

By the Committee on Regulated Industries; and Senator Gaetz

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1 A bill to be entitled
2 An act relating to the Florida Public Service
3 Commission; amending s. 350.01, F.S.; revising the
4 membership of the Florida Public Service Commission;
5 creating s. 350.129, F.S.; requiring that orders
6 issued by the commission contain adequate support for
7 any conclusions made by the commission; requiring the
8 commission to provide an explanation and a discussion
9 of major elements of the settlement when issuing an
10 order accepting or denying certain settlement
11 agreements; amending s. 366.06, F.S.; requiring the
12 commission to keep the allowable return on equity for
13 public utilities close to the risk-free rate of return
14 and require that upward deviations away from the risk-
15 free rate be specifically justified by the public
16 utility seeking a tariff modification; amending s.
17 366.07, F.S.; requiring the commission to establish a
18 schedule by which rate change requests may be
19 submitted to the commission by each public utility
20 company; creating s. 366.077, F.S.; requiring the
21 commission to provide a report to the Governor and the
22 Legislature by a specified date each year; providing
23 requirements for such report; amending s. 366.96,
24 F.S.; requiring that improvements included in certain
25 transmission and distribution storm protection plans
26 have forecasted customer benefits exceeding their
27 forecasted cost; revising the factors that the Public
28 Service Commission must consider in reviewing such
29 plans; deleting obsolete language; amending s.

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30 367.021, F.S.; defining terms; amending s. 367.022,
31 F.S.; revising the types of nonprofit organizations
32 which are exempt from commission jurisdiction;
33 creating s. 367.24, F.S.; authorizing the commission
34 to initiate a proceeding to determine whether an
35 organization is a qualifying nonprofit organization;
36 requiring a person to notify an organization before
37 filing a petition for such proceeding; providing
38 requirements for such notification; authorizing an
39 organization to respond to such notice in a certain
40 manner and in a specified timeframe after receipt;
41 authorizing a person to file a petition to initiate a
42 proceeding to determine whether an organization is a
43 qualifying nonprofit organization after a specified
44 timeframe under certain circumstances; providing
45 requirements for such petition; requiring the
46 commission to consider certain information in making
47 its determination of whether an organization is a
48 qualifying nonprofit organization; requiring the
49 commission to provide its reasoning for a
50 determination that an organization is not a qualifying
51 nonprofit organization; requiring the commission to
52 allow such organization a certain period of time in
53 which to address the commission's determination;
54 requiring the commission, under certain circumstances,
55 to issue an order stating that the organization is not
56 exempt from the jurisdiction of the commission and
57 must be regulated as a utility; requiring the
58 commission to follow specified procedures for an

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59 organization not exempt from the commission's
60 jurisdiction; authorizing an organization to petition
61 the commission to regain qualifying nonprofit
62 organization status under certain circumstances;
63 requiring a specified waiting period before certain
64 organizations may petition to regain qualifying
65 nonprofit organization status; requiring the
66 commission to adopt rules for a certain purpose;
67 requiring the commission to submit a proposed rule by
68 a specified date; amending ss. 288.0655, 377.814, and
69 624.105, F.S.; conforming cross-references; providing
70 an effective date.

71

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

73

74 Section 1. Subsection (1) of section 350.01, Florida
75 Statutes, is amended to read:

76 350.01 Florida Public Service Commission; terms of
77 commissioners; vacancies; election and duties of chair; quorum;
78 proceedings; public records and public meetings exemptions.—

79 (1) The Florida Public Service Commission shall be composed
80 ~~consist~~ of seven ~~five~~ commissioners appointed pursuant to s.
81 350.031. One member must be a certified public accountant, and
82 one member must be a chartered financial analyst.

83 Section 2. Section 350.129, Florida Statutes, is created to
84 read:

85 350.129 Orders of the Florida Public Service Commission.—

86 (1) All orders issued by the commission must contain
87 adequate support for the commission's conclusions, including the

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88 specific facts and factors on which the conclusions are based.
89 While the commission may make conclusions based upon the public
90 interest, as provided in chapters 350-368, the commission shall
91 specify in its orders a rationale for its conclusions.

92 (2) For commission orders that affect substantial interests
93 pursuant to s. 120.569, when issuing an order accepting or
94 denying a settlement agreement reached by any of the parties to
95 a proceeding, the commission shall provide a reasoned
96 explanation, citing the specific facts and factors on which it
97 relied. In addition, the commission shall provide in its order a
98 discussion of the major elements of the settlement and a
99 rationale for its conclusions.

100 Section 3. Present subsection (4) of section 366.06,
101 Florida Statutes, is redesignated as subsection (5), and a new
102 subsection (4) is added to that section, to read:

103 366.06 Rates; procedure for fixing and changing.—

104 (4) In order to best meet the needs of Florida households,
105 the commission shall work to keep the allowable return on equity
106 for public utilities close to the risk-free rate of return and
107 shall require that upward deviations from the risk-free rate be
108 specifically justified by the public utility seeking a tariff
109 modification.

110 Section 4. Section 366.07, Florida Statutes, is amended to
111 read:

112 366.07 Rates; adjustment.—

113 (1) Whenever the commission, after public hearing either
114 upon its own motion or upon complaint, shall find the rates,
115 rentals, charges or classifications, or any of them, proposed,
116 demand, observed, charged or collected by any public utility

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117 for any service, or in connection therewith, or the rules,
118 regulations, measurements, practices or contracts, or any of
119 them, relating thereto, are unjust, unreasonable, insufficient,
120 excessive, or unjustly discriminatory or preferential, or in
121 anywise in violation of law, or any service is inadequate or
122 cannot be obtained, the commission shall determine and by order
123 fix the fair and reasonable rates, rentals, charges or
124 classifications, and reasonable rules, regulations,
125 measurements, practices, contracts or service, to be imposed,
126 observed, furnished or followed in the future.

127 (2) The commission shall establish a schedule by which rate
128 change requests may be submitted to the commission by each
129 public utility company.

130 Section 5. Section 366.077, Florida Statutes, is created to
131 read:

132 366.077 Report on rates.—The commission shall submit an
133 annual report to the Governor and the Legislature by each March
134 1.

135 (1) The report must include all of the following:

136 (a) An investigation of contemporary economic analysis
137 related to rate changes in this state.

138 (b) An analysis of potential cost impacts to utility
139 customers in this state if excess returns on equity have
140 occurred, and, if such excess returns have not occurred at a
141 significant rate, any resulting cost savings to such customers.

142 (c) An analysis of returns on equity models presented by
143 public utilities and used by the commission to determine
144 approved returns on equity for public utilities in this state.
145 Such analysis must:

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146 1. Compare models used by federal agencies and other state
147 utility regulatory bodies with those used by the commission;

148 2. Determine whether the models used are generally
149 financially logical; and

150 3. Determine whether the models used comport with generally
151 accepted economic theory both inside and outside of the utility
152 industry.

153 (d) An assessment of long-term impacts, including the
154 economic repercussions of rising rates of returns on equity, to
155 utilities and their customers in the future.

156 (e) A summary providing detailed information regarding the
157 compensation of the executive officers of each public utility
158 providing service to the residents of this state, or the
159 executive officers of public utility's affiliated companies or
160 parent company. Such information must include, but need not be
161 limited to, salaries, benefits, stock options, bonuses, stock
162 buybacks, and other taxable payments, expressed both as dollar
163 amounts and as a percentage of the entity's total revenue. The
164 summary must include the profits and losses of each entity as
165 reported in its financial statements and must highlight any
166 compensation that exceeds the industry average. The commission
167 shall also include any rationale provided by a public utility
168 justifying compensation exceeding the industry average and, for
169 each public utility, an explanation as to how specific data
170 gathered during the compiling of information informed the
171 commission's decisions on the public utility's rate change
172 requests.

173 (2) The report must provide benchmarking, comparing public
174 utilities providing service to the residents of this state with

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175 public utilities providing service to the residents of other
176 states, including commentary on all findings.

177 Section 6. Subsections (4) and (11) of section 366.96,
178 Florida Statutes, are amended to read:

179 366.96 Storm protection plan cost recovery.—

180 (4) At a minimum, any improvement included in a
181 transmission and distribution storm protection plan filed
182 pursuant to this section must have a forecasted customer benefit
183 exceeding its forecasted cost. In addition, in its review of
184 each ~~transmission and distribution storm protection~~ plan filed
185 pursuant to this section, the commission shall consider:

186 (a) The extent to which the plan is expected to reduce
187 restoration costs and outage times associated with extreme
188 weather events and enhance reliability, including whether the
189 plan prioritizes areas of lower reliability performance and
190 whether the cost of implementing the plan is reasonable and
191 prudent given the expected benefit.

192 (b) The extent to which storm protection of transmission
193 and distribution infrastructure is feasible, reasonable, or
194 practical in certain areas of the utility's service territory,
195 including, but not limited to, flood zones and rural areas.

196 (c) The estimated costs and benefits to the utility and its
197 customers of making the improvements proposed in the plan.

198 (d) The estimated annual rate impact resulting from
199 implementation of the plan during the first 3 years addressed in
200 the plan.

201 (e) The performance of previously approved plan
202 improvements in reducing outage times and storm restoration
203 costs.

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204 (11) The commission shall adopt rules to implement and
205 administer this section ~~and shall propose a rule for adoption as~~
206 ~~soon as practicable after the effective date of this act, but~~
207 ~~not later than October 31, 2019.~~

208 Section 7. Present subsections (7), (8), and (9) and (10)
209 through (13) of section 367.021, Florida Statutes, are
210 redesignated as subsections (8), (9), and (10) and (12) through
211 (15), respectively, and new subsections (7) and (11) are added
212 to that section, to read:

213 367.021 Definitions.—As used in this chapter, the following
214 words or terms shall have the meanings indicated:

215 (7) "Governing board" means a board of directors, nonprofit
216 board, board of trustees, corporate governing body as
217 established in the in the bylaws or articles of incorporation of
218 an organization, or similar body overseeing the operations of an
219 organization.

220 (11) "Qualifying nonprofit organization" means an
221 organization that meets all of the following criteria:

222 (a) The organization is a nonprofit corporation,
223 association, or cooperative providing service solely to members
224 who own and control such nonprofit corporation, association, or
225 cooperative.

226 (b) The organization conducts open and fair elections to
227 its governing board at an annual meeting of its members. The
228 term of any one governing board member may not exceed 36 months;
229 however, a candidate may run for reelection without any limit on
230 the number of terms they may serve.

231 (c) At least 75 percent of the governing board of the
232 organization is made up of the organization's members.

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233 (d) The organization provides a mechanism for members of
234 the organization to directly nominate candidates directly for
235 the governing board. At a minimum, any member or candidate who
236 obtains the signatures of at least 1 percent of members of the
237 organization on a petition for nomination for a particular board
238 position or election must, as established by that organization's
239 bylaws, be allowed to stand for election in the same manner as
240 if that member had been nominated by the existing governing
241 board, a committee on nominations established by the board, or
242 other nomination mechanism or procedure as established by the
243 organization's governing documents. Such candidate must meet all
244 other requirements established by law or by the organization's
245 governing documents to serve on the board.

246 (e) The organization is not subject to disqualification
247 pursuant to s. 367.24.

248 Section 8. Subsection (7) of section 367.022, Florida
249 Statutes, is amended to read:

250 367.022 Exemptions.—The following are not subject to
251 regulation by the commission as a utility nor are they subject
252 to the provisions of this chapter, except as expressly provided:

253 (7) Qualifying nonprofit organizations ~~Nonprofit~~
254 ~~corporations, associations, or cooperatives providing service~~
255 ~~solely to members who own and control such nonprofit~~
256 ~~corporations, associations, or cooperatives.~~

257 Section 9. Section 367.24, Florida Statutes, is created to
258 read:

259 367.24 Disqualification from exempt status.—

260 (1) The commission may, upon its own motion or petition by
261 any person, initiate a proceeding to determine whether an

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262 organization meets the definition of a qualifying nonprofit
263 organization under s. 367.021.

264 (a) A person must, before filing such a petition, notify
265 the organization in writing of his or her intention to file such
266 a petition. Such notification must:

267 1. Be delivered by certified mail, return receipt
268 requested, to the name and mailing address provided by the
269 organization for customer service or other external inquiries or
270 be served upon organization's registered agent, if the
271 organization has one; and

272 2. Make specific allegations regarding the manner in which
273 the organization does not meet the definition of a qualifying
274 nonprofit organization under s. 367.021.

275 (b) The organization shall have 90 days after receipt of
276 such notice to respond to such writing, or by e-mail if the
277 person has provided an e-mail address for such response.
278 However, the organization may not respond to the notice if it so
279 chooses;

280 (c) After the expiration of the 90 days provided in
281 paragraph (b), if the person is dissatisfied with the response
282 of the governing body, such person may file the petition to
283 initiate the commission proceeding provided for in this
284 subsection. In filing such a petition, the person must, at
285 minimum, include the following:

286 1. The initial notification to the organization as provided
287 in paragraph (a);

288 2. The response of the organization as provided in
289 paragraph (b) or, if a response has not been received, a
290 statement attesting to such; and

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291 3. Specific allegations regarding the manner in which the
292 organization does not meet the definition of a qualifying
293 nonprofit organization under s. 367.021.

294 (2) In making its determination as to whether an
295 organization meets the definition of a qualifying organization
296 pursuant to a petition filed under subsection (1), the
297 commission shall consider:

298 (a) The governing documents of the organization;

299 (b) The conduct of the organization;

300 (c) The conduct of the governing board of the organization;

301 and

302 (d) Any other relevant information provided by the
303 organization, or other party to the proceeding, demonstrating
304 whether the organization meets such definition.

305 (3) If the commission determines that an organization does
306 not meet the definition of a qualifying nonprofit organization,
307 the commission must provide the organization reasoning for its
308 determination and allow the organization 90 days to address the
309 commission's determination.

310 (4) If, after the expiration of the 90-day period specified
311 in subsection (3), the commission maintains its determination
312 that the organization does not meet the definition of a
313 qualifying nonprofit organization, the commission must issue an
314 order stating that the organization is not exempt from the
315 jurisdiction of the commission pursuant to s. 367.022 and must
316 be regulated as a utility under this chapter.

317 (5) The commission shall follow the procedures established
318 in s. 367.171(2) for an organization determined to be not exempt
319 from the jurisdiction of the commission under subsection (4).

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320 The commission shall follow such procedures as if the
321 organization were an established utility in a county newly
322 entering into the commission's jurisdiction.

323 (6) After a period of 24 months, an organization that is
324 determined to be not exempt from the jurisdiction of the
325 commission under subsection (4) may petition the commission to
326 regain qualifying nonprofit organization status. In reviewing
327 this petition, the commission shall use the procedure
328 established in subsections (2), (3), and (4) of this section. If
329 the commission does not approve the petition, the organization
330 must wait an additional 24 months before petitioning the
331 commission again for qualifying nonprofit organization status.

332 (7) Consistent with the commission's jurisdiction over
333 utility rates and service, issues relating to whether an
334 organization is exempt from its jurisdiction pursuant to this
335 section, and the manner in which a utility is brought under its
336 jurisdiction pursuant to this section, must be resolved by the
337 commission.

338 (8) The commission shall adopt rules to implement and
339 administer this section and shall propose a rule for adoption as
340 soon as practicable after July 1, 2026.

341 Section 10. The Public Service Commission shall submit a
342 proposed rule for adoption which implements the amendments made
343 by this act to s. 366.96, Florida Statutes, as soon as
344 practicable after the effective date of this act, but not later
345 than October 31, 2025.

346 Section 11. Paragraph (b) of subsection (2) of section
347 288.0655, Florida Statutes, is amended to read:

348 288.0655 Rural Infrastructure Fund.—

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349 (2)

350 (b) To facilitate access of rural communities and rural
351 areas of opportunity as defined by the Rural Economic
352 Development Initiative to infrastructure funding programs of the
353 Federal Government, such as those offered by the United States
354 Department of Agriculture and the United States Department of
355 Commerce, and state programs, including those offered by Rural
356 Economic Development Initiative agencies, and to facilitate
357 local government or private infrastructure funding efforts, the
358 department may award grants for up to 75 percent of the total
359 infrastructure project cost, or up to 100 percent of the total
360 infrastructure project cost for a project located in a rural
361 community as defined in s. 288.0656(2) which is also located in
362 a fiscally constrained county as defined in s. 218.67(1) or a
363 rural area of opportunity as defined in s. 288.0656(2). Eligible
364 uses of funds may include improving any inadequate
365 infrastructure that has resulted in regulatory action that
366 prohibits economic or community growth and reducing the costs to
367 community users of proposed infrastructure improvements that
368 exceed such costs in comparable communities. Eligible uses of
369 funds include improvements to public infrastructure for
370 industrial or commercial sites and upgrades to or development of
371 public tourism infrastructure. Authorized infrastructure may
372 include the following public or public-private partnership
373 facilities: storm water systems; telecommunications facilities;
374 roads or other remedies to transportation impediments; nature-
375 based tourism facilities; or other physical requirements
376 necessary to facilitate tourism, trade, and economic development
377 activities in the community. Authorized infrastructure may also

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378 include publicly or privately owned self-powered nature-based
379 tourism facilities, publicly owned telecommunications
380 facilities, and additions to the distribution facilities of the
381 existing natural gas utility as defined in s. 366.04(3)(c), the
382 existing electric utility as defined in s. 366.02, or the
383 existing water or wastewater utility as defined in s.
384 367.021(14) ~~s. 367.021(12)~~, or any other existing water or
385 wastewater facility, which owns a gas or electric distribution
386 system or a water or wastewater system in this state when:

387 1. A contribution-in-aid of construction is required to
388 serve public or public-private partnership facilities under the
389 tariffs of any natural gas, electric, water, or wastewater
390 utility as defined herein; and

391 2. Such utilities as defined herein are willing and able to
392 provide such service.

393 Section 12. Paragraph (b) of subsection (5) of section
394 377.814, Florida Statutes, is amended to read:

395 377.814 Municipal Solid Waste-to-Energy Program.—

396 (5) FUNDING.—

397 (b) Funds awarded under the grant programs set forth in
398 this section may not be used to support, subsidize, or enable
399 the sale of electric power generated by a municipal solid waste-
400 to-energy facility to any small electric utility eligible to
401 petition the commission under s. 366.06(5) ~~s. 366.06(4)~~.

402 Section 13. Section 624.105, Florida Statutes, is amended
403 to read:

404 624.105 Waiver of customer liability.—Any regulated company
405 as defined in s. 350.111, any electric utility as defined in s.
406 366.02(4), any utility as defined in s. 367.021(14) ~~s.~~

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407 ~~367.021(12)~~ or s. 367.022(2) and (7), and any provider of
408 communications services as defined in s. 202.11(1) may charge
409 for and include an optional waiver of liability provision in
410 their customer contracts under which the entity agrees to waive
411 all or a portion of the customer's liability for service from
412 the entity for a defined period in the event of the customer's
413 call to active military service, death, disability, involuntary
414 unemployment, qualification for family leave, or similar
415 qualifying event or condition. Such provisions may not be
416 effective in the customer's contract with the entity unless
417 affirmatively elected by the customer. No such provision shall
418 constitute insurance so long as the provision is a contract
419 between the entity and its customer.

420 Section 14. This act shall take effect July 1, 2025.