

By the Committee on Communications, Energy, and Public Utilities; and 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.; revising the prohibition against ex
16 parte communication to apply to any matter that a
17 commissioner knows or reasonably expects will be filed
18 within a certain timeframe; providing legislative
19 intent; defining terms; applying the prohibition
20 against ex parte communications to specified meetings;
21 requiring the Governor to remove from office any
22 commissioner found to have willfully and knowingly
23 violated the ex parte communications statute; amending
24 s. 350.0611, F.S.; authorizing the Public Counsel to
25 be a party to settlement agreements in any proceeding
26 before the commission in which he or she has
27 participated as a party; prohibiting a settlement
28 agreement to which the Public Counsel is not a party
29 from being submitted to or approved by the Florida

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30 Public Service Commission; amending s. 366.05, F.S.;

31 limiting the use of tiered rates in conjunction with

32 extended billing periods; limiting deposit amounts;

33 requiring a utility to notify each customer if it has

34 more than one rate for any customer class; requiring

35 the utility to provide good faith assistance to the

36 customer in determining the best rate; assigning

37 responsibility to the customer for the rate selection;

38 requiring that the commission approve new tariffs and

39 certain changes to existing tariffs; amending s.

40 366.82, F.S.; requiring that money received by a

41 utility for the development of demand-side renewable

42 energy systems be used solely for that purpose;

43 reenacting ss. 403.537 and 403.9422, F.S., relating to

44 determination of need for electric and natural gas

45 transmission lines, respectively; reenacting s.

46 350.043, F.S., relating to the enforcement and

47 interpretation of laws relating to the commission;

48 providing an effective date.

49

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

51

52 Section 1. Subsections (8), (9), and (10) are added to

53 section 350.01, Florida Statutes, to read:

54 350.01 Florida Public Service Commission; terms of

55 commissioners; vacancies; election and duties of chair; quorum;

56 proceedings.-

57 (8) At least annually, the commission shall hold a customer

58 service meeting, open to the public, in the service territory of

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59 each public utility regulated by the commission which supplies
60 electricity.

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

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

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

77 350.031 Florida Public Service Commission Nominating
78 Council.-

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

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

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88 350.041 Commissioners; standards of conduct.—

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

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

112 Section 4. Subsections (1) and (3) and paragraph (b) of
113 subsection (7) of section 350.042, Florida Statutes, are amended
114 to read:

115 350.042 Ex parte communications.—

116 (1) A commissioner should accord to every person who is

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117 legally interested in a proceeding, or the person's lawyer, full
118 right to be heard according to law, and, except as authorized by
119 law, shall neither initiate nor consider ex parte communications
120 concerning the merits, threat, or offer of reward in any
121 proceeding under s. 120.569 or s. 120.57 which is currently
122 pending before the commission or which he or she knows or
123 reasonably expects will be filed with the commission within 180
124 days after the date of any such communication, other than a
125 proceeding under s. 120.54 or s. 120.565, workshops, or internal
126 affairs meetings. An ~~No~~ individual may not ~~shall~~ discuss ex
127 parte with a commissioner the merits of any issue that he or she
128 knows will be filed with the commission within 180 ~~90~~ days. ~~The~~
129 ~~provisions of~~ This subsection does ~~shall~~ not apply to commission
130 staff.

131 (3) (a) The Legislature finds that it is important to have
132 commissioners who are educated and informed on regulatory
133 policies and developments in science, technology, business
134 management, finance, law, and public policy which are associated
135 with the industries that the commissioners regulate, and the
136 Legislature also finds that it is in the public interest for
137 commissioners to become educated and informed on these matters
138 through active participation in meetings that are scheduled by
139 the sponsoring organization, such as sessions, programs, or
140 conferences, which are duly noticed and open to the public.

141 (b) As used in this subsection, the term "active
142 participation" or the term "participating in" includes, but is
143 not limited to, attending or speaking at educational sessions,
144 participating in organization governance by attending meetings,
145 serving on committees, or in leadership positions, participating

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146 in panel discussions, and attending meals and receptions
147 associated with such events that are open to all attendees.

148 (c) The prohibition in subsection (1) remains in effect at
149 all times at such meetings wherever located. While participating
150 in such meetings, a commissioner shall:

151 1. Refrain from commenting on or discussing the subject
152 matter of any proceeding under s. 120.569 or s. 120.57 which is
153 currently pending before the commission or which he or she knows
154 or reasonably expects will be filed with the commission within
155 180 days after the meeting; and

156 2. Use reasonable care to ensure that the content of the
157 educational session or other session in which the commissioner
158 participates is not designed to address or create a forum to
159 influence the commissioner on the subject matter of any
160 proceeding under s. 120.569 or s. 120.57 which is currently
161 pending before the commission or which he or she knows or
162 reasonably expects will be filed with the commission within 180
163 days after the meeting ~~This section shall not apply to oral~~
164 ~~communications or discussions in scheduled and noticed open~~
165 ~~public meetings of educational programs or of a conference or~~
166 ~~other meeting of an association of regulatory agencies.~~

167 (7)

168 (b) If the Commission on Ethics finds that there has been a
169 violation of this section by a public service commissioner, it
170 shall provide the Governor and the Florida Public Service
171 Commission Nominating Council with a report of its findings and
172 recommendations. The Governor shall remove from office a
173 commissioner who willfully and knowingly violates this section
174 and is authorized to enforce the findings and recommendations of

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175 the Commission on Ethics, pursuant to part III of chapter 112.

176 Section 5. Section 350.0611, Florida Statutes, is amended
177 to read:

178 350.0611 Public Counsel; duties and powers.—It shall be the
179 duty of the Public Counsel to provide legal representation for
180 the people of the state in proceedings before the commission and
181 in proceedings before counties pursuant to s. 367.171(8). The
182 Public Counsel shall have such powers as are necessary to carry
183 out the duties of his or her office, including, but not limited
184 to, the following specific powers:

185 (1) To recommend to the commission or the counties, by
186 petition, the commencement of any proceeding or action or to
187 appear, in the name of the state or its citizens, in any
188 proceeding or action before the commission or the counties and
189 urge therein any position which he or she deems to be in the
190 public interest, whether consistent or inconsistent with
191 positions previously adopted by the commission or the counties,
192 and utilize therein all forms of discovery available to
193 attorneys in civil actions generally, subject to protective
194 orders of the commission or the counties which shall be
195 reviewable by summary procedure in the circuit courts of this
196 state;

197 (2) To have access to and use of all files, records, and
198 data of the commission or the counties available to any other
199 attorney representing parties in a proceeding before the
200 commission or the counties;

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

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204 agreement, it may not be submitted to or approved by the
205 commission;

206 (4)~~(3)~~ In any proceeding in which he or she has
207 participated as a party, to seek review of any determination,
208 finding, or order of the commission or the counties, or of any
209 hearing examiner designated by the commission or the counties,
210 in the name of the state or its citizens;

211 (5)~~(4)~~ To prepare and issue reports, recommendations, and
212 proposed orders to the commission, the Governor, and the
213 Legislature on any matter or subject within the jurisdiction of
214 the commission, and to make such recommendations as he or she
215 deems appropriate for legislation relative to commission
216 procedures, rules, jurisdiction, personnel, and functions; and

217 (6)~~(5)~~ To appear before other state agencies, federal
218 agencies, and state and federal courts in connection with
219 matters under the jurisdiction of the commission, in the name of
220 the state or its citizens.

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

223 366.05 Powers.—

224 (1) (a) In the exercise of such jurisdiction, the commission
225 shall have power to prescribe fair and reasonable rates and
226 charges, classifications, standards of quality and measurements,
227 including the ability to adopt construction standards that
228 exceed the National Electrical Safety Code, for purposes of
229 ensuring the reliable provision of service, and service rules
230 and regulations to be observed by each public utility; to
231 require repairs, improvements, additions, replacements, and
232 extensions to the plant and equipment of any public utility when

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233 reasonably necessary to promote the convenience and welfare of
234 the public and secure adequate service or facilities for those
235 reasonably entitled thereto; to employ and fix the compensation
236 for such examiners and technical, legal, and clerical employees
237 as it deems necessary to carry out the provisions of this
238 chapter; and to adopt rules pursuant to ss. 120.536(1) and
239 120.54 to implement and enforce the provisions of this chapter.

240 (b) If the commission authorizes a public utility to charge
241 tiered rates based upon levels of usage and to vary the billing
242 period, the utility may not charge a customer a higher rate
243 because of an increase in usage attributable to an extension of
244 the billing period.

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

248 1. For an existing customer, the total deposit cannot
249 exceed the total charges for 2 months of average actual usage,
250 calculated by adding the monthly charges from the 12-month
251 period immediately before the date any change in the deposit
252 amount is sought, dividing this total by 12, and multiplying the
253 result by 2.

254 2. For a new customer, the amount may not exceed 2 months
255 of projected charges, calculated using the process specified in
256 subparagraph 1. Once a new customer has had continuous service
257 for a 12-month period, the amount of the deposit shall be
258 recalculated, using actual usage data. Any difference between
259 the projected and actual amounts must be resolved by the
260 customer paying any additional amount due or the utility
261 returning any overcharge.

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262 (d) If a utility has more than one rate for any customer
263 class, it must notify each customer in that class of the
264 available rates and explain how the rate is charged to the
265 customer. If a customer contacts the utility seeking assistance
266 in selecting the most advantageous rate, the utility must
267 provide good faith assistance to the customer. The customer is
268 responsible for charges for service calculated under the
269 selected rate.

270 (e) New tariffs and changes to an existing tariff, other
271 than an administrative change that does not substantially change
272 the meaning or operation of the tariff, must be approved by vote
273 of the commission.

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

276 366.82 Definition; goals; plans; programs; annual reports;
277 energy audits.—

278 (2) The commission shall adopt appropriate goals for
279 increasing the efficiency of energy consumption and increasing
280 the development of demand-side renewable energy systems,
281 specifically including goals designed to increase the
282 conservation of expensive resources, such as petroleum fuels, to
283 reduce and control the growth rates of electric consumption, to
284 reduce the growth rates of weather-sensitive peak demand, and to
285 encourage development of demand-side renewable energy resources.
286 The commission may allow efficiency investments across
287 generation, transmission, and distribution as well as
288 efficiencies within the user base. Money received by a utility
289 for implementation of measures to encourage development of
290 demand-side renewable energy systems shall be used solely for

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291 such purpose.

292 Section 8. For the purpose of incorporating the amendment
293 made by this act to section 350.01, Florida Statutes, in a
294 reference thereto, paragraph (a) of subsection (1) of section
295 403.537, Florida Statutes, is reenacted to read:

296 403.537 Determination of need for transmission line; powers
297 and duties.—

298 (1) (a) Upon request by an applicant or upon its own motion,
299 the Florida Public Service Commission shall schedule a public
300 hearing, after notice, to determine the need for a transmission
301 line regulated by the Florida Electric Transmission Line Siting
302 Act, ss. 403.52-403.5365. The notice shall be published at least
303 21 days before the date set for the hearing and shall be
304 published by the applicant in at least one-quarter page size
305 notice in newspapers of general circulation, and by the
306 commission in the manner specified in chapter 120, by giving
307 notice to counties and regional planning councils in whose
308 jurisdiction the transmission line could be placed, and by
309 giving notice to any persons who have requested to be placed on
310 the mailing list of the commission for this purpose. Within 21
311 days after receipt of a request for determination by an
312 applicant, the commission shall set a date for the hearing. The
313 hearing shall be held pursuant to s. 350.01 within 45 days after
314 the filing of the request, and a decision shall be rendered
315 within 60 days after such filing.

316 Section 9. For the purpose of incorporating the amendment
317 made by this act to section 350.01, Florida Statutes, in a
318 reference thereto, paragraph (a) of subsection (1) of section
319 403.9422, Florida Statutes, is reenacted to read:

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320 403.9422 Determination of need for natural gas transmission
321 pipeline; powers and duties.—

322 (1) (a) Upon request by an applicant or upon its own motion,
323 the commission shall schedule a public hearing, after notice, to
324 determine the need for a natural gas transmission pipeline
325 regulated by ss. 403.9401-403.9425. Such notice shall be
326 published at least 45 days before the date set for the hearing
327 and shall be published in at least one-quarter page size in
328 newspapers of general circulation and in the Florida
329 Administrative Register, by giving notice to counties and
330 regional planning councils in whose jurisdiction the natural gas
331 transmission pipeline could be placed, and by giving notice to
332 any persons who have requested to be placed on the mailing list
333 of the commission for this purpose. Within 21 days after receipt
334 of a request for determination by an applicant, the commission
335 shall set a date for the hearing. The hearing shall be held
336 pursuant to s. 350.01 within 75 days after the filing of the
337 request, and a decision shall be rendered within 90 days after
338 such filing.

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

343 350.043 Enforcement and interpretation.—Any violation of s.
344 350.031, s. 350.04, s. 350.041, s. 350.042, or s. 350.0605 by a
345 commissioner, former commissioner, former employee, or Public
346 Service Commission Nominating Council member shall be punishable
347 as provided in ss. 112.317 and 112.324. The Commission on Ethics
348 is hereby given the power and authority to investigate

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349 complaints of violation of this chapter in the manner provided
350 in part III of chapter 112, as if this section were included in
351 that part. A commissioner may request an advisory opinion from
352 the Commission on Ethics as provided by s. 112.322(3)(a).

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