

House Bill No. 7237

An act relating to the Public Service Commission; amending s. 350.01, F.S.; correcting cross-references; revising provisions for terms of commissioners on the Public Service Commission; revising a reference to the office of hearing examiners; amending s. 350.011, F.S.; deleting obsolete provisions relating to a transfer of certain functions and duties to the Public Service Commission; amending s. 350.012, F.S.; removing a provision for governance of the Committee on Public Service Commission Oversight; repealing s. 350.051, F.S., relating to qualifications of the Chief Auditor of the commission; amending s. 350.06, F.S.; deleting certain provisions relating to the employment of reporters and furnishing of transcripts by the commission; revising provisions for the collection and accounting of fees for furnishing transcripts and other documents or instruments; amending s. 350.113, F.S.; removing limits on the amount of certain regulatory fees; amending s. 350.117, F.S.; removing an exception for railroads from certain audits by the commission; repealing s. 350.80, F.S., relating to regulation of certain coal slurry pipeline companies; amending s. 361.08, F.S.; removing a provision for consideration by the court of certain findings by the commission relating to coal slurry pipeline companies, to conform to changes made by the act; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (2), subsection (3), and subsection (5) of section 350.01, Florida Statutes, are amended to read:

350.01 Florida Public Service Commission; terms of commissioners; vacancies; election and duties of chair; quorum; proceedings.—

(2)(a) Each commissioner serving on July 1, 1978, shall be permitted to remain in office until the completion of his or her current term. Upon the expiration of the term, a successor shall be appointed in the manner prescribed by s. 350.031~~(5), (6), (3)~~ and (7) ~~(4)~~ for a 4-year term, except that the terms of the initial members appointed under this act shall be as follows:

1. The vacancy created by the present term ending in January, 1981, shall be filled by appointment for a 4-year term and for 4-year terms thereafter; and

2. The vacancies created by the two present terms ending in January, 1979, shall be filled by appointment for a 3-year term and for 4-year terms thereafter.

(b) Two additional commissioners shall be appointed in the manner prescribed by s. 350.031~~(5), (6), (3)~~ and (7) ~~(4)~~ for 4-year terms beginning the first Tuesday after the first Monday in January, 1979, and successors shall be appointed for 4-year terms thereafter with each term beginning on Janu-

ary 2 of the year the term commences and ending 4 years later on January 1.

(3) Any person serving on the commission who seeks to be appointed or reappointed shall file with the nominating council at least 210 180 days before the expiration of his or her term a statement that he or she desires to serve an additional term.

(5) The primary duty of the chair is to serve as chief administrative officer of the commission; however, the chair may participate in any proceedings pending before the commission when administrative duties and time permit. In order to distribute the workload and expedite the commission's calendar, the chair, in addition to other administrative duties, has authority to assign the various proceedings pending before the commission requiring hearings to two or more commissioners or to the commission's staff office of hearing examiners under the supervision of the office of general counsel. Only those commissioners assigned to a proceeding requiring hearings are entitled to participate in the final decision of the commission as to that proceeding; provided, if only two commissioners are assigned to a proceeding requiring hearings and cannot agree on a final decision, the chair shall cast the deciding vote for final disposition of the proceeding. If more than two commissioners are assigned to any proceeding, a majority of the members assigned shall constitute a quorum and a majority vote of the members assigned shall be essential to final commission disposition of those proceedings requiring actual participation by the commissioners. If a commissioner becomes unavailable after assignment to a particular proceeding, the chair shall assign a substitute commissioner. In those proceedings assigned to a hearing examiner, following the conclusion of the hearings, the designated hearing examiner is responsible for preparing recommendations for final disposition by a majority vote of the commission. A petition for reconsideration shall be voted upon by those commissioners participating in the final disposition of the proceeding.

Section 2. Section 350.011, Florida Statutes, is amended to read:

350.011 Florida Public Service Commission; jurisdiction; powers and duties.—The state regulatory agency heretofore known as the Florida Railroad and Public Utilities Commission or Florida Public Utilities Commission shall be known and hereafter called Florida Public Service Commission, and all rights, powers, duties, responsibilities, jurisdiction, and judicial powers now vested in said Railroad and Public Utilities Commission or said Florida Public Utilities Commission and the commissioners thereof are vested in the Florida Public Service Commission and the commissioners thereof. ~~When reference is made to the Florida Railroad and Public Utilities Commission or Florida Public Utilities Commission and the commissioners thereof in the laws of the state previously enacted or enacted at this session of the Legislature, such reference shall be construed to mean the Florida Public Service Commission and the commissioners thereof and all appropriations for the use of said Railroad and Public Utilities Commission or Florida Public Utilities Commission and the members thereof for the biennium or continuing in nature previously made or made at this session of the Legislature, shall be construed to be for the use of said Florida Public Service~~

~~Commission and the commissioners thereof, to be used for the purposes set out in the laws making said appropriations; provided, however, the change in name of said regulatory agency shall in no wise affect any pending causes and proceedings, existing notices, orders, certificates, permits, licenses, or authorities previously granted or any action previously taken by the Florida Railroad and Public Utilities Commission or Florida Public Utilities Commission.~~

Section 3. Section 350.012, Florida Statutes, is amended to read:

350.012 Committee on Public Service Commission Oversight; creation; membership; powers and duties.—

(1) There is created a standing joint committee of the Legislature, designated the Committee on Public Service Commission Oversight, and composed of 12 members appointed as follows: six members of the Senate appointed by the President of the Senate, two of whom must be members of the minority party; and six members of the House of Representatives appointed by the Speaker of the House of Representatives, two of whom must be members of the minority party. The terms of members shall be for 2 years and shall run from the organization of one Legislature to the organization of the next Legislature. The President shall appoint the chair of the committee in even-numbered years and the vice chair in odd-numbered years, and the Speaker of the House of Representatives shall appoint the chair of the committee in odd-numbered years and the vice chair in even-numbered years, from among the committee membership. Vacancies shall be filled in the same manner as the original appointment. Members shall serve without additional compensation, but shall be reimbursed for expenses.

~~(2) The committee shall be governed by joint rules of the Senate and the House of Representatives which shall remain in effect until repealed or amended by concurrent resolution.~~

(2)(3) The committee shall:

(a) Recommend to the Governor nominees to fill a vacancy on the Public Service Commission, as provided by general law; and

(b) Appoint a Public Counsel as provided by general law.

(3)(4) The committee is authorized to file a complaint with the Commission on Ethics alleging a violation of this chapter by a commissioner, former commissioner, former commission employee, or member of the Public Service Commission Nominating Council.

(4)(5) The committee will not have a permanent staff, but the President of the Senate and the Speaker of the House of Representatives shall select staff members from among existing legislative staff, when and as needed.

Section 4. ~~Section 350.051, Florida Statutes, is repealed.~~

Section 5. Subsections (3) through (9) of section 350.06, Florida Statutes, are amended to read:

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

(3) The commissioners may employ clerical, technical, and professional personnel reasonably necessary for the performance of their duties and. ~~The commissioners may also employ one or more persons capable of stenographic court reporting, to be known as the official reporters of the commission, and fix the compensation of each not to exceed \$28,000 annually. The official reporters shall furnish only to the commission transcripts of all testimony taken by them, and the commission may make and sell certified copies of such testimony and charge therefor the same fees as are allowed clerks of the circuit courts of the state, subject to such rules and regulations as may be prescribed by the commission.~~

(4) When needed, the commission may engage supplementary qualified reporters at their usual rate of compensation; however, the supplementary reporters shall furnish the commission the original certified transcripts of testimony taken by them, ~~but such reporters shall have the right to sell copies of such transcripts subject to rules and regulations of the commission. The commission may make copies of the transcripts for internal use without further compensation. When supplementary reporters are unable to provide copies within a reasonable time, the commission may, upon request, sell copies at its usual rate and shall deposit the proceeds in the Public Service Regulatory Trust Fund.~~

(5) ~~Upon request by the governing body of a municipal or county government within 7 days after completion of the transcript and its delivery to the commission, the commission shall provide copies of the transcripts of testimony at the cost of reproduction and mailing, but such copies need not be certified unless specifically requested.~~

(5)(6) The commission shall make available to the public counsel the original copy of all transcripts for use and study in the commission offices. If the commission makes any copies of transcripts for internal use and if the public counsel has so requested in writing to the clerk of the commission at the time of his or her intervention, the commission shall supply the public counsel with a copy of the transcript at no charge. ~~In all other cases, the public counsel may obtain a copy of the transcript from the commission for the cost of reproduction.~~

(6)(7) The commission shall collect for copying, examining, comparing, correcting, verifying, certifying, or furnishing orders, records, transcripts of testimony, papers, or other instruments no more than the same fees that are allowed clerks of the circuit courts of this state Florida. In cases where the fee would amount to less than \$1, no fee shall be charged.

(7)(8) Copies of commission orders furnished to public officials, newspapers, periodical publications, federal agencies, state officials of other states, and parties to the proceeding in which the order was entered and their attorneys shall be without charge. However, the commission may in its discretion charge fees for the furnishing of more than one copy of any order to any of the foregoing.

~~(8)(9) The commission shall keep accounting records a book in which all fees collected by it as provided for herein shall be recorded, together with the amount and purpose for which collected. The accounting records This book shall be a public records record. The commission shall prepare a statement of these fees in duplicate each month and remit one copy of the statement, together with all fees collected by it, to the Chief Financial Officer. All moneys collected pursuant to this section by the commission shall be deposited in the State Treasury to the credit of the Florida Public Service Regulatory Trust Fund.~~

Section 6. Subsection (3) of section 350.113, Florida Statutes, is amended to read:

350.113 Florida Public Service Regulatory Trust Fund; moneys to be deposited therein.—

(3) Each regulated company under the jurisdiction of the commission, which company was in operation for the preceding 6-month period, shall pay to the commission within 30 days following the end of each 6-month period, commencing June 30, 1977, a fee based upon the gross operating revenues for such period ~~subject to the limitations of this subsection.~~ The fee fees shall, to the extent practicable, be related to the cost of regulating such type of regulated company, ~~and shall in no event be greater than:~~

~~(a) For each railroad operating under chapter 351, one-eighth of 1 percent of its gross operating revenues derived from intrastate business.~~

~~(b) For each telephone company licensed or operating under chapter 364, one-eighth of 1 percent of its gross operating revenues derived from intrastate business.~~

~~(c) For each "public utility" as defined in s. 366.02, one-eighth of 1 percent of its gross operating revenues derived from intrastate business, excluding sales for resale between public utilities, municipal electric utilities, and rural electric cooperatives, or any combination thereof.~~

~~(d) For each municipal electric utility and rural electric cooperative, one sixty-fourth of 1 percent of its gross operating revenues derived from intrastate business, excluding sales for resale between public utilities, municipal electric utilities, and rural electric cooperatives, or any combination thereof.~~

~~(e) For each regulated company licensed under chapter 367, 2.5 percent of its gross revenues derived from intrastate business.~~

Differences, if any, between the amount paid in any 6-month period and the amount actually determined by the commission to be due shall, upon notification by the commission, be immediately paid or refunded. Each regulated company which is subject to the jurisdiction of the commission, but which did not operate under the commission's jurisdiction during the entire preceding 6-month period, shall, within 30 days after the close of the first 6-month period during which it commenced operations under, or became subject to, the jurisdiction of the commission, pay to the commission the prescribed fee based upon its gross operating revenues derived from intrastate business

during those months or parts of months in which the regulated company did operate during such 6-month period. In no event shall payments under this section be less than \$25 annually.

Section 7. Subsection (2) of section 350.117, Florida Statutes, is amended to read:

350.117 Reports; audits.—

(2) The commission may perform management and operation audits of any regulated company ~~except railroads~~. The commission may consider the results of such audits in establishing rates; however, the company shall not be denied due process as a result of the use of any such management or operation audit.

Section 8. Section 350.80, Florida Statutes, is repealed.

Section 9. Paragraph (d) of subsection (2) of section 361.08, Florida Statutes, is amended to read:

361.08 Right of eminent domain to coal pipeline companies.—

(2) Any corporation, partnership, joint venture, association, or other legal entity organized under the laws of this state, or under the laws of any other state and qualified to do business in this state, for the purpose of supplying any electric utility or utilities; any city, town, or village or the inhabitants thereof; or any community with coal or its derivatives and any mixture and combination thereof by pipeline, and for the purpose of serving as a common carrier operating or proposing to operate a pipeline or pipelines for transporting or delivering coal or its derivatives or any mixture or combination thereof, shall have the right of eminent domain, for the purpose of acquiring title, easements, rights-of-way, or other rights or interests in property, necessary to acquire and take private property which is or may be needed for the construction, operation, maintenance, repair, or replacement of coal slurry and derivative plants, pipelines, pumping stations, and any other installations and works incident thereto. The procedure to condemn property or interest therein shall be exercised in the manner set forth in chapters 73 and 74. In any condemnation proceeding under this act, the circuit court shall restrict the exercise of the right of eminent domain in the following particulars:

~~(d) The court, in any condemnation proceeding brought pursuant to this section, shall be bound by the findings of the Florida Public Service Commission on the general issues of economic and environmental feasibility as determined pursuant to s. 350.80.~~

Section 10. This act shall take effect July 1, 2006.

Approved by the Governor June 13, 2006.

Filed in Office Secretary of State June 13, 2006.