

By the Committee on Innovation, Industry, and Technology; and  
Senator Albritton

580-03760-20

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1                   A bill to be entitled  
2           An act relating to water and wastewater systems;  
3           amending s. 180.191, F.S.; requiring a municipality to  
4           charge customers receiving its utility services  
5           outside the municipal boundaries the same rates, fees,  
6           and charges as it charges customers within the  
7           municipality under certain circumstances; creating s.  
8           367.0712, F.S.; authorizing certain water and  
9           wastewater utilities to establish a rate base value by  
10          using the fair market value when acquiring a utility  
11          system; establishing a procedure to determine the fair  
12          market value; requiring the rate base value to be  
13          reflected in the acquiring utility's next rate case  
14          for ratemaking purposes; specifying the contents  
15          required for an application to the Public Service  
16          Commission for approval of the rate base value of the  
17          utility system; specifying duties of the commission  
18          regarding applications; specifying the commission's  
19          retained authority; providing applicability; requiring  
20          the commission to adopt rules; providing an effective  
21          date.

22  
23   Be It Enacted by the Legislature of the State of Florida:

24  
25           Section 1. Present subsections (2), (3), and (4) of section  
26   180.191, Florida Statutes, are redesignated as subsections (3),  
27   (4), and (5), respectively, a new subsection (2) is added to  
28   that section, and subsection (1) of that section is amended, to  
29   read:

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30 180.191 Limitation on rates charged consumer outside city  
31 limits.-

32 (1) Except as provided in subsection (2), any municipality  
33 within the state operating a water or sewer utility outside of  
34 the boundaries of such municipality shall charge consumers  
35 outside the boundaries rates, fees, and charges determined in  
36 one of the following manners:

37 (a) It may charge the same rates, fees, and charges as  
38 consumers inside the municipal boundaries. However, in addition  
39 thereto, the municipality may add a surcharge of not more than  
40 25 percent of such rates, fees, and charges to consumers outside  
41 the boundaries. Fixing of such rates, fees, and charges in this  
42 manner does ~~shall~~ not require a public hearing except as may be  
43 provided for service to consumers inside the municipality.

44 (b) It may charge rates, fees, and charges that are just  
45 and equitable and that ~~which~~ are based on the same factors used  
46 in fixing the rates, fees, and charges for consumers inside the  
47 municipal boundaries. In addition thereto, the municipality may  
48 add a surcharge not to exceed 25 percent of such rates, fees,  
49 and charges for said services to consumers outside the  
50 boundaries. However, the total of all such rates, fees, and  
51 charges for the services to consumers outside the boundaries may  
52 ~~shall~~ not be more than 50 percent in excess of the total amount  
53 the municipality charges consumers served within the  
54 municipality for corresponding service. ~~No~~ Such rates, fees, and  
55 charges may not ~~shall~~ be fixed until after a public hearing at  
56 which all of the users of the water or sewer systems; owners,  
57 tenants, or occupants of property served or to be served  
58 thereby; and all others interested shall have an opportunity to

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59 be heard concerning the proposed rates, fees, and charges. Any  
60 change or revision of such rates, fees, or charges may be made  
61 in the same manner as such rates, fees, or charges were  
62 originally established, but if such change or revision is to be  
63 made substantially pro rata as to all classes of service, both  
64 inside and outside the municipality, no hearing or notice shall  
65 be required.

66 (2) Any municipality within the state operating a water or  
67 sewer utility providing service to customers in another  
68 recipient municipality from infrastructure located in the  
69 recipient municipality shall charge the customers in the  
70 recipient municipality the same rates, fees, and charges as it  
71 does the customers inside its own municipal boundaries.

72 Section 2. Section 367.0712, Florida Statutes, is created  
73 to read:

74 367.0712 Determination of value.-

75 (1) When a utility acquires an existing utility system, the  
76 utility may establish a rate base value of the acquired utility  
77 system by using the fair market value of the utility system  
78 instead of the system's original cost.

79 (2) (a) The fair market value of a utility system to be  
80 acquired must be based on appraisals conducted by two licensed  
81 appraisers chosen from a list established by the commission.

82 1. One appraiser shall represent and be paid by the  
83 acquiring utility and one appraiser shall represent and be paid  
84 by the utility system being acquired.

85 2. Each appraiser shall determine the fair market value  
86 using the Uniform Standards of Professional Appraisal Practice,  
87 employing cost, market, and income approaches in assessing the

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88 value.

89 3. For ratemaking purposes, the fair market value is the  
90 average of the two appraisals.

91 4. The original source of funding for the utility system  
92 being acquired is not relevant to an evaluation of fair market  
93 value.

94 (b) The acquiring utility and utility system being acquired  
95 shall jointly retain a licensed engineer to conduct an  
96 assessment of the tangible assets of the utility system and the  
97 assessment shall be used by the two appraisers in determining  
98 the fair market value of the system.

99 (c) The acquiring utility may include in the cost of the  
100 acquired utility system:

101 1. Reasonable fees paid to the appraisers, if approved by  
102 the commission.

103 2. Reasonable transaction and closing costs incurred by the  
104 acquiring utility.

105 (d) The rate base value of the acquired utility system,  
106 which must be reflected in the acquiring utility's next general  
107 rate case for ratemaking purposes, is equal to the lesser of the  
108 purchase price negotiated between the parties to the sale or the  
109 fair market value, and the fees and costs authorized in  
110 paragraph (c).

111 (3) An application to the commission for approval of the  
112 rate base value of the utility system to be acquired must  
113 contain the following:

114 (a) Copies of the appraisals performed by the appraisers  
115 pursuant to paragraph (2) (a).

116 (b) Each deficiency identified by the engineering

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117 assessment conducted pursuant to paragraph (2) (b) and a 3-year  
118 plan for prudent and necessary infrastructure improvements.

119 (c) The projected rate impact for the selling utility's  
120 customers for the next 5 years.

121 (d) The average of the appraisals, which shall constitute  
122 the fair market value of the system.

123 (e) The assessment of tangible assets pursuant to (2) (b).

124 (f) The contract of sale.

125 (g) The estimated value of fees and transaction and closing  
126 costs to be incurred by the acquiring utility.

127 (h) A tariff, including rates equal to the rates of the  
128 selling utility.

129 (4) If the application complies with the requirements of  
130 subsection (3), the commission shall issue a final order  
131 approving or denying the application within 8 months after the  
132 date on which the application was filed. An order approving an  
133 application shall determine the rate base value of the acquired  
134 utility system for ratemaking purposes in a manner consistent  
135 with this section.

136 (5) Notwithstanding any provision in this section, the  
137 commission retains its authority under this chapter to set rates  
138 for the acquired utility system in future rate cases and may  
139 classify the acquired utility system as a separate entity for  
140 ratemaking purposes, consistent with the public interest.

141 (6) This section applies to acquiring utilities that  
142 provide water and wastewater services to more than 10,000  
143 customers and are engaged in a voluntary and mutually agreeable  
144 acquisition of a water and wastewater system.

145 (7) The commission shall adopt rules to implement this

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146 section.

147 Section 3. This act shall take effect July 1, 2020.