

Energy, Communications & Cybersecurity Subcommittee

Wednesday, November 15, 2023
10:00 AM - 11:30 AM
Reed Hall (102 HOB)

Meeting Packet

Paul Renner
Speaker

Mike Giallombardo
Chair

The Florida House of Representatives

Commerce Committee

Energy, Communications & Cybersecurity Subcommittee

Paul Renner
Speaker

Mike Giallombardo
Chair

Meeting Agenda

Wednesday, November 15, 2023
10:00 am – 11:30 am
Reed Hall (102 HOB)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

- HB 81 Civil Penalties Under The Gas Safety Law of 1967
- HB 229 Public Service Commission Rules

V. Closing Remarks

VI. Adjournment

HB 81

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 81 Civil Penalties Under The Gas Safety Law of 1967
SPONSOR(S): Brackett
TIED BILLS: **IDEN./SIM. BILLS:** SB 366

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy, Communications & Cybersecurity Subcommittee		Phelps	Keating
2) Commerce Committee			

SUMMARY ANALYSIS

The Gas Safety Law of 1967 (Gas Safety Law) authorizes the Public Service Commission (PSC) to regulate the safe transmission and distribution of natural gas in Florida. The PSC has the power to perform any and all acts necessary or appropriate to enforce compliance with the Gas Safety Law, which includes imposing maximum civil penalties. The current maximum civil penalties are $25,000 for each violation of the Gas Safety Law and $500,000 for any related series of violations.

The federal counterpart to Florida's Gas Safety Law, the Pipeline Safety Act, authorizes the U.S. Department of Transportation/Pipeline and Hazardous Materials Safety Administration (PHMSA) to implement federal pipeline safety standards for interstate and intrastate gas pipelines. PHMSA's current maximum civil penalty amounts are $257,664 for each pipeline safety violation and $2,576,627 for any related series of violations.

The Pipeline Safety Act allows states to assume authority over intrastate gas pipelines subject to annual certifications with PHMSA. The PSC is currently the state agency certified by PHMSA to exercise this authority. However, the PSC received a letter this year stating that its certification is at risk due to Florida's lower civil penalties compared to those of PHMSA, which may reduce the PSC's enforcement capabilities.

The bill increases the maximum monetary penalties for violations of the Gas Safety Law to mirror those currently used by PHMSA.

- The maximum daily penalty is increased from $25,000 to $257,664.
- The maximum aggregate penalty cap is increased from $500,000 to $2,576,627 for any related series of violations.

The bill does not impose any compliance costs but may increase costs on private sector and local government entities that commit violations.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal Law

The U.S. Department of Transportation/Pipeline and Hazardous Materials Safety Administration (PHMSA) implements federal pipeline safety standards for interstate and intrastate gas pipelines, hazardous liquid pipelines, and underground natural gas storage under the Pipeline Safety Act.[1] The Pipeline Safety Act authorizes state assumption of the intrastate regulatory, inspection, and enforcement responsibilities subject to an annual certification with PHMSA.[2] State agencies must adopt standards that comply with the Pipeline Safety Act to qualify for certification.[3]

A state agency that does not satisfy the criteria for certification may enter into an agreement with PHMSA to undertake certain aspects of the natural gas safety programs for intrastate facilities on behalf of PHMSA.[4] The state agency under such an agreement would conduct safety inspections and identify violations, and PHMSA would enforce those violations.[5] PHMSA may enforce these violations by issuing warnings, compliance orders, and civil penalties.[6]

Federal agencies are required to adjust minimum and maximum civil penalty amounts based upon inflationary measures to preserve the penalty's deterrent impact.[7] As a result, in 2023 PHMSA increased the maximum penalty for daily violations of the Pipeline Safety Act to $257,664 and the total maximum penalty for any related series of violations to $2,576,627.[8]

Florida Law

The Gas Safety Law authorizes the Public Service Commission (PSC) to regulate the safe transmission and distribution of natural gas in Florida.[9] The Gas Safety Law grants the PSC exclusive jurisdiction over "all persons, corporations, partnerships, associations, public agencies, municipalities, or other legal entities engaged in the operation of gas transmission or distribution facilities with respect to their compliance with the rules and regulations governing safety standards."[10]

The PSC has rulemaking authority to implement the Gas Safety Law[11] and promulgates rules covering the design, improvement, fabrication, installation, inspection, repair, reporting, testing, and safety standards of gas transmission and gas distribution systems.[12] The PSC is currently the state agency certified by PHMSA to inspect and enforce intrastate gas pipelines.[13]

---

[1] *See* 49 U.S.C. §§ 60102-60143.
[2] 49 U.S.C. §§ 60105(e), 60106(d).
[3] 49 U.S.C. § 60105(b).
[4] 49 U.S.C. § 60106(d).
[5] *Id.*
[6] *See* 49 C.F.R §§ 190.201-190.243 (2023).
[7] Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. Pub. L. 114-74, 129 Stat. 599, 114th Congress, (Nov. 2, 2015).
[8] 49 C.F.R § 190.223(a) (2023).
[9] S. 368.01-061, F.S.
[10] S. 368.05(1), F.S.; *see also* S. 368.021, F.S. (providing more entities subject to PSC jurisdiction).
[11] S. 368.03, F.S.; S. 368.05(2), F.S.
[12] *See* ch. 25-12, F.A.C.
[13] Florida Public Service Commission, Agency Analysis of 2023 House Bill 81, p. 2 (October 26, 2023).

The PSC has the power to perform any and all acts necessary or appropriate to enforce compliance with the Gas Safety Law and the Pipeline Safety Act,[14] including imposing civil penalties for noncompliance.[15] Any person who violates the Gas Safety Law is subject to a maximum daily penalty of $25,000 for each violation.[16] The total maximum penalty for any related series of violations is $500,000.[17]

PHMSA's Annual Certification of PSC

PHMSA conducts annual "Progress Reports" to determine whether a state complies with the Pipeline Safety Act and qualifies for certification and grant funds.[18] The Progress Report assigns points to different areas of compliance, including civil penalty thresholds.[19] The PSC received a four-point deduction on its 2022 Progress Report due to Florida's lower civil penalty amounts compared to those of PHMSA.[20] The continued loss of points may result in a reduced certification that removes the PSC's enforcement capabilities.[21]

Effect of Bill

The bill increases the maximum monetary penalties for any violation of the Gas Safety Law by mirroring those currently used by PHMSA. The maximum daily penalty is increased from $25,000 to $257,664. The maximum aggregate penalty cap is increased from $500,000 to $2,576,627 for any related series of violations. The bill provides that the new penalties will take effect July 1, 2024.

The bill may assist the state in maintaining its certification by PHMSA to enforce the Pipeline Safety Act and the Gas Safety Law.

B. SECTION DIRECTORY:

Section 1: Amends s. 368.061, F.S., relating to penalties for violations of the Gas Safety Law.

Section 2: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

[14] S. 368.05(2), F.S. (stating that the PSC may require repairs and improvements
[15] S. 368.061(1), F.S.
[16] *Id.*
[17] *Id.*
[18] Email from Zach Barrett of the U.S. Dep't of Transportation to Andrew Giles Fay, Chairman of the Florida PSC (May 23, 2023), at 1.
[19] *Id.* at 2; *see also* 49 U.S.C. § 60105(b)(7) (stating that States have discretion to enforce civil penalties substantially the same as those provided by PHMSA).
[20] *Id.*
[21] *Id.*

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not impose additional compliance costs. However, the bill may impact private sector entities if the PSC assesses penalties on such entities above the current statutory limit.

D. FISCAL COMMENTS:

The bill does not impose additional compliance costs on local governments. However, the bill may increase fiscal impacts on local government-owned entities subject to PSC jurisdiction if the PSC assesses penalties on such entities above the current statutory limit.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

PHMSA is required to increase the maximum civil penalties based upon inflationary measures, and may be required to increase the penalty amounts in the future. This may require subsequent amendments to the civil penalties in Florida's Gas Safety Law.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to civil penalties under The Gas Safety Law of 1967; amending s. 368.061, F.S.; increasing the civil penalty amount for violating The Gas Safety Law of 1967; making grammatical changes; providing an effective date.

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

Section 1. Subsection (1) of section 368.061, Florida Statutes, is amended to read:

368.061 Penalty.—

(1) Any person who violates any provision of this part, or any regulation issued under this part ~~hereunder~~, is ~~shall be~~ subject to a civil penalty not to exceed $257,664 ~~$25,000~~ for each violation for each day that the ~~such~~ violation persists, except that the maximum civil penalty may ~~shall~~ not exceed $2,576,627 ~~$500,000~~ for any related series of violations.

Section 2. This act shall take effect July 1, 2024.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

HB 229

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 229 Public Service Commission Rules
SPONSOR(S): Payne
TIED BILLS: **IDEN./SIM. BILLS:** SB 364

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy, Communications & Cybersecurity Subcommittee		Bauldree	Keating
2) Constitutional Rights, Rule of Law & Government Operations Subcommittee			
3) State Administration & Technology Appropriations Subcommittee			
4) Commerce Committee			

SUMMARY ANALYSIS

The role of the Florida Public Service Commission (PSC) is to ensure that Florida's consumers receive some of their most essential services – electric, natural gas, telephone, water, and wastewater – in a safe, affordable, and reliable manner. The PSC is funded through a trust fund, primarily deriving revenues from regulatory assessment fees (RAFs), which are fees imposed by the PSC on the entities which it regulates. The RAFs applicable to each regulated industry are capped by statute and may be adjusted by the PSC under that cap. Since the PSC must establish the rate of each RAF by rule, the PSC must go through the rulemaking process required under Florida law.

A rule is an agency statement of general applicability interpreting, implementing, or prescribing law or policy, including the procedure and practice requirements of an agency, as well as certain types of forms. An agency begins the rulemaking process by filing a notice of the proposed rule. The notice is published by the Department of State in the Florida Administrative Register and must provide certain information, including the text of the proposed rule, a summary of the agency's statement of estimated regulatory costs (SERC) if one is prepared, and how a party may request a public hearing on the proposed rule. If the projected impact of the proposed rule will exceed $1 million in the aggregate for the five-year period after the rule is implemented, the rule cannot go into effect until ratified by the Legislature.

Under current law, for the 2023-2024 state fiscal year only, rules adopted by the PSC to implement ss. 350.113, 364.336, 366.14, 367.145, and 368.109, F.S., which include its authority to administer and set the rates for RAFs, are exempted from the SERC and rule ratification requirements, but the exemption expires on July 1, 2024.

The bill exempts rules adopted by the PSC to implement ss. 350.113, 364.336, 366.14, 367.145, and 368.109, F.S., which include its authority to administer and set the rates for RAFs, from the legislative ratification requirement. The bill removes the current one-year exemption from the SERC requirement for such rules.

The bill has no fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.[1] The role of the PSC is to ensure that Florida's consumers receive some of their most essential services – electric, natural gas, telephone, water, and wastewater – in a safe, affordable, and reliable manner. In doing so, the PSC exercises regulatory authority over utilities in one or more of three key areas: rate base/economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.[2]

The Legislature annually sets the PSC's budget,[3] however, the PSC does not receive any funding from Florida's General Revenue Fund. Instead, the PSC is funded through the Florida Public Service Regulatory Trust Fund,[4] primarily deriving revenues from regulatory assessment fees (RAFs), which are credited to the trust fund and withdrawn in accordance with the PSC's budget.[5]

Regulatory Assessment Fees

RAFs are fees imposed by the PSC on the entities which it regulates. Florida law requires the PSC to impose RAFs by rule to fund the operations of the Commission.[6] The PSC rules establishing RAFs are industry specific and implement ss. 350.113, 364.336, 366.14, 367.145, and 368.109, F.S. Under current law, rules establishing RAFs must meet certain requirements:

- RAFs cannot exceed a maximum rate established by statute for each industry;[7]
- RAFs for each industry must be sufficient to cover the PSC's cost to regulate the entities in that industry;[8] and
- RAFs imposed on one industry cannot be used to offset the cost of regulating any other industry.[9]

RAFs are specific to each entity the PSC regulates and are generally calculated based on gross operating revenues derived from intrastate business, excluding sales for resale between certain specified types of entities.[10] However, regardless of gross operating revenue, entities in most regulated industries must pay a minimum annual regulatory assessment fee specific to that industry.[11]

Since the PSC must establish the rate of each RAF by rule, the PSC must go through the rulemaking process required under Florida law.

---

[1] S. 350.001, F.S.
[2] Florida Public Service Commission, http://www.psc.state.fl.us/about (last visited November 7, 2023).
[3] *See* s. 350.113, F.S.
[4] S. 350.113, F.S.
[5] Florida Public Service Commission (PSC), Agency Analysis of 2024 House Bill 229, p. 1 (Nov. 6, 2023).
[6] *Id.*
[7] *See* ss. 364.336, 366.14, 367.145, and 368.109, F.S.; PSC *supra* note 5.
[8] *See* s. 350.113(3), F.S.; PSC *supra* note 5.
[9] *E.g.*, s. 367.145(3), F.S.; PSC *supra* note 5.
[10] *See* Rules 25-4.0161, -6.0131, -7.0131, -7.101, and -30.120, F.A.C.
[11] *See* Rules 25-4.0161, -6.0131, -7.0131, and -30.120, F.A.C.

Agency Rulemaking and Rule Ratification

A rule is an agency statement of general applicability interpreting, implementing, or prescribing law or policy, including the procedure and practice requirements of an agency, as well as certain types of forms.[12] The effect of an agency statement determines whether it meets the statutory definition of a rule, regardless of how the agency characterizes the statement.[13] If an agency statement generally requires compliance, creates certain rights while adversely affecting others, or otherwise has the direct and consistent effect of law, it is a rule.[14]

Rulemaking authority is delegated by the Legislature[15] by law authorizing an agency to "adopt, develop, establish, or otherwise create"[16] a rule. If an agency statement meets the definition of a rule, the agency does not have discretion whether to engage in rulemaking.[17] To adopt a rule an agency must have an express grant of authority to implement a specific law by rulemaking.[18] The grant of rulemaking authority itself need not be specific or detailed.[19] The particular statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.[20] A delegation of authority to an administrative agency by a law that is vague, uncertain, or so broad as to give no notice of what actions would violate the law, could be ruled unconstitutional if it allows the agency to make the law.[21] Because of this constitutional limitation on delegated rulemaking, the Legislature must provide minimal standards and guidelines in the law creating a program to provide for its proper administration by the assigned executive agency. The Legislature may delegate rulemaking authority to agencies but not the authority to determine what should be the law.[22]

Statement of Estimated Regulatory Costs

An agency begins the rulemaking process by filing a notice of the proposed rule.[23] The notice is published by the Department of State in the Florida Administrative Register[24] and must provide certain information, including the text of the proposed rule, a summary of the agency's statement of estimated regulatory costs (SERC) if one is prepared, and how a party may request a public hearing on the proposed rule.

A SERC must be prepared if the proposed rule will have an adverse impact on small business or if the proposed rule is likely to directly or indirectly increase regulatory costs in excess of $200,000 within one

---

[12] S. 120.52(16), F.S.; *Florida Dep't of Fin.l Servs. v. Capital Collateral Reg'l Counsel-Middle Region,* 969 So. 2d 527, 530 (Fla. 1st DCA 2007).
[13] *Dep't of Admin. v. Harvey*, 356 So. 2d 323, 325 (Fla. 1st DCA 1977)
[14] *McDonald v. Dep't of Banking & Fin.*, 346 So. 2d 569, 581 (Fla. 1st DCA 1977), articulated this principle subsequently cited in numerous cases. *See State of Florida, Dep't of Admin. v. Stevens,* 344 So. 2d 290 (Fla. 1st DCA 1977); *Dep't of Admin. v. Harvey*, 356 So. 2d 323 (Fla. 1st DCA 1977); *Balsam v. Dep't of Health & Rehab. Servs.*, 452 So. 2d 976, 977–978 (Fla. 1st DCA 1984); *Dep't of Transp. v. Blackhawk Quarry Co.*, 528 So. 2d 447, 450 (Fla. 5th DCA 1988), rev. den. 536 So. 2d 243 (Fla. 1988); *Dep't of Natural Res. v. Wingfield*, 581 So. 2d 193, 196 (Fla. 1st DCA 1991); *Dep't of Revenue v. Vanjaria Enterprises, Inc.*, 675 So. 2d 252, 255 (Fla. 5th DCA 1996); *Volusia County School Board v. Volusia Homes Builders Ass'n*, 946 So. 2d 1084 (Fla. 5th DCA 2007); *Florida Dep't of Financial Servs. v. Capital Collateral Reg'l Counsel*, 969 So. 2d 527 (Fla. 1st DCA 2007); *Coventry First, LLC v. State of Florida, Office of Ins. Reg.*, 38 So. 3d 200 (Fla. 1st DCA 2010).
[15] *SW. Florida Water Mgmt. Dist. v. Save the Manatee Club, Inc.,* 773 So. 2d 594 (Fla. 1st DCA 2000).
[16] S. 120.52(17), F.S.
[17] S. 120.54(1)(a), F.S.
[18] Ss. 120.52(8) & 120.536(1), F.S.
[19] *Save the Manatee Club, Inc.,* 773 So. 2d at 599.
[20] *Sloban v. Florida Bd. of Pharmacy,* 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Askew v. Cross Keys Waterways*, 372 So. 2d 913, 918-919 (Fla. 1978); Board *of Trustees of the Internal Improvement Trust Fund v. Day Cruise Ass'n,* 794 So. 2d 696, 704 (Fla. 1st DCA 2001).
[21] *Conner v. Joe Hatton*, *Inc.,* 216 So. 2d 209 (Fla.1968).
[22] *Sarasota County. v. Barg*, 302 So. 2d 737 (Fla. 1974).
[23] S. 120.54(3)(a)1, F.S.
[24] S. 120.55(1)(b)2, F.S.

year of implementation of the rule.[25] Preparation of a SERC also is triggered when a substantially affected person submits a good faith written proposal for a lower cost regulatory alternative which substantially accomplishes the objectives of the law being implemented.[26] The SERC must provide an economic analysis projecting the proposed rule's effect on specified aspects of the state's economy, including a potential increase in regulatory costs and the rule's potential impact over the five-year period after the rule goes into effect.[27] Each SERC must discuss the proposed rule's likely adverse impact on economic growth, private-sector job creation or employment, and private-sector investment; the likely adverse impact on business competitiveness,[28] productivity, or innovation;[29] and whether the proposed rule is likely to increase regulatory costs, including any transactional costs.[30] If the analysis shows the projected impact of the proposed rule will exceed $1 million in the aggregate for the five-year period after the rule is implemented, the rule cannot go into effect until ratified by the Legislature.[31]

Legislative Ratification

Current law distinguishes between a rule being "adopted" and becoming enforceable or "effective."[32] A rule must be filed for adoption before it may go into effect.[33] As a rule subject to ratification becomes effective only if ratified by the Legislature, a rule must be filed for adoption before being submitted for legislative ratification. A rule requiring legislative ratification must be submitted to the President of the Senate and the Speaker of the House of Representatives no later than 30 days prior to the next regular legislative session.[34]

Exemptions to the legislative ratification requirement have been made for certain rules, including adoption of federal standards,[35] triennial updates of the Florida Building Code[36] and the Florida Fire Prevention Code,[37] the adjustment of tolls by the Florida Department of Transportation,[38] and certain rules pertaining to nutrient pollution in Florida waters.[39] The exemption to ratification for adoption of federal standards was implemented as consistent with existing rulemaking policy.[40] The exemptions for updates of the Florida Building Code and the Florida Fire Prevention Code, and the adjustment of tolls, were adopted because the respective statutory procedures for such updates and adjustments ensured sufficient legislative oversight and public participation sufficient to test the economic impacts of the proposed changes.[41] In 2013, certain rulemaking by the Department of Environmental Regulation establishing specific requirements for nutrients in Florida waters was exempted from the ratification requirement because of the extensive public interaction between the Clean Water Act[42] and Florida-developed standards.[43]

---

[25] S. 120.54(3)(b)1., F.S.
[26] S. 120.541(1)(a), F.S.
[27] S. 120.541(2)(a), F.S.
[28] This factor includes the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.
[29] S. 120.541(2)(a)2., F.S.
[30] S. 120.541(2)(a)3., F.S.
[31] S. 120.541(3), F.S.
[32] S. 120.54(3)(e)6, F.S. Before a rule becomes enforceable, thus "effective," the agency first must complete the rulemaking process and file the rule for adoption with the Department of State.
[33] S. 120.54(3)(e)6, F.S.
[34] S. 120.541(3), F.S.
[35] S. 120.541(4)(a), F.S. *See* s. 120.54(6), F.S.
[36] S. 120.541(4)(b), F.S., for amendments expressly authorized by s. 553.73, F.S. *See also* s. 120.80(16)(d), F.S.
[37] S. 120.541(4)(c), F.S., for amendment expressly authorized by s. 633.202, F.S. *See also* s. 120.80(17), F.S.
[38] S. 120.80(18), F.S.
[39] Ch. 2013-71, ss. 2, 4, Laws of Fla.; ch. 2012-3, s. 1(1), Laws of Fla.
[40] *See* s. 120.54(6), F.S.
[41] *See* "Final Bill Analysis for CS/CS/CS/HB 993 & HB 7239 (2011)," pp. 7-11, at https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0993z1.RRS.DOCX&DocumentType=Analysis&BillNumber=0993&Session=2011 (last visited Nov. 13, 2023).
[42] 33 U.S.C. Sec. 1251, et. seq
[43] *See* "Final Bill Analysis for CS/HB 7115," p.7, at https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h7115z.ANRS.DOCX&DocumentType=Analysis&BillNumber=7115&Session=2013 (last visited Nov. 13, 2023).

Rules adopted by the Public Service Commission (PSC) pertaining to rates, charges, terms, and conditions of utility pole attachments,[44] including attachments to a utility pole made redundant by subsequent replacement,[45] are exempt from the SERC and rule ratification requirements.[46] For the 2023-2024 state fiscal year only, rules adopted by the PSC to implement ss. 350.113, 364.336, 366.14, 367.145, and 368.109, F.S.,[47] are exempted from the SERC and rule ratification requirements, but the exemption expires on July 1, 2024.[48] These sections provide the PSC's authority to administer and set rates for RAFs.

Effect of Proposed Changes

The bill exempts rules adopted by the PSC to implement ss. 350.113, 364.336, 366.14, 367.145, and 368.109, F.S., from the legislative ratification requirement in s. 120.541(3), F.S. These sections provide the PSC's authority to administer and set rates for RAFs. Because the PSC's budget is set by the Legislature, the PSC will not be able to withdraw additional RAF revenue from the trust fund without Legislative approval.

The bill removes the current one-year exemption from the SERC requirement for such rules.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 120.90, F.S., relating to exceptions and special requirements for rulemaking.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Public Service Commission indicates no fiscal impact.[49]

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

[44] S. 366.04(8), F.S.
[45] S. 366.97, F.S.
[46] S. 120.80(13)(g)1., F.S.
[47] As discussed above, the PSC rules establishing RAFs implement ss. 350.113, 364.336, 366.14, 367.145, and 368.109, F.S.
[48] S. 120.80(13)(g)2., F.S. *See* ch. 2023-240, s. 51, Laws of Fla.
[49] PSC *supra* note 5 at p. 3.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill exempts from the legislative rule ratification requirement in s. 120.541(3), F.S., rulemaking by the PSC under ss. 350.113, 364.336, 366.14, 367.145, and 368.109, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to Public Service Commission rules; amending s. 120.80, F.S.; removing the expiration and revising the scope of an exemption from certain provisions relating to statements of estimated regulatory costs for certain rules adopted by the Public Service Commission; providing an effective date.

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

Section 1. Paragraph (g) of subsection (13) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(13) FLORIDA PUBLIC SERVICE COMMISSION.—

(g)1. Rules adopted by the Florida Public Service Commission to implement ss. 366.04(8) and (9) and 366.97 are not subject to s. 120.541.

2. ~~For the 2023-2024 fiscal year,~~ Rules adopted by the Florida Public Service Commission to implement ss. 350.113, 364.336, 366.14, 367.145, and 368.109 are not subject to s. 120.541(3) ~~s. 120.541~~. ~~This subparagraph expires July 1, 2024.~~

Section 2. This act shall take effect July 1, 2024.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.