
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the
legislation as of the latest date listed below.)

DATE: April 26, 1995 Revised: _____

SUBJECT: Florida Public Service Commission

<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1. <u>Masterton</u>	<u>Krasovsky</u>	1. <u>CM</u>	<u>Fav/CS</u>
2. _____	_____	2. <u>WM</u>	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

I. SUMMARY:

This bill amends sections of law relating to the Florida Public Service Commission (FPSC) and its responsibilities concerning the regulation of utilities. The bill eliminates minimum filing requirements for telecommunications and electric and gas utilities, provides for a leverage formula to be used in determining returns on equity for small telecommunications and electric and gas utilities, removes the FPSC involvement in the development of energy emergency contingency plans, and limits the scope of hearings on proposed agency actions. In addition, the bill amends provisions relating to the Florida Energy Efficiency and Conservation Act (FEECA) to modify legislative findings and intent relating to the conservation of electric and natural gas consumption, modify the definition of utility for the purposes of the act, and provide that conservation programs must be cost-effective.

This bill substantially amends the following sections of the Florida Statutes: ss. 120.57, 364.035, 364.055, 366.06, 366.071, 366.081, 366.082, and 377.703.

II. PRESENT SITUATION:

Chapter 350, F.S., creates the Florida Public Service Commission. The commission is an arm of the Legislature, with 5 members who are appointed by the Governor from a list of recommended candidates submitted by the Public Service Commission Nominating Council. Commissioners are confirmed by the Senate.

Chapter 350, F.S., contains provisions delineating the commission's jurisdiction over utilities, including its authority to impose a uniform system of accounts, to require reports and audits, to conduct administrative hearings and to impose penalties. Section 350.113,

F.S., creates the Public Service Regulatory Trust Fund for the deposit of fees assessed regulated utilities to fund the expenses of the commission.

Chapter 364, F.S., sets forth the commission's jurisdiction over the regulation of telecommunications companies. Section 364.035, F.S., provides criteria for the commission to use in setting rates for telecommunications companies subject to rate of return regulation. The section requires local exchange telecommunications companies to file every 4 years, or 4 years after a company's last rate case, a report consisting of the modified minimum filing requirements then required by the commission by rule for rate review proceedings. Small local exchange companies (those with less than 100,000 access lines) are required to file such documents every 5 years. The commission has the authority to revise the requirements as they apply to small companies. Section 364.055, F.S., provides a procedure for setting interim rates for a telecommunications company during the pendency of a rate case.

Chapter 366, F.S., sets forth the commission's jurisdiction over electric and gas utilities. Section 366.06, F.S., provides the procedure for setting rates for such utilities under rate of return regulation. Electric and gas utilities of a certain size are required to file modified minimum filing requirements every 4 years, in the same manner as telecommunications companies. All other electric and gas utilities are required to file the modified minimum filing requirements every 5 years. Section 366.071, F.S., sets forth a procedure for setting interim rates during the pendency of a rate case.

Sections 366.80-366.85 and s. 403.519, F.S., contain the Florida Energy Efficiency and Conservation Act (FEECA). The act provides legislative findings and intent relating to the need to use efficient and cost-effective energy conservation systems to reduce the growth rates of consumption of electricity. The FPSC is found to be the appropriate agency to adopt goals and approve plans related to the conservation of electric energy and natural gas. Definitions applicable to the provisions of the act include a definition of "utility", which means all electric and natural gas utilities in the state, except those with an annual sales volume less than 100 million therms for natural gas utilities and 500 gigawatt hours for electric utilities. Utilities subject to the act's provisions must develop conservation plans in accordance with goals established by the commission and have their conservation plans approved by the commission.

Chapter 367, F.S., sets forth the commission's jurisdiction over water and wastewater utilities. The chapter does not provide for the periodic submission of modified minimum filing requirements, due to the different size and nature of water and wastewater utilities. Section 367.081, F.S., authorizes the commission to establish a leverage formula for water and wastewater utilities that reasonably reflects the range of returns on common equity for an average water or wastewater utility.

Chapter 368, F.S., part I, provides for the commission's jurisdiction over the safety of gas transmission and distribution facilities. Part II of that chapter provides for the commission's jurisdiction over intrastate natural gas transmission pipelines. The commission is authorized to set rates for such facilities and to oversee the quality and availability of service.

Section 377.703, F.S., sets forth the responsibilities of the Department of Community Affairs in establishing an energy emergency contingency plan. The section requires the department to coordinate with the FPSC in the development of energy emergency contingency plans. Under the law, the commission has exclusive responsibility for electric and natural gas emergency contingency plans.

Section 120.57, F.S., provides procedures all government agencies must follow to conduct proceedings in which the substantial interests of a party are affected.

The 1995 Appropriations Act, as passed by the Florida Senate, eliminates positions and dollar amounts associated with duties the commission is required to perform by law, including hearings on proposed agency actions, modified minimum filing requirements, involvement in energy emergency contingency planning, and the establishment of an appropriate return on equity in ratesetting proceedings for small telecommunications companies and electric and gas utilities.

III. EFFECT OF PROPOSED CHANGES:

The committee substitute amends s. 120.57, F.S., to provide that a hearing on an objection to a proposed action of the Florida Public Service Commission may address only the issues in dispute. Issues in the proposed action which are not disputed are deemed to be stipulated to.

The committee substitute amends s. 364.035, F.S., to authorize the FPSC to establish a leverage formula for small local exchange telecommunications companies that reasonably reflects the range of returns on common equity to be used to calculate the authorized rate of return for a company. A small company may ask the commission to adopt the leverage formula in any proceeding in which a rate of return is to be established. The section is also amended to delete the provisions relating to modified minimum filing requirements for telecommunications utilities. Section 364.055, F.S., is amended to conform to these changes. The bill also amends s. 366.06, F.S., to provide a leverage formula to be used in calculating rates of return for small electric and gas utilities. It deletes minimum filing requirements for all electric and gas utilities and amends s. 366.071, F.S., to conform to these changes.

The committee substitute amends the legislative findings and intent in s. 366.81, F.S., relating to FEECA, to provide that the use of solar energy, renewable energy sources, cogeneration and load control systems be encouraged where it is cost-effective to do so. It also amends the provisions to clarify that they include natural gas, as well as electric energy, conservation. The bill states that the FPSC may not compel a utility to promote or subsidize another utility as a supplier of energy or energy related services. The bill also amends s. 366.82, F.S., to revise the definition of utility to exclude municipalities, rural cooperatives or other entities for which natural gas sales as of July 1, 1993, are less than 100 million therms annually or for which electric sales as of July 1, 1993, are less than 2,000 gigawatt hours annually. This expands those municipal and rural cooperative electric utilities which need not have their conservation plans approved by the commission, but eliminates the exemption for investor-owned electric utilities which are under the specified threshold. In addition, the section is amended to require that demand

side management or conservation programs implemented by a utility must be cost-effective for participating and nonparticipating ratepayers of the utility. Finally, the committee substitute amends s. 377.703, F.S., to eliminate the commission's involvement with the development of an energy emergency contingency plan. Instead, the Department of Community Affairs is required to coordinate with electric and gas utilities in developing an energy emergency contingency plan. The committee substitute provides that the act is effective upon becoming a law.

IV. CONSTITUTIONAL ISSUES:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. ECONOMIC IMPACT AND FISCAL NOTE:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Utilities will realize a reduction in regulatory costs due to the provisions in the committee substitute eliminating the modified minimum filing requirements and the implementation of a leverage formula for small telephone, electric, and gas companies.

Those municipal and cooperative electric and gas utilities which will no longer be required to submit conservation plans to the commission for approval will realize a cost savings. According to the industry, the electric utilities that will be exempt under the committee substitute's provisions represent 8% of the state's electric consumption and include 6 cooperatives and 7 municipal electric utilities.

C. Government Sector Impact:

The majority of the recommendations in the committee substitute reflect revenue and personnel reductions contained in the Senate Appropriations Act for 1995. According to the budget estimates, the bill's provisions will result in the following reductions:

<u>Issue</u>	<u>Personnel Reduction</u>	<u>Cost Reduction</u>
Proposed agency action limited to disputed issues:	2 FTE's	\$ 60,057
Return on equity leverage graph:	N/A	\$ 38,263
Discontinuation of MMFRs	5 FTE's	\$149,338
Increased private utility role in state emergency coordination	N/A	\$ 9,600

The amendments to the FEECA provisions expanding the municipal and cooperative electric and natural gas utilities which will not be required to filed conservation plans with the commission should result in a reduced workload for the commission and a consequent reduction in associated regulatory costs.

VI. TECHNICAL DEFICIENCIES:

None.

VII. RELATED ISSUES:

None.

VIII. AMENDMENTS:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE
SUBSTITUTE FOR
Senate Bill 2826

The committee substitute amends sections of law relating to the Florida Public Service Commission and its responsibilities concerning the regulation of utilities. It eliminates minimum filing requirements for telecommunications and electric and gas utilities, provides for a leverage formula to be used in determining returns on equity for small telecommunications and electric and gas utilities, removes the commission's involvement in the development of energy emergency contingency plans, and limits the scope of hearings on proposed agency actions. In addition, the committee substitute amends provisions relating to the Florida Energy Efficiency and Conservation Act to modify legislative findings and intent relating to the conservation of electric and natural gas consumption, to modify the definition of utility for the purposes of the act, and to provide that conservation programs must be cost effective.

Committee on Commerce and
Economic Opportunities

Staff Director

(FILE TWO COPIES WITH THE SECRETARY OF THE SENATE)