

Committee on Environmental Preservation And Conservation

CS/CS/CS/HB 491 — Water and Wastewater

by Regulatory Affairs Committee; Finance and Tax Committee; Energy and Utilities Subcommittee; and Rep. Smith and others (CS/CS/CS/SB 534 by Appropriations Committee; Communications, Energy, and Public Utilities Committee; Environmental Preservation and Conservation Committee; and Senator Hays)

CS/CS/CS/HB 491:

- Directs the Division of Bond Finance to review the allocation of private activity bonds to determine the availability of additional allocation and reallocation of bonds for water and wastewater infrastructure projects;
- Creates an exemption from Public Service Commission (PSC) regulation and from the provisions of ch. 367, F.S., for persons who resell water service to individually metered residents at a price that does not exceed the purchase price of water service plus the actual cost of meter reading and billing, not to exceed nine percent of the actual cost of the water service;
- Allows the PSC to authorize a utility to create a utility reserve fund for infrastructure repair and replacement with disbursement subject to PSC approval and directs the PSC to adopt rules governing the implementation, management, and use of the fund;
- Expands the types of specified expenses eligible for pass-through treatment to include:
 - Fees charged for wastewater biosolids disposal;
 - Costs incurred for any tank inspection required by the Department of Environmental Protection (DEP) or a local governmental authority;
 - Treatment plant operator and water distribution system operator license fees required by DEP or a local governmental authority;
 - Water or wastewater operating permit fees charged by DEP or a local governmental authority; and
 - Consumptive or water use permit fees charged by a water management district.
- Allows the PSC to establish by rule certain additional specific expense items eligible for pass-through treatment and requires the PSC to review the rule at least once every five years;
- Provides for the recovery expenses over a period of longer than four years, so long as a longer period can be justified and is in the interest of the public;
- Provides that a utility may not earn a return on the unamortized balance of a rate case expense and that any unamortized balance of rate case expense shall be excluded in calculating the utility's rate base;
- Rate case expenses for attorney fees or fees of other outside consultants:
 - May not be awarded if a utility receives staff assistance in changing rates and charges, unless the Office of Public Council or interested parties have intervened;
 - May be awarded if such fees are incurred for the purpose of providing consulting or legal services to the utility after the initial staff report is made available to customers and the utility; and
 - May be awarded costs incurred after a protest or appeal;

- The PSC must propose rules to administer the recovery of attorney fees or fees for outside consultants by December 31, 2016;
- Repeals, recreates, and amends s. 367.0816, F.S., relating to recovery of rate case expenses;
- Allows the PSC to:
 - Review water quality as it pertains to secondary drinking water standards established by DEP;
 - Review wastewater service as it pertains to odor, noise, aerosol drift, or lighting;
- Clarifies that the provisions of s. 367.165, F.S., concerning the abandonment of a water or wastewater utility, apply to all counties; and
- Allows DEP to make, or request a corporation to make loans, grants, and deposits to for-profit, privately owned, or investor-owned water systems to assist in the planning, design, and construction of public water systems.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 40-0; House 103-12