

**COMMITTEE MEETING EXPANDED AGENDA****JOINT COMMITTEE ON PUBLIC COUNSEL OVERSIGHT****Senator Powell, Alternating Chair****Representative Mariano, Alternating Chair****MEETING DATE:** Thursday, February 7, 2019**TIME:** 1:30—3:30 p.m.**PLACE:** 301 Senate Building**SENATE MEMBERS:** Senator Powell, Alternating Chair; Senators Broxson, Farmer, Gruters, and Harrell**HOUSE MEMBERS:** Representative Mariano, Alternating Chair; Representatives Good, Robinson, Stone, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation - Discussion and testimony only on the following (no vote to be taken):  - Overview of Committee's Jurisdiction by Committee Staff - Overview of the Office of Public Counsel by J.R. Kelly, Public Counsel		Presented
Other Related Meeting Documents			

## JOINT COMMITTEE ATTENDANCE

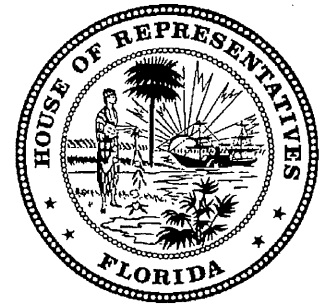
**COMMITTEE:** Joint Committee on Public Counsel Oversight  
**MEETING DATE:** Thursday, February 7, 2019  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** 301 Senate Building

[illegible]

**BILL GALVANO**  
President of the Senate



**JOSE R. OLIVA**  
Speaker of the House



# **Joint Rules Related to the Joint Committee on Public Counsel Oversight**

**Joint Rules related to the Joint Committee on Public Counsel Oversight**  
**(2018-2020)**

**Joint Rule Four—Joint Committees**

**4.1—Standing Joint Committees**

(1) The following standing joint committees are established:

- (a) Administrative Procedures Committee.
- (b) Committee on Public Counsel Oversight.
- (c) Legislative Auditing Committee.

(2) No other joint committee shall exist except as agreed to by the presiding officers or by concurrent resolution approved by the Senate and the House of Representatives.

(3) Appointments to each standing joint committee shall be made or altered and vacancies shall be filled by the Senate and the House of Representatives in accordance with their respective rules. There shall be appointed to each standing joint committee no fewer than five and no more than seven members from each house.

(4)(a) The President of the Senate shall appoint a member of the Senate to serve as the chair, and the Speaker of the House of Representatives shall appoint a member of the House of Representatives to serve as the vice chair, for:

1. The Legislative Auditing Committee and the Committee on Public Counsel Oversight, for the period from the Organization Session until noon on August 1 of the calendar year following the general election.

2. The Administrative Procedures Committee for the period from noon on August 1 of the calendar year following the general election until the next general election.

(b) The Speaker of the House of Representatives shall appoint a member of the House of Representatives to serve as the chair, and the President of the Senate shall appoint a member of the Senate to serve as the vice chair, for:

1. The Legislative Auditing Committee and the Committee on Public Counsel Oversight, for the period from noon on August 1 of the calendar year following the general election until the next general election.

2. The Administrative Procedures Committee for the period from the Organization Session until noon on August 1 of the calendar year following the general election.

(c) A vacancy in an appointed chair or vice chair shall be filled in the same manner as the original appointment.

**4.2—Procedures in Joint Committees**

The following rules shall govern procedures in joint committees other than conference committees:

(1) A quorum for a joint committee shall be a majority of the appointees of each house. No business of any type may be conducted in the absence of a quorum.

(2)(a) Joint committees shall meet only within the dates, times, and locations authorized by both the President of the Senate and the Speaker of the House of Representatives.

(b) Joint committee meetings shall meet at the call of the chair. In the absence of the chair, the vice chair shall assume the duty to convene and preside over meetings and such other duties as provided by law or joint rule. During a meeting properly convened, the presiding chair may temporarily assign the duty to preside at that meeting to another joint committee member until the assignment is relinquished or revoked.

(c) Before any joint committee may hold a meeting, a notice of such meeting shall be provided to the Secretary of the Senate and the Clerk of the House of Representatives no later than 4:30 p.m. of the 7th day before the meeting. For purposes of effecting notice to members of the house to which the chair does not belong, notice to the Secretary of the Senate shall be deemed notice to members of the Senate and notice to the Clerk of the House shall be deemed notice to members of the House of Representatives. Noticed meetings may be canceled by the chair with the approval of at least one presiding officer.

(d) If a majority of its members from each house agree, a joint committee may continue a properly noticed meeting after the expiration of the time called for the meeting. However, a joint committee may not meet beyond the time authorized by the presiding officers without special leave granted by both presiding officers.

(3) The presiding officers shall interpret, apply, and enforce rules governing joint committees by agreement when the rule at issue is a joint rule. Unless otherwise determined or overruled by an agreement of the presiding officers, the chair shall determine all questions of order arising in joint committee meetings, but such determinations may be appealed to the committee during the meeting.

(4) Each question, including any appeal of a ruling of the chair, shall be decided by a majority vote of the members of the joint committee of each house present and voting.

#### **4.3—Powers of Joint Committees**

(1) A joint committee may exercise the subpoena powers vested by law in a standing committee of the Legislature. A subpoena issued under this rule must be approved and signed by the President of the Senate and the Speaker of the House of Representatives and attested by the Secretary of the Senate and the Clerk of the House.

(2) A joint committee may adopt rules of procedure that do not conflict with the Florida Constitution or any law or joint rule, subject to the joint approval of the President of the Senate and the Speaker of the House of Representatives.

(3) A joint committee may not create subcommittees or workgroups unless authorized by both presiding officers.

#### **4.4—Administration of Joint Committees**

(1) Within the monetary limitations of the approved operating budget, the expenses of the members and the salaries and expenses of the staff of each joint committee shall be governed by joint policies adopted under Joint Rule 3.2.

(2) Subject to joint policies adopted under Joint Rule 3.2, the presiding officers shall appoint and remove the staff director and, if needed, a general counsel and any other staff necessary to assist each joint committee. All joint committee staff shall serve at the pleasure of the presiding officers. Upon the initial adoption of these joint

rules in a biennium, each joint committee staff director position shall be deemed vacant until an appointment is made.

**4.7—Special Powers and Duties of the Committee on Public Counsel Oversight**

(1) The Committee on Public Counsel Oversight shall appoint a Public Counsel.

(2) The Committee on Public Counsel Oversight may file a complaint with the Commission on Ethics alleging a violation of chapter 350, Florida Statutes, by a current or former public service commissioner, an employee of the Public Service Commission, or a member of the Public Service Commission Nominating Council.

(3) Notwithstanding Joint Rule 4.4(2), the Committee on Public Counsel Oversight shall not have any permanent staff but shall be served as needed by other legislative staff selected by the President of the Senate and the Speaker of the House of Representatives.

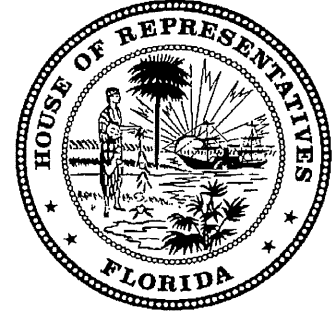
**BILL GALVANO**

President of the Senate



**JOSE R. OLIVA**

Speaker of the House



# **Statutory Provisions related to the Public Counsel**

### Statutory Provisions related to the Public Counsel

#### **350.061 Public Counsel; appointment; oath; restrictions on Public Counsel and his or her employees.—**

(1) The committee designated by joint rule of the Legislature or by agreement between the President of the Senate and the Speaker of the House of Representatives as the Committee on Public Counsel Oversight shall appoint a Public Counsel to represent the general public of Florida before the Florida Public Service Commission. The Public Counsel shall be an attorney admitted to practice before the Florida Supreme Court and shall serve at the pleasure of the Committee on Public Counsel Oversight, subject to biennial reconfirmation by the committee. The Public Counsel shall perform his or her duties independently. Vacancies in the office shall be filled in the same manner as the original appointment.

(2) The Public Counsel shall take and subscribe to the oath of office required of state officers by the State Constitution.

(3) No officer or full-time employee of the Public Counsel shall actively engage in any other business or profession; serve as the representative of any political party or on any executive committee or other governing body thereof; serve as an executive, officer, or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; or engage on behalf of any candidate for public office in the solicitation of votes or other activities in behalf of such candidacy. Neither the Public Counsel nor any employee of the Public Counsel shall become a candidate for election to public office unless he or she shall first resign from his or her office or employment.

**History.**—s. 1, ch. 74-195; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 535, ch. 95-148; s. 6, ch. 2005-132; s. 35, ch. 2008-227; s. 29, ch. 2011-34.

**350.0611 Public Counsel; duties and powers.**—It shall be the duty of the Public Counsel to provide legal representation for the people of the state in proceedings before the commission and in proceedings before counties pursuant to s. 367.171(8). The Public Counsel shall have such powers as are necessary to carry out the duties of his or her office, including, but not limited to, the following specific powers:

(1) To recommend to the commission or the counties, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the commission or the counties and urge therein any position which he or she deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the commission or the counties, and utilize therein all forms of discovery available to attorneys in civil actions generally, subject to protective orders of the commission or the counties which shall be reviewable by summary procedure in the circuit courts of this state;

(2) To have access to and use of all files, records, and data of the commission or the counties available to any other attorney representing parties in a proceeding before the commission or the counties;



(3) In any proceeding in which he or she has participated as a party, to seek review of any determination, finding, or order of the commission or the counties, or of any hearing examiner designated by the commission or the counties, in the name of the state or its citizens;

(4) To prepare and issue reports, recommendations, and proposed orders to the commission, the Governor, and the Legislature on any matter or subject within the jurisdiction of the commission, and to make such recommendations as he or she deems appropriate for legislation relative to commission procedures, rules, jurisdiction, personnel, and functions; and

(5) To appear before other state agencies, federal agencies, and state and federal courts in connection with matters under the jurisdiction of the commission, in the name of the state or its citizens.

**History.**—s. 1, ch. 74-195; s. 1, ch. 77-174; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 536, ch. 95-148; s. 12, ch. 2000-350; s. 2, ch. 2001-145.

**350.0612 Public Counsel; location.**—The Public Counsel shall maintain his or her office in Leon County on the premises of the commission or, if suitable space there cannot be provided, at such other place convenient to the offices of the commissioners as will enable him or her to carry out expeditiously the duties and functions of his or her office.

**History.**—s. 1, ch. 74-195; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 537, ch. 95-148.

**350.0613 Public Counsel; employees; receipt of pleadings.**—The committee may authorize the Public Counsel to employ clerical and technical assistants whose qualifications, duties, and responsibilities the committee shall from time to time prescribe. The committee may from time to time authorize retention of the services of additional attorneys or experts to the extent that the best interests of the people of the state will be better served thereby, including the retention of expert witnesses and other technical personnel for participation in contested proceedings before the commission. The commission shall furnish the Public Counsel with copies of the initial pleadings in all proceedings before the commission, and if the Public Counsel intervenes as a party in any proceeding he or she shall be served with copies of all subsequent pleadings, exhibits, and prepared testimony, if used. Upon filing notice of intervention, the Public Counsel shall serve all interested parties with copies of such notice and all of his or her subsequent pleadings and exhibits.

**History.**—s. 1, ch. 74-195; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 538, ch. 95-148.

**350.0614 Public Counsel; compensation and expenses.—**

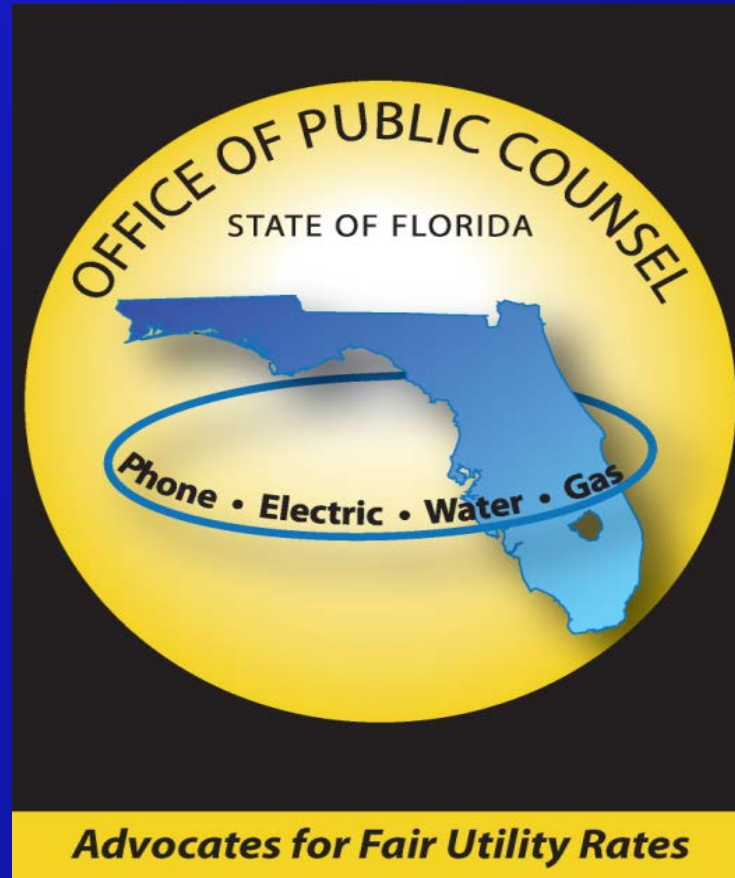
(1) The salaries and expenses of the Public Counsel and his or her employees shall be allocated by the committee only from moneys appropriated to the Public Counsel by the Legislature.

(2) The Legislature declares and determines that the Public Counsel is under the legislative branch of government within the intention of the legislation as expressed in chapter 216, and no power shall be in the Executive Office of the Governor or its successor to release or withhold funds appropriated to it, but the same shall be available for expenditure as provided by law.

(3) Neither the Executive Office of the Governor nor the Department of Management Services or its successor shall have power to determine the number, or fix the compensation, of the employees of the Public Counsel or to exercise any manner of control over them.

**History.**—s. 1, ch. 74-195; s. 120, ch. 79-190; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 121, ch. 92-279; s. 55, ch. 92-326; s. 539, ch. 95-148; s. 7, ch. 2005-132; s. 36, ch. 2008-227; s. 30, ch. 2011-34.

# Office of Public Counsel



- Created by ss. 350.061 – 350.0614
- Part of the Legislature
- Independent of the Florida Public Service Commission (PSC)

- Provide legal representation for Florida citizens on issues:
  - Before the PSC
  - Before counties that opt out of PSC jurisdiction on water/wastewater cases
- Represent ratepayers collectively, not individually



- Implement Lifeline program
  - Call Center
  - Verify income eligibility



- Located in Tallahassee
- 16.5 FTE's
- Budget -- \$2.315 million

## Case Activity

- Electric rate cases
- Water/Wastewater rate cases
- Gas rate cases
- Nuclear cost recovery
- Annual cost recovery or pass-through dockets – Fuel, Environmental and Conservation



Questions?

# Office of Public Counsel **J. R. Kelly**



**(850) 488-9330**  
**[kelly.jr@leg.state.fl.us](mailto:kelly.jr@leg.state.fl.us)**  
**[www.floridaopc.gov](http://www.floridaopc.gov)**

# CourtSmart Tag Report

**Room:** SB 301

**Case No.:**

**Caption:** Joint Committee on Public Counsel Oversight

**Type:**

**Judge:**

**Started:** 2/7/2019 1:32:59 PM

**Ends:** 2/7/2019 3:27:35 PM **Length:** 01:54:37

1:32:59 PM	Call to order
1:33:28 PM	Quorum present
1:33:32 PM	Senator Thompson is excused
1:34:03 PM	Chair Powell for opening comments
1:34:19 PM	Representative Mariano for comments, Alternating Chair
1:35:08 PM	Chair Powell for additional comments
1:36:10 PM	Kevin Wiehle, staff, for brief overview of committee's jurisdiction
1:38:28 PM	Questions?
1:38:37 PM	Senator Powell for a question
1:38:56 PM	Staff for a response
1:39:00 PM	Staff for a response
1:39:51 PM	Further questions?
1:39:55 PM	Discussion?
1:39:57 PM	Appearance cards?
1:40:05 PM	J.R. Kelly for a presentation, Office of General Counsel
1:49:43 PM	Questions?
1:49:50 PM	Senator Gruters
1:50:25 PM	Follow up
1:53:36 PM	Additional follow up question
1:54:46 PM	Vice Chair Mariano for a question
1:55:57 PM	Follow up question
1:56:47 PM	Additional follow up question
1:57:34 PM	Senator Harrell for a question
2:03:38 PM	Follow up question
2:03:57 PM	A series of follow up questions
2:07:44 PM	Senator Powell for a question
2:10:29 PM	Senator Gruters for a question
2:12:31 PM	Senator Gruters for follow up question
2:13:32 PM	Representative Good for a question
2:17:10 PM	JR Kelly for response
2:25:22 PM	Representative Good for additional question
2:26:35 PM	Representative Robinson for a question
2:28:54 PM	Recognized for a series of follow up questions
2:32:03 PM	Senator Harrell for a series of questions
2:33:31 PM	Vice Chair Mariano for a series of questions
2:42:38 PM	Representative Stone for a question
2:43:35 PM	Recognized for a series of questions
2:45:37 PM	Senator Farmer for a question
2:46:11 PM	Recognized for a series of questions
2:50:09 PM	Chair Powell for a couple of questions
2:54:04 PM	Chair Powell for a reconfirmation question
2:55:50 PM	Chair Powell for a series of questions of JR Kelly
3:01:04 PM	Chair Powell is their discussion?
3:01:23 PM	Chair Mariano for comments
3:02:47 PM	Chair Powell for comments
3:03:49 PM	Senator Harrell for comments on reconfirmation hearing
3:04:53 PM	Comments from JR Kelly
3:05:55 PM	Chair Powell recognizes persons wishing to speak appearance cards
3:06:03 PM	Ann Marie Ryan, Summertree Water Alliance & Community
3:24:17 PM	Chair Powell for comments
3:25:01 PM	Mr. Marino, Pasco County Commissioner
3:27:08 PM	Chair Mariano moves we adjourn

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date \_\_\_\_\_

Bill Number (if applicable) \_\_\_\_\_

Topic OPC

Amendment Barcode (if applicable) \_\_\_\_\_

Name ANN MARIE RYAN

Job Title Leader Summertree Water Alliance

Address 11436 Windstar Ct

Phone 727-267-7167

New Port Richey FL 34654  
City State Zip

Email ame 328@hotmail.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Summertree Water Alliance & Community

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-7-19

Meeting Date

Bill Number (if applicable)

Topic OPC

Amendment Barcode (if applicable)

Name Jack Mariano

Job Title County Commissioner

Address 8116 Greenstone Lane  
Street

Phone 727-534-8846

Hudson FL 34661  
City State Zip

Email Jack.Mariano@aol.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Pasco County

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/7/19

Meeting Date

Bill Number (if applicable)

Topic Public Counsel

Amendment Barcode (if applicable)

Name J.R. Kelly

Job Title Public Counsel

Address 111 W. Madison #812

Phone 458-9330

Street

City

State

Zip

Email kelly.jc@leg.state.fl.us

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Office of Public Counsel

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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