

By Senator Latvala

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1 A bill to be entitled
2 An act relating to utilities regulation; amending s.
3 350.01, F.S.; requiring the Florida Public Service
4 Commission to hold public customer service meetings in
5 certain service territories; requiring that specified
6 meetings, workshops, hearings, or proceedings of the
7 commission be streamed live and recorded copies be
8 made available on the commission's web page; amending
9 s. 350.031, F.S.; requiring a person who lobbies a
10 member of the Florida Public Service Commission
11 Nominating Council to register as a lobbyist;
12 reenacting and amending s. 350.041, F.S.; requiring
13 public service commissioners to annually complete
14 ethics training; providing applicability; amending s.
15 350.042, F.S.; expanding the prohibition against ex
16 parte communication to apply to any type of
17 proceeding, workshop, or internal affairs meeting and
18 to any matter that the commissioner or other person
19 knows or reasonably expects will be filed within a
20 certain timeframe; deleting an exemption from this
21 prohibition for oral communications or discussions in
22 scheduled and noticed open public meetings of
23 educational programs or of a conference or other
24 meeting of an association of regulatory agencies;
25 requiring the Governor to remove from office any
26 commissioner found to have violated the ex parte
27 statute; amending s. 350.0611, F.S.; authorizing the
28 Public Counsel to be a party to settlement agreements
29 in any proceeding before the commission in which he or

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30 she has participated as a party; prohibiting a
31 settlement agreement to which the Public Counsel is
32 not a party from being submitted to or approved by the
33 Florida Public Service Commission; amending s. 366.05,
34 F.S.; limiting the use of tiered rates in conjunction
35 with extended billing periods; limiting deposit
36 amounts; requiring a utility to notify each customer
37 if it has more than one rate for any customer class;
38 requiring the utility to provide good faith assistance
39 to the customer in determining the best rate;
40 assigning responsibility to the customer for the rate
41 selection; requiring that the commission approve a
42 tariff and a change to an existing tariff; amending s.
43 366.82, F.S.; requiring that money received by a
44 utility for the development of demand-side renewable
45 energy systems be used solely for that purpose;
46 reenacting ss. 403.537 and 403.9422, F.S., relating to
47 determination of need for electric and natural gas
48 transmission lines, respectively; reenacting s.
49 350.043, F.S., relating to the enforcement and
50 interpretation of laws relating to the commission;
51 providing an effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55 Section 1. Subsections (8), (9), and (10) are added to
56 section 350.01, Florida Statutes, to read:

57 350.01 Florida Public Service Commission; terms of
58 commissioners; vacancies; election and duties of chair; quorum;

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59 proceedings.-

60 (8) At least annually, the commission shall hold a customer
61 service meeting, open to the public, in the service territory of
62 each public utility regulated by the commission which supplies
63 electricity.

64 (9) The commission shall hold a customer service meeting,
65 open to the public, in the service territory of each water or
66 wastewater utility that is subject to regulation under chapter
67 367, upon receipt of a written request signed by at least 10
68 percent of the customers of that utility. Such meeting shall be
69 scheduled within a reasonable time after receipt of the request.

70 (10) Each meeting, including an internal affairs meeting,
71 workshop, hearing, or proceeding that is attended by two or more
72 commissioners and each meeting, workshop, hearing, or proceeding
73 at which a decision is made which concerns the rights or
74 obligations of any person, shall be streamed live on the
75 Internet, and a recorded copy of such meeting, workshop,
76 hearing, or proceeding must be made available on the
77 commission's web page.

78 Section 2. Subsection (10) is added to section 350.031,
79 Florida Statutes, to read:

80 350.031 Florida Public Service Commission Nominating
81 Council.-

82 (10) In keeping with the purpose of the council, which is
83 to select nominees to be appointed to an arm of the legislative
84 branch of government, a person who lobbies a member of the
85 council, legislator or nonlegislator, must register as a
86 lobbyist pursuant to s. 11.045 and comply with the requirements
87 of that section.

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88 Section 3. Present subsection (3) of section 350.041,
89 Florida Statutes, is reenacted and amended, and a new subsection
90 (3) is added to that section, to read:

91 350.041 Commissioners; standards of conduct.—

92 (3) ETHICS TRAINING.—Beginning January 1, 2016, a
93 commissioner must annually complete 4 hours of ethics training
94 that addresses, at a minimum, s. 8, Art. II of the State
95 Constitution, the Code of Ethics for Public Officers and
96 Employees, and the public records and public meetings laws of
97 this state. This requirement may be satisfied by completion of a
98 continuing legal education class or other continuing
99 professional education class, seminar, or presentation, if the
100 required subjects are covered.

101 (4) COMMISSION ON ETHICS.—~~(3)~~The Commission on Ethics
102 shall accept and investigate any alleged violations of this
103 section pursuant to the procedures contained in ss. 112.322-
104 112.3241. The Commission on Ethics shall provide the Governor
105 and the Florida Public Service Commission Nominating Council
106 with a report of its findings and recommendations. The Governor
107 is authorized to enforce the findings and recommendations of the
108 Commission on Ethics, pursuant to part III of chapter 112. A
109 public service commissioner or a member of the Florida Public
110 Service Commission Nominating Council may request an advisory
111 opinion from the Commission on Ethics, pursuant to s.
112 112.322(3)(a), regarding the standards of conduct or
113 prohibitions set forth in this section and ss. 350.031, 350.04,
114 and 350.042.

115 Section 4. Subsections (1) and (3) and paragraph (b) of
116 subsection (7) of section 350.042, Florida Statutes, are amended

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117 to read:

118 350.042 Ex parte communications.—

119 (1) A commissioner should accord to every person who is
120 legally interested in a proceeding, or the person's lawyer, full
121 right to be heard according to law, and, except as authorized by
122 law, shall neither initiate nor consider ex parte communications
123 concerning the merits, threat, or offer of reward in any
124 proceeding currently pending before the commission or which he
125 or she knows or reasonably expects will be filed with the
126 commission within 1 year after the date of any such
127 communication ~~other than a proceeding under s. 120.54 or s.~~
128 ~~120.565, workshops, or internal affairs meetings.~~ An No
129 individual may not ~~shall~~ discuss ex parte with a commissioner
130 the merits of any issue that he or she knows will be filed with
131 the commission within 1 year ~~90 days~~. ~~The provisions of This~~
132 subsection does ~~shall~~ not apply to commission staff.

133 (3) This section does ~~shall~~ not apply to oral
134 communications or discussions in scheduled and noticed open
135 public meetings of the commission ~~educational programs or of a~~
136 ~~conference or other meeting of an association of regulatory~~
137 ~~agencies.~~

138 (7)

139 (b) If the Commission on Ethics finds that there has been a
140 violation of this section by a public service commissioner, it
141 shall provide the Governor and the Florida Public Service
142 Commission Nominating Council with a report of its findings and
143 recommendations. The Governor shall remove from office a
144 commissioner who violates this section and is authorized to
145 enforce the findings and recommendations of the Commission on

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146 Ethics, pursuant to part III of chapter 112.

147 Section 5. Section 350.0611, Florida Statutes, is amended
148 to read:

149 350.0611 Public Counsel; duties and powers.—It shall be the
150 duty of the Public Counsel to provide legal representation for
151 the people of the state in proceedings before the commission and
152 in proceedings before counties pursuant to s. 367.171(8). The
153 Public Counsel shall have such powers as are necessary to carry
154 out the duties of his or her office, including, but not limited
155 to, the following specific powers:

156 (1) To recommend to the commission or the counties, by
157 petition, the commencement of any proceeding or action or to
158 appear, in the name of the state or its citizens, in any
159 proceeding or action before the commission or the counties and
160 urge therein any position which he or she deems to be in the
161 public interest, whether consistent or inconsistent with
162 positions previously adopted by the commission or the counties,
163 and utilize therein all forms of discovery available to
164 attorneys in civil actions generally, subject to protective
165 orders of the commission or the counties which shall be
166 reviewable by summary procedure in the circuit courts of this
167 state;

168 (2) To have access to and use of all files, records, and
169 data of the commission or the counties available to any other
170 attorney representing parties in a proceeding before the
171 commission or the counties;

172 (3) In any proceeding before the commission in which he or
173 she has participated as a party, to be a party to a settlement
174 agreement. If he or she is not a party to the settlement

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175 agreement, it may not be submitted to or approved by the
176 commission;

177 (4)~~(3)~~ In any proceeding in which he or she has
178 participated as a party, to seek review of any determination,
179 finding, or order of the commission or the counties, or of any
180 hearing examiner designated by the commission or the counties,
181 in the name of the state or its citizens;

182 (5)~~(4)~~ To prepare and issue reports, recommendations, and
183 proposed orders to the commission, the Governor, and the
184 Legislature on any matter or subject within the jurisdiction of
185 the commission, and to make such recommendations as he or she
186 deems appropriate for legislation relative to commission
187 procedures, rules, jurisdiction, personnel, and functions; and

188 (6)~~(5)~~ To appear before other state agencies, federal
189 agencies, and state and federal courts in connection with
190 matters under the jurisdiction of the commission, in the name of
191 the state or its citizens.

192 Section 6. Subsection (1) of section 366.05, Florida
193 Statutes, is amended to read:

194 366.05 Powers.—

195 (1) (a) In the exercise of such jurisdiction, the commission
196 shall have power to prescribe fair and reasonable rates and
197 charges, classifications, standards of quality and measurements,
198 including the ability to adopt construction standards that
199 exceed the National Electrical Safety Code, for purposes of
200 ensuring the reliable provision of service, and service rules
201 and regulations to be observed by each public utility; to
202 require repairs, improvements, additions, replacements, and
203 extensions to the plant and equipment of any public utility when

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204 reasonably necessary to promote the convenience and welfare of
205 the public and secure adequate service or facilities for those
206 reasonably entitled thereto; to employ and fix the compensation
207 for such examiners and technical, legal, and clerical employees
208 as it deems necessary to carry out the provisions of this
209 chapter; and to adopt rules pursuant to ss. 120.536(1) and
210 120.54 to implement and enforce the provisions of this chapter.

211 (b) If the commission authorizes a public utility to charge
212 tiered rates based upon levels of usage and to vary the billing
213 period, the utility may not charge a customer a higher rate
214 because of an increase in usage attributable to an extension of
215 the billing period.

216 (c) Notwithstanding any commission rule to the contrary, a
217 utility may not charge or receive a deposit in excess of the
218 amounts specified in subparagraphs 1. and 2.

219 1. For an existing customer, the total deposit cannot
220 exceed the total charges for 2 months of average actual usage,
221 calculated by adding the monthly charges from the 12-month
222 period immediately before the date any change in the deposit
223 amount is sought, dividing this total by 12, and multiplying the
224 result by 2.

225 2. For a new customer, the amount may not exceed 2 months
226 of projected charges, calculated using the process specified in
227 subparagraph 1. Once a new customer has had continuous service
228 for a 12-month period, the amount of the deposit shall be
229 recalculated, using actual usage data. Any difference between
230 the projected and actual amounts must be resolved by the
231 customer paying any additional amount due or the utility
232 returning any overcharge.

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233 (d) If a utility has more than one rate for any customer
234 class, it must notify each customer in that class of the
235 available rates and explain how the rate is charged to the
236 customer. If a customer contacts the utility seeking assistance
237 in selecting the most advantageous rate, the utility must
238 provide good faith assistance to the customer. The customer is
239 responsible for charges for service calculated under the
240 selected rate.

241 (e) New tariffs and changes to an existing tariff must be
242 approved by vote of the commission.

243 Section 7. Subsection (2) of section 366.82, Florida
244 Statutes, is amended to read:

245 366.82 Definition; goals; plans; programs; annual reports;
246 energy audits.—

247 (2) The commission shall adopt appropriate goals for
248 increasing the efficiency of energy consumption and increasing
249 the development of demand-side renewable energy systems,
250 specifically including goals designed to increase the
251 conservation of expensive resources, such as petroleum fuels, to
252 reduce and control the growth rates of electric consumption, to
253 reduce the growth rates of weather-sensitive peak demand, and to
254 encourage development of demand-side renewable energy resources.
255 The commission may allow efficiency investments across
256 generation, transmission, and distribution as well as
257 efficiencies within the user base. Money received by a utility
258 for implementation of measures to encourage development of
259 demand-side renewable energy systems shall be used solely for
260 such purpose.

261 Section 8. For the purpose of incorporating the amendment

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262 made by this act to section 350.01, Florida Statutes, in a
263 reference thereto, paragraph (a) of subsection (1) of section
264 403.537, Florida Statutes, is reenacted to read:

265 403.537 Determination of need for transmission line; powers
266 and duties.—

267 (1) (a) Upon request by an applicant or upon its own motion,
268 the Florida Public Service Commission shall schedule a public
269 hearing, after notice, to determine the need for a transmission
270 line regulated by the Florida Electric Transmission Line Siting
271 Act, ss. 403.52-403.5365. The notice shall be published at least
272 21 days before the date set for the hearing and shall be
273 published by the applicant in at least one-quarter page size
274 notice in newspapers of general circulation, and by the
275 commission in the manner specified in chapter 120, by giving
276 notice to counties and regional planning councils in whose
277 jurisdiction the transmission line could be placed, and by
278 giving notice to any persons who have requested to be placed on
279 the mailing list of the commission for this purpose. Within 21
280 days after receipt of a request for determination by an
281 applicant, the commission shall set a date for the hearing. The
282 hearing shall be held pursuant to s. 350.01 within 45 days after
283 the filing of the request, and a decision shall be rendered
284 within 60 days after such filing.

285 Section 9. For the purpose of incorporating the amendment
286 made by this act to section 350.01, Florida Statutes, in a
287 reference thereto, paragraph (a) of subsection (1) of section
288 403.9422, Florida Statutes, is reenacted to read:

289 403.9422 Determination of need for natural gas transmission
290 pipeline; powers and duties.—

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291 (1) (a) Upon request by an applicant or upon its own motion,
292 the commission shall schedule a public hearing, after notice, to
293 determine the need for a natural gas transmission pipeline
294 regulated by ss. 403.9401-403.9425. Such notice shall be
295 published at least 45 days before the date set for the hearing
296 and shall be published in at least one-quarter page size in
297 newspapers of general circulation and in the Florida
298 Administrative Register, by giving notice to counties and
299 regional planning councils in whose jurisdiction the natural gas
300 transmission pipeline could be placed, and by giving notice to
301 any persons who have requested to be placed on the mailing list
302 of the commission for this purpose. Within 21 days after receipt
303 of a request for determination by an applicant, the commission
304 shall set a date for the hearing. The hearing shall be held
305 pursuant to s. 350.01 within 75 days after the filing of the
306 request, and a decision shall be rendered within 90 days after
307 such filing.

308 Section 10. For the purpose of incorporating the amendment
309 made by this act to sections 350.031, 350.041, and 350.042,
310 Florida Statutes, in a reference thereto, section 350.043,
311 Florida Statutes, is reenacted to read:

312 350.043 Enforcement and interpretation.—Any violation of s.
313 350.031, s. 350.04, s. 350.041, s. 350.042, or s. 350.0605 by a
314 commissioner, former commissioner, former employee, or Public
315 Service Commission Nominating Council member shall be punishable
316 as provided in ss. 112.317 and 112.324. The Commission on Ethics
317 is hereby given the power and authority to investigate
318 complaints of violation of this chapter in the manner provided
319 in part III of chapter 112, as if this section were included in

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320 that part. A commissioner may request an advisory opinion from
321 the Commission on Ethics as provided by s. 112.322(3)(a).

322 Section 11. This act shall take effect July 1, 2015.