A bill to be entitled

An act relating to public records and public meetings; amending s. 350.01, F.S.; providing an exemption from public meeting requirements for portions of hearings before the Public Service Commission wherein proprietary confidential business information is discussed; requiring recording and transcription of exempt portions of such hearings; providing an exemption from public record requirements for such recordings and transcripts; providing for future legislative review and repeal of the exemptions under the Open Government Sunset Review Act; providing a public necessity statement; providing an effective date.

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

Section 1. Subsection (9) of section 350.01, Florida Statutes, is created to read:

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

(8) Each meeting, including each internal affairs meeting, workshop, hearing, or other proceeding attended by two or more commissioners, and each such meeting, workshop, hearing, or

other proceeding where a decision that concerns the rights or obligations of any person is made, shall be streamed live on the Internet, and a recorded copy of the meeting, workshop, hearing, or proceeding shall be made available on the commission's website.

(9) Notwithstanding the provisions of subsection (8), those portions of a hearing conducted by the commission wherein proprietary confidential business information that is confidential or exempt from s. 119.07(1), pursuant to s. 364.183, 366.093, 367.156, or 368.108, is discussed, are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. No exempt portion of a hearing may be off the record and all exempt portions shall be recorded and transcribed. Such recordings and transcripts are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution unless a court of competent jurisdiction, after an in camera review, determines that the hearing was not restricted to the discussion of proprietary confidential business information made confidential and exempt pursuant to s. 364.183, 366.093, 367.156, or 368.108. In the event of such judicial determination, only that portion of the recording and transcript which reveals nonexempt information may be disclosed to a third party. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal

through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that those portions of hearings conducted by the Public Service Commission at which proprietary confidential business information that is confidential or exempt from s. 119.07(1), Florida Statutes, pursuant to s. 364.183, 366.093, 367.156, or 368.108, Florida Statutes, is discussed, is exempt from s. 286.011, Florida Statutes, and s. 24(b), Article I of the State Constitution. Pursuant to its legislative directive under chapters 364, 366, 367, and 368, Florida Statutes, the commission is the tribunal charged with establishing just, fair, and compensatory utility rates. As such, the commission has the authority to adjudicate all matters within its jurisdiction, and its administrative hearings are conducted in compliance with chapter 120, Florida Statutes. The fact-finding role of the commission is integral in its decision-making, and all commission decisions must be supported by record competent, substantial evidence. Accordingly, under certain circumstances, the commission must be able to evaluate and discuss proprietary confidential business information in order to make a determination in the public interest. In addition, parties must be permitted to conduct cross-examination when testimony is taken or documents are made a part of the record under s. 120.569(2)(j), Florida Statutes. For this reason the Legislature finds that the disclosure of proprietary confidential business

information could significantly impair the ability of utilities regulated by the commission to fairly compete within the marketplace by revealing such information. Furthermore, such disclosure could harm the businesses with which such utilities contract by revealing the businesses' proprietary confidential business information and make it less likely for such businesses to do business with regulated utilities in the future. The Legislature further finds that the disclosure of proprietary confidential business information would cause harm to the company's ratepayers or business operations. Given such harms, the disclosure of this information could negatively impact customers of regulated utilities and result in higher utility prices or lower quality of service overall. The Legislature further finds that it is a public necessity that the recordings and transcripts of those portions of hearings wherein proprietary confidential business information is discussed be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Failure to exempt such recordings and transcripts would defeat the purpose of the public meeting exemption. Therefore, the Legislature finds that the public and private harm in disclosing proprietary confidential business information outweighs any public benefit derived from the disclosure of such information.

Section 3. This act shall take effect upon becoming a law.