

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 5, 1998 Revised: _____

Subject: Rulemaking Authority by the Florida Public Service Commission

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Matthews</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill provides specific statutory authority for rulemaking to the Florida Public Service Commission (PSC) for existing rules relating to purchasing, requiring that a water and wastewater utility own or have a continued right to use the land upon which treatment facilities are located, and requiring notification when a water and wastewater utility implements a name change. The rules were identified as lacking adequate statutory authority, pursuant to the procedures outlined in 1996 amendments to the Florida Administrative Procedures Act.

II. Present Situation:

In 1996, the legislature adopted a comprehensive rewrite of the Administrative Procedures Act (APA). The revised APA imposed a stricter rulemaking standard by requiring more specific agency rulemaking authority in statutes to accomplish the stated purpose of enabling statutes. By October 1, 1997, all agencies were required to notify the Joint Administrative Procedures Committee of all existing rules, or portions thereof, adopted before October 1, 1996, and now identified as exceeding the agency's statutory rulemaking authority under the stricter APA rulemaking standard. See s. 120.536(2), F.S. If the agency does not secure specific legislative authority during the 1998 regular session, the agency must initiate rulemaking by January 1, 1999, to repeal the identified rules. Effective July 1, 1999, the JAPC or any substantially affected person has standing to petition the agency to repeal identified rules that have not yet been repealed by the agency.

The PSC identified several rules relating to purchasing and water and wastewater regulatory requirements for which the commission now seeks specific authorizing legislation. See Chapter 25-25, Florida Administrative Code (relating to purchasing); Rules 25-30.034(1)(e), 25-30.035(6), 25-30.36(3)(d), 25-30.433(10), and 25-30.436(4)(i) (relating to property ownership or

right to continued use of land upon which water and wastewater treatment facilities are located); and Rule 25-30.039 (relating to notification requirements regarding utility name change).

III. Effect of Proposed Changes:

Section 1 authorizes the PSC to adopt procedures for purchases of commodities and services and requires that those procedures reflect the basic tenet of fair and open competition and the importance of documentation and effective monitoring to the purchasing process.

Section 2 requires under the Water and Wastewater System Regulatory Law that a utility have ownership or the right to continued use of the land upon which treatment facilities are located and requires the PSC to adopt rules accordingly.

Section 3 requires a water and wastewater utility to notify the PSC and its customers prior to a name change and authorizes the PSC to adopt rules regarding customer notice requirements.

Section 4 provides that the act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

To the extent that passage of this legislation validates PSC rules so that they will not have to be repealed pursuant to s. 120.536, F.S., the agency will not incur the costs generally associated with the rulemaking process.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.