be entitled
2 An act relating to organization and standards of the
3 Public Service Commission; amending s. 20.055, F.S.,
4 relating to agency inspectors general; revising the
5 definition of the term "agency head"; amending s. 112.324,
6 F.S.; revising provisions for disposition of ethics
7 complaints against the Public Counsel and employees of the
8 Public Counsel; amending s. 350.001, F.S.; revising
9 legislative intent; repealing s. 350.012, F.S., relating
10 to the creation, organization, and duties of the Committee
11 on Public Counsel Oversight; amending s. 350.031, F.S.,
12 relating to terms of members of the Florida Public Service
13 Commission Nominating Council; removing obsolete language;
14 creating s. 350.035, F.S.; prohibiting attempts by certain
15 persons to sway the judgment of the commission by bringing
16 pressure to bear on certain persons; providing for the
17 Commission on Ethics to receive and investigate complaints
18 of violations pursuant to specified provisions;
19 prohibiting commissioners from requiring or demanding that
20 certain commission staff pursue particular positions or
21 courses of action; requiring the inspector general of the
22 commission to receive and investigate complaints of
23 violations; amending s. 350.04, F.S.; requiring
24 commissioners to complete a course of study developed by
25 the executive director and general counsel; requiring
26 commissioners to complete continuing professional
27 education; providing training requirements for
28 commissioners and commission employees; requiring

29 | certifications of compliance to be provided to the
30 | Legislature; amending s. 350.041, F.S.; revising
31 | legislative intent; revising standards of conduct for
32 | commissioners; revising provisions for investigation and
33 | reports of alleged violations; authorizing commission
34 | employees to request opinions from the Commission on
35 | Ethics; amending s. 350.042, F.S.; revising provisions for
36 | communications concerning agency proceedings; providing
37 | for application of such provisions to members of a
38 | commissioner's direct staff; revising restrictions on such
39 | communications by commissioners and members of their
40 | direct staff; defining the term "ex parte communication";
41 | providing a civil penalty; amending s. 350.06, F.S.;
42 | revising provisions for the offices of the commission,
43 | payment of moneys, and employment of personnel;
44 | establishing the executive director as the agency head for
45 | certain purposes; amending s. 350.061, F.S.; providing for
46 | appointment of the Public Counsel by, and service of the
47 | Public Counsel at the pleasure of, the Attorney General;
48 | amending ss. 350.0613 and 350.0614, F.S.; providing powers
49 | and duties of the Attorney General regarding the Public
50 | Counsel and his or her employees to conform provisions to
51 | the transfer of the Office of Public Counsel; transferring
52 | the Office of Public Counsel from the legislative branch
53 | to the Office of the Attorney General; repealing s.
54 | 350.121, F.S.; relating to commission inquiries; creating
55 | s. 350.122, F.S.; requiring persons testifying before the
56 | Public Service Commission to disclose certain financial

57 | and fiduciary relationships; providing that a
 58 | determination by the commission that a violation occurred
 59 | constitutes agency action for which a hearing may be
 60 | sought; providing an effective date.

61 |

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

63 |

64 | Section 1. Paragraph (b) of subsection (1) of section
 65 | 20.055, Florida Statutes, is amended to read:

66 | 20.055 Agency inspectors general.—

67 | (1) For the purposes of this section:

68 | (b) "Agency head" means the Governor, a Cabinet officer, a
 69 | secretary as defined in s. 20.03(5), or an executive director as
 70 | defined in s. 20.03(6). It also includes ~~the chair of the Public~~
 71 | ~~Service Commission,~~ the Director of the Office of Insurance
 72 | Regulation of the Financial Services Commission, the Director of
 73 | the Office of Financial Regulation of the Financial Services
 74 | Commission, and the Chief Justice of the State Supreme Court.

75 | Section 2. Paragraphs (a) and (c) of subsection (8) of
 76 | section 112.324, Florida Statutes, are amended to read:

77 | 112.324 Procedures on complaints of violations; public
 78 | records and meeting exemptions.—

79 | (8) If, in cases pertaining to complaints other than
 80 | complaints against impeachable officers or members of the
 81 | Legislature, upon completion of a full and final investigation
 82 | by the commission, the commission finds that there has been a
 83 | violation of this part or of s. 8, Art. II of the State
 84 | Constitution, it shall be the duty of the commission to report

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85 its findings and recommend appropriate action to the proper
 86 disciplinary official or body as follows, and such official or
 87 body shall have the power to invoke the penalty provisions of
 88 this part, including the power to order the appropriate
 89 elections official to remove a candidate from the ballot for a
 90 violation of s. 112.3145 or s. 8(a) and (i), Art. II of the
 91 State Constitution:

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

99 (c) The President of the Senate, in any case concerning an
 100 employee of the Senate; the Speaker of the House of
 101 Representatives, in any case concerning an employee of the House
 102 of Representatives; or the President and the Speaker, jointly,
 103 in any case concerning an employee of a committee of the
 104 Legislature whose members are appointed solely by the President
 105 and the Speaker or in any case concerning an employee of the
 106 ~~Public Counsel~~, Public Service Commission, Auditor General,
 107 Office of Program Policy Analysis and Government Accountability,
 108 or Legislative Committee on Intergovernmental Relations.

109 Section 3. Section 350.001, Florida Statutes, is amended
 110 to read:

111 350.001 Legislative intent.—

112 (1) The Florida Public Service Commission has been and

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113 shall continue to be an arm of the legislative branch of
114 government. In the exercise of its jurisdiction, the commission
115 may not establish or implement any regulatory policy that is
116 contrary to, or is an expansion of, the authority granted to it
117 by the Legislature.

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

121 (3) It is the desire of the Legislature that the Governor
122 participate in the appointment process of commissioners to the
123 Public Service Commission. The Legislature accordingly delegates
124 to the Governor a limited authority with respect to the Public
125 Service Commission by authorizing him or her to participate in
126 the selection of members only in the manner prescribed by s.
127 350.031.

128 Section 4. Section 350.012, Florida Statutes, is repealed.

129 Section 5. Paragraphs (b) and (d) of subsection (1) of
130 section 350.031, Florida Statutes, are amended to read:

131 350.031 Florida Public Service Commission Nominating
132 Council.—

133 (1)

134 (b) All terms shall be for 4 years except those members of
135 the House and Senate, who shall serve 2-year terms concurrent
136 with the 2-year elected terms of House members. ~~All terms of the~~
137 ~~members of the Public Service Commission Nominating Council~~
138 ~~existing on June 30, 2008, shall terminate upon the effective~~
139 ~~date of this act; however, such members may serve an additional~~
140 ~~term if reappointed by the Speaker of the House of~~

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141 ~~Representatives or the President of the Senate.~~ To establish
 142 staggered terms, appointments of members shall be made for
 143 initial terms to begin on July 1, 2008, with each appointing
 144 officer to appoint three legislator members, one of whom shall
 145 be a member of the minority party, to terms through the
 146 remainder of the 2-year elected terms of House members; one
 147 nonlegislator member to a 6-month term; one nonlegislator member
 148 to an 18-month term; and one nonlegislator member to a 42-month
 149 term. Thereafter, the terms of the nonlegislator members of the
 150 Public Service Commission Nominating Council shall begin on
 151 January 2 of the year the term commences and end 4 years later
 152 on January 1.

153 (d) Vacancies on the council shall be filled for the
 154 unexpired portion of the term in the same manner as original
 155 appointments to the council. A member may not be reappointed to
 156 the council, except for a member of the House of Representatives
 157 or the Senate who may be appointed to two 2-year terms, ~~members~~
 158 ~~who are reappointed pursuant to paragraph (b)~~, or a person who
 159 is appointed to fill the remaining portion of an unexpired term.

160 Section 6. Section 350.035, Florida Statutes, is created
 161 to read:

162 350.035 Prohibited influence on commissioners and
 163 commission staff.-

164 (1) (a) Neither the Governor, the President of the Senate,
 165 the Speaker of the House of Representatives, nor a member of the
 166 Public Service Commission Nominating Council may attempt to sway
 167 the independent judgment of the commission by bringing pressure
 168 to bear upon a commissioner, an applicant to fill a vacancy on

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169 the commission, or a commission employee by threat or offer of
170 reward in relation to the nomination, appointment, or
171 confirmation of a commissioner.

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

175 (2) (a) To ensure that each commissioner, as a member of a
176 collegial body, is afforded the benefit of unbiased and
177 independent analysis and advice from its professional and
178 technical staff, an individual commissioner may not demand or
179 require any member of the commission staff, other than the
180 commissioner's direct staff, to develop, present, or pursue a
181 particular opinion, position, or course of action in relation to
182 any substantive matter pending before the commission or a panel
183 of commissioners. This paragraph does not prohibit the
184 commission, as a collegial body, from directing its staff to
185 pursue a course of action consistent with direction provided by
186 the collegial body. Further, this paragraph is not intended to
187 prohibit an individual commissioner from any otherwise lawful
188 communication with commission staff, including any expression of
189 opinion, position, or concern regarding a matter within the
190 jurisdiction of the commission. A violation of this subsection
191 is an act of malfeasance for purposes of ss. 112.3187-112.31895.

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

194 Section 7. Section 350.04, Florida Statutes, is amended to
195 read:

196 350.04 Qualifications of commissioners; training and

197 continuing education.-

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

200 (a)~~(1)~~ Have any financial interest, other than ownership
 201 of shares in a mutual fund, in any business entity which, either
 202 directly or indirectly, owns or controls any public utility
 203 regulated by the commission, in any public utility regulated by
 204 the commission, or in any business entity which, either directly
 205 or indirectly, is an affiliate or subsidiary of any public
 206 utility regulated by the commission.

207 (b)~~(2)~~ Be employed by or engaged in any business activity
 208 with any business entity which, either directly or indirectly,
 209 owns or controls any public utility regulated by the commission,
 210 by any public utility regulated by the commission, or by any
 211 business entity which, either directly or indirectly, is an
 212 affiliate or subsidiary of any public utility regulated by the
 213 commission.

214 (2) Before voting on any matter before the commission,
 215 each person appointed to the commission after July 1, 2011, must
 216 complete a comprehensive course of study that is developed by
 217 the commission's executive director and general counsel in
 218 coordination with the National Association of Regulatory Utility
 219 Commissioners Subcommittee on Education and Research and that
 220 addresses the substantive matters within the jurisdiction of the
 221 commission, administrative law applicable to commission
 222 proceedings, and standards of conduct applicable to
 223 commissioners.

224 (3) Each commissioner must annually complete no less than
 225 10 hours of continuing professional education directly related
 226 to substantive matters within the jurisdiction of the
 227 commission.

228 (4) At least once every 12 months, each commissioner and
 229 commission employee must receive training, in a form developed
 230 by the commission's executive director and general counsel,
 231 which addresses the ethical standards of conduct applicable to
 232 commissioners and the commission's staff.

233 (5) The chair of the commission shall certify the
 234 commission's compliance with the requirements provided in this
 235 section, and each commissioner shall certify his or her
 236 individual compliance with the continuing professional education
 237 requirements provided in subsection (3). Each certification of
 238 compliance shall be provided to the President of the Senate and
 239 the Speaker of the House of Representatives.

240 Section 8. Section 350.041, Florida Statutes, is amended
 241 to read:

242 350.041 Commissioners; standards of conduct.—

243 (1) STATEMENT OF INTENT.—

244 (a) Professional, impartial, and honorable commissioners
 245 are indispensable to the effective performance of the
 246 commission's duties. A commissioner shall maintain high
 247 standards of conduct and shall personally observe those
 248 standards so that the integrity and impartiality of the
 249 commission may be preserved. The standards of conduct provided
 250 in this section should be construed and applied to further that
 251 objective.

252 (b) In addition to the provisions of part III of chapter
253 112, which are applicable to public service commissioners by
254 virtue of their being public officers and full-time employees of
255 the legislative branch of government, the conduct of public
256 service commissioners shall be governed by the standards of
257 conduct provided in this section. Nothing shall prohibit the
258 standards of conduct from being more restrictive than part III
259 of chapter 112. Further, this section shall not be construed to
260 contravene the restrictions of part III of chapter 112. In the
261 event of a conflict between this section and part III of chapter
262 112, the more restrictive provision shall apply.

263 (2) STANDARDS OF CONDUCT.—

264 (a) A commissioner may not accept anything from any
265 business entity which, either directly or indirectly, owns or
266 controls any public utility regulated by the commission, from
267 any public utility regulated by the commission, or from any
268 business entity which, either directly or indirectly, is an
269 affiliate or subsidiary of any public utility regulated by the
270 commission. A commissioner may attend conferences and associated
271 meals and events that are generally available to all conference
272 participants without payment of any fees in addition to the
273 conference fee. Additionally, while attending a conference, a
274 commissioner may attend meetings, meals, or events that are not
275 sponsored, in whole or in part, by any representative of any
276 public utility regulated by the commission and that are limited
277 to commissioners only, committee members, or speakers if the
278 commissioner is a member of a committee of the association of
279 regulatory agencies that organized the conference or is a

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280 speaker at the conference. It is not a violation of this
281 paragraph for a commissioner to attend a conference for which
282 conference participants who are employed by a utility regulated
283 by the commission have paid a higher conference registration fee
284 than the commissioner, or to attend a meal or event that is
285 generally available to all conference participants without
286 payment of any fees in addition to the conference fee and that
287 is sponsored, in whole or in part, by a utility regulated by the
288 commission. If, during the course of an investigation by the
289 Commission on Ethics into an alleged violation of this
290 paragraph, allegations are made as to the identity of the person
291 giving or providing the prohibited gift, that person must be
292 given notice and an opportunity to participate in the
293 investigation and relevant proceedings to present a defense. If
294 the Commission on Ethics determines that the person gave or
295 provided a prohibited gift, the person may not appear before the
296 commission or otherwise represent anyone before the commission
297 for a period of 2 years.

298 (b) A commissioner may not accept any form of employment
299 with or engage in any business activity with any business entity
300 which, either directly or indirectly, owns or controls any
301 public utility regulated by the commission, any public utility
302 regulated by the commission, or any business entity which,
303 either directly or indirectly, is an affiliate or subsidiary of
304 any public utility regulated by the commission.

305 (c) A commissioner may not have any financial interest,
306 other than shares in a mutual fund, in any public utility
307 regulated by the commission, in any business entity which,

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308 either directly or indirectly, owns or controls any public
309 utility regulated by the commission, or in any business entity
310 which, either directly or indirectly, is an affiliate or
311 subsidiary of any public utility regulated by the commission. If
312 a commissioner acquires any financial interest prohibited by
313 this section during his or her term of office as a result of
314 events or actions beyond the commissioner's control, he or she
315 shall immediately sell such financial interest or place such
316 financial interest in a blind trust at a financial institution.
317 A commissioner may not attempt to influence, or exercise any
318 control over, decisions regarding the blind trust.

319 (d) A commissioner may not accept anything from a party in
320 a proceeding currently pending before the commission. If, during
321 the course of an investigation by the Commission on Ethics into
322 an alleged violation of this paragraph, allegations are made as
323 to the identity of the person giving or providing the prohibited
324 gift, that person must be given notice and an opportunity to
325 participate in the investigation and relevant proceedings to
326 present a defense. If the Commission on Ethics determines that
327 the person gave or provided a prohibited gift, the person may
328 not appear before the commission or otherwise represent anyone
329 before the commission for a period of 2 years.

330 (e) A commissioner may not serve as the representative of
331 any political party or on any executive committee or other
332 governing body of a political party; serve as an executive
333 officer or employee of any political party, committee,
334 organization, or association; receive remuneration for
335 activities on behalf of any candidate for public office; engage

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336 on behalf of any candidate for public office in the solicitation
337 of votes or other activities on behalf of such candidacy; or
338 become a candidate for election to any public office without
339 first resigning from office.

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

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

347 (h) The commission chair shall require order and decorum
348 in proceedings before the commission. In the absence of the
349 chair, the commissioner presiding over a commission proceeding
350 shall require order and decorum in the proceeding.

351 (i) A commissioner shall be patient, dignified, and
352 courteous to litigants, other commissioners, witnesses, lawyers,
353 commission staff, and others with whom the commissioner deals in
354 an official capacity.

355 (j) A commissioner shall perform his or her official
356 duties without bias or prejudice. A commissioner may not, in the
357 performance of his or her official duties, by words or conduct
358 manifest bias or prejudice.

359 (k) A commissioner may not, with respect to parties or
360 classes of parties, cases, controversies, or issues likely to
361 come before the commission, make pledges, promises, or
362 commitments that are inconsistent with the impartial performance
363 of the commissioner's official duties.

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

366 ~~(m)-(h)~~ A commissioner must avoid impropriety in all of his
 367 or her activities and must act at all times in a manner that
 368 promotes public confidence in the integrity and impartiality of
 369 the commission.

370 ~~(n)-(i)~~ A commissioner may not directly or indirectly,
 371 through staff or other means, solicit anything of value from any
 372 public utility regulated by the commission, or from any business
 373 entity that, whether directly or indirectly, is an affiliate or
 374 subsidiary of any public utility regulated by the commission, or
 375 from any party appearing in a proceeding considered by the
 376 commission in the last 2 years.

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

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

381 (b) The Commission on Ethics shall provide the Governor
 382 and the Florida Public Service Commission Nominating Council
 383 with a report of its findings and recommendations with respect
 384 to alleged violations by a public service commissioner. The
 385 Governor is authorized to enforce such ~~the~~ findings and
 386 recommendations ~~of the Commission on Ethics,~~ pursuant to part
 387 III of chapter 112.

388 (c) A public service commissioner, a commission employee,
 389 or a member of the Florida Public Service Commission Nominating
 390 Council may request an advisory opinion from the Commission on
 391 Ethics, pursuant to s. 112.322(3)(a), regarding the standards of

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392 conduct or prohibitions set forth in this section and ss.
 393 350.031, 350.04, and 350.042.

394 Section 9. Section 350.042, Florida Statutes, is amended
 395 to read:

396 350.042 Ex parte communications.—

397 (1) Each A commissioner and member of a commissioner's
 398 direct staff shall ~~should~~ accord to every person who is a party
 399 to or registered with the commission as an interested person in
 400 a proposed agency action proceeding or a party to a proceeding
 401 under s. 120.565, s. 120.569, or s. 120.57 ~~legally interested in~~
 402 ~~a proceeding~~, or the person's lawyer, full right to be heard
 403 according to law, and, except as authorized by law, shall not
 404 ~~neither~~ initiate, solicit, or ~~nor~~ consider ex parte
 405 communications concerning a pending proposed agency action ~~the~~
 406 ~~merits, threat, or offer of reward in any proceeding or a~~
 407 proceeding under s. 120.565, s. 120.569, or s. 120.57 ~~other than~~
 408 ~~a proceeding under s. 120.54 or s. 120.565, workshops, or~~
 409 ~~internal affairs meetings~~. No individual shall discuss ex parte
 410 with a commissioner or a member of a commissioner's direct staff
 411 the merits of any issue that he or she reasonably foresees ~~knows~~
 412 will be filed with the commission ~~within 90 days~~. The provisions
 413 of this subsection shall not apply to commission staff other
 414 than members of a commissioner's direct staff.

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

417 1. If it is a written or printed communication or a
 418 communication in electronic form, is not served on all parties
 419 to a proceeding; or

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420 2. If it is an oral communication, is made without
421 adequate notice to the parties and without an opportunity for
422 the parties to be present and heard.

423 (b) When circumstances require, ex parte communications
424 concerning scheduling, administrative purposes, or emergencies
425 that do not deal with substantive matters or issues on the
426 merits are authorized, if:

427 1. The commissioner or member of a commissioner's direct
428 staff reasonably believes that no party will gain a procedural
429 or tactical advantage as a result of the ex parte communication;
430 and

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

435 (2) The provisions of this section shall not prohibit an
436 individual residential ratepayer from communicating with a
437 commissioner or member of a commissioner's direct staff,
438 provided that the ratepayer is representing only himself or
439 herself, without compensation.

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

444 (4) If a commissioner or member of a commissioner's direct
445 staff knowingly receives an ex parte communication prohibited by
446 this section relative to a proceeding other than as set forth in
447 subsection (1), to which he or she is assigned, he or she must

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448 place on the record of the proceeding copies of all written
449 communications received, all written responses to the
450 communications, and a memorandum stating the substance of all
451 oral communications received and all oral responses made, and
452 shall give written notice to all parties to the communication
453 that such matters have been placed on the record. Any party to
454 the proceeding who desires to respond to the ~~an ex parte~~
455 communication may do so. The response must be received by the
456 commission within 10 days after receiving notice that the ~~ex~~
457 ~~parte~~ communication has been placed on the record. The
458 commissioner may, if he or she deems it necessary to eliminate
459 the effect of an ex parte communication received by him or her,
460 withdraw from the proceeding, in which case the chair shall
461 substitute another commissioner for the proceeding.

462 (5) Any individual who makes an ex parte communication
463 prohibited by this section shall submit to the commission a
464 written statement describing the nature of such communication,
465 to include the name of the person making the communication, the
466 name of each ~~the~~ commissioner or direct staff member of a
467 commissioner ~~commissioners~~ receiving the communication, copies
468 of all written communications made, all written responses to
469 such communications, and a memorandum stating the substance of
470 all oral communications received and all oral responses made.
471 The commission shall place on the record of a proceeding all
472 such communications.

473 (6) Any commissioner or member of a commissioner's direct
474 staff who knowingly fails to place on the record any ex parte
475 communication prohibited by this section ~~such communications~~, in

476 violation of this ~~the~~ section, within 15 days after ~~of~~ the date
 477 of the ~~such~~ communication is subject to removal or dismissal and
 478 may be assessed a civil penalty not to exceed \$5,000. Any
 479 individual who knowingly fails to comply with subsection (5) may
 480 be assessed a civil penalty not to exceed \$5,000.

481 (7) (a) It is ~~shall be~~ the duty of the Commission on Ethics
 482 to receive and investigate sworn complaints of violations of
 483 this section pursuant to the procedures contained in ss.
 484 112.322-112.3241.

485 (b) If the Commission on Ethics finds that there has been
 486 a violation of this section by a public service commissioner or
 487 member of a commissioner's direct staff, it shall provide the
 488 Governor and the Florida Public Service Commission Nominating
 489 Council with a report of its findings and recommendations. The
 490 Governor is authorized to enforce the findings and
 491 recommendations of the Commission on Ethics, pursuant to part
 492 III of chapter 112.

493 (c) If a commissioner, a member of a commissioner's direct
 494 staff, or any other individual fails or refuses to pay the
 495 Commission on Ethics any civil penalties assessed pursuant to
 496 ~~the provisions of~~ this section, the Commission on Ethics may
 497 bring an action in any circuit court to enforce the ~~such~~
 498 penalty.

499 (d) If, during the course of an investigation by the
 500 Commission on Ethics into an alleged violation of this section,
 501 allegations are made as to the identity of the person who
 502 participated in the ex parte communication, that person must be
 503 given notice and an opportunity to participate in the

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504 investigation and relevant proceedings to present a defense. If
505 the Commission on Ethics determines that the person participated
506 in the ex parte communication, the person may not appear before
507 the commission or otherwise represent anyone before the
508 commission for a period of 2 years.

509 Section 10. Subsections (1), (2), and (3) of section
510 350.06, Florida Statutes, are amended to read:

511 350.06 Place of meeting; expenditures; employment of
512 personnel; records availability and fees.—

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

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

519 (3)(a) The commission shall ~~commissioners may~~ employ an
520 executive director, a general counsel, and an inspector general
521 ~~clerical, technical, and professional personnel reasonably~~
522 ~~necessary for the performance of their duties and may also~~
523 ~~employ one or more persons capable of stenographic court~~
524 ~~reporting, to be known as the official reporters of the~~
525 ~~commission.~~ The executive director shall serve as the agency
526 head for the purposes of chapters 110, 112, 216, 282, and 287.
527 Selection of the executive director shall be subject to
528 confirmation by the Senate. Until such time as the Senate
529 confirms the selection of the executive director, the individual
530 selected shall perform the functions of the position. If the
531 Senate refuses to confirm or fails to consider the selection

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532 during its next regular session, the commission shall, within 30
533 days, select another individual for Senate confirmation. This
534 process shall continue until the Senate has confirmed a
535 selection. In case of a vacancy in the position of executive
536 director, the commission shall select a new executive director
537 in the same manner as the original selection.

538 (b) Each commissioner may employ a chief advisor and an
539 executive assistant to serve as the direct staff of the
540 commissioner.

541 (c) Notwithstanding any other provision of law, the
542 executive director shall employ clerical, technical, and
543 professional personnel reasonably necessary to assist the
544 commission in the performance of its duties and may employ one
545 or more persons capable of stenographic court reporting to be
546 known as the official reporters of the commission. The executive
547 director shall have sole authority with respect to employment,
548 compensation, supervision, and direction of agency personnel
549 other than those personnel employed by the commission and
550 individual commissioners under paragraphs (a) and (b).

551 (d) The general counsel shall, in consultation with the
552 executive director, employ attorneys, paralegals, legal
553 secretaries, and other personnel reasonably necessary to assist
554 the commission in the performance of its duties.

555 Section 11. Subsection (1) of section 350.061, Florida
556 Statutes, is amended to read:

557 350.061 Public Counsel; appointment; oath; restrictions on
558 Public Counsel and his or her employees.—

559 (1) The Attorney General ~~Committee on Public Counsel~~

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560 ~~Oversight~~ shall appoint a Public Counsel ~~by majority vote of the~~
561 ~~members of the committee~~ to represent the general public of
562 Florida before the Florida Public Service Commission. The Public
563 Counsel shall be an attorney admitted to practice before the
564 Florida Supreme Court and shall serve at the pleasure of the
565 Attorney General Committee on Public Counsel Oversight, subject
566 ~~to biennial reconfirmation by the committee~~. The Public Counsel
567 shall perform his or her duties independently. Vacancies in the
568 office shall be filled in the same manner as the original
569 appointment.

570 Section 12. Section 350.0613, Florida Statutes, is amended
571 to read:

572 350.0613 Public Counsel; employees; receipt of pleadings.-
573 The Attorney General committee may authorize the Public Counsel
574 to employ clerical and technical assistants whose
575 qualifications, duties, and responsibilities the Attorney
576 General committee shall from time to time prescribe. The
577 Attorney General committee may from time to time authorize
578 retention of the services of additional attorneys or experts to
579 the extent that the best interests of the people of the state
580 will be better served thereby, including the retention of expert
581 witnesses and other technical personnel for participation in
582 contested proceedings before the commission. The commission
583 shall furnish the Public Counsel with copies of the initial
584 pleadings in all proceedings before the commission, and if the
585 Public Counsel intervenes as a party in any proceeding he or she
586 shall be served with copies of all subsequent pleadings,
587 exhibits, and prepared testimony, if used. Upon filing notice of

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588 intervention, the Public Counsel shall serve all interested
 589 parties with copies of such notice and all of his or her
 590 subsequent pleadings and exhibits.

591 Section 13. Section 350.0614, Florida Statutes, is amended
 592 to read:

593 350.0614 Public Counsel; compensation and expenses.-

594 ~~(1)~~ The salaries and expenses of the Public Counsel and
 595 his or her employees shall be allocated by the Attorney General
 596 ~~committee~~ only from moneys appropriated to the Public Counsel by
 597 the Legislature.

598 ~~(2) The Legislature declares and determines that the~~
 599 ~~Public Counsel is under the legislative branch of government~~
 600 ~~within the intention of the legislation as expressed in chapter~~
 601 ~~216, and no power shall be in the Executive Office of the~~
 602 ~~Governor or its successor to release or withhold funds~~
 603 ~~appropriated to it, but the same shall be available for~~
 604 ~~expenditure as provided by law and the rules or decisions of the~~
 605 ~~Committee on Public Counsel Oversight.~~

606 ~~(3) Neither the Executive Office of the Governor nor the~~
 607 ~~Department of Management Services or its successor shall have~~
 608 ~~power to determine the number, or fix the compensation, of the~~
 609 ~~employees of the Public Counsel or to exercise any manner of~~
 610 ~~control over them.~~

611 Section 14. (1) All powers, duties, functions, records,
 612 offices, personnel, property, pending issues, and existing
 613 contracts, administrative authority, administrative rules, and
 614 unexpended balances of appropriations, allocations, and other
 615 funds relating to the Office of Public Counsel pursuant to s.

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616 350.061, Florida Statutes, are transferred by a type two
617 transfer, as defined in s. 20.06(2), Florida Statutes, from the
618 Legislature to the Office of the Attorney General. The Office of
619 Public Counsel shall be funded from the General Revenue Fund.

620 (2) Notwithstanding ss. 216.292 and 216.351, Florida
621 Statutes, upon approval by the Legislative Budget Commission,
622 the Executive Office of the Governor shall transfer funds and
623 positions between the Legislature and the Office of the Attorney
624 General to implement this act.

625 Section 15. Section 350.121, Florida Statutes, is
626 repealed.

627 Section 16. Section 350.122, Florida Statutes, is created
628 to read:

629 350.122 Testimony; public disclosure of affiliation.—

630 (1) Each person offering testimony at a meeting, workshop,
631 hearing, or other scheduled event of the commission shall
632 disclose any financial or fiduciary relationship with any party
633 to the proceedings at the time the testimony is provided to the
634 commission.

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

638 Section 17. This act shall take effect July 1, 2011.