

By the Committee on Regulated Industries and Senator Kurth

315-1817-98

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A bill to be entitled  
An act relating to Brevard County; amending  
chapter 94-442, Laws of Florida, as amended by  
chapter 95-499, Laws of Florida; revising  
legislative intent; clarifying the limits on  
and the procedures for imposing certain  
distribution differential surcharge rates by a  
potable water utility; providing an effective  
date.

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

Section 1. Sections 1 and 2 of chapter 94-442, Laws of  
Florida, as amended by chapter 95-499, Laws of Florida, is  
amended to read:

Section 1. Intent. ~~Notwithstanding the provisions of~~  
~~s. 180.191, Florida Statutes, and except as otherwise provided~~  
~~in section 2(4) of this act, beginning September 1, 1994, a~~  
~~water utility operating in Brevard County may add a~~  
~~distribution differential surcharge of not more than 10~~  
~~percent of the rates, fees, and charges charged to consumers~~  
~~inside the boundaries of a supplier municipality situated~~  
~~within Brevard County to consumers of such services residing~~  
~~outside the supplier's municipal boundaries. It is the intent~~  
of the Legislature that the potable water utility systems  
exercising the authority granted by this section endeavor to  
adopt and impose just and equitable ~~equal~~ rates with respect  
to both the municipalities and the several unincorporated  
areas to which they may be extending service, and that the  
levels of service shall be substantially the same throughout  
the distribution system.

1           Section 2. ~~(1) An initial distribution differential~~  
2 ~~rate study shall be conducted by the supplier municipality,~~  
3 ~~with the same criteria and consultant selection process as for~~  
4 ~~the rate study required for a distribution differential~~  
5 ~~surcharge in excess of 10 percent pursuant to subsection (2),~~  
6 ~~in order to establish an initial justified distribution~~  
7 ~~differential surcharge for consumers outside of the supplier~~  
8 ~~municipality. Such initial study shall be completed within 6~~  
9 ~~months of this act becoming a law.~~

10           (1)(2) Authorized surcharge.--Notwithstanding the  
11 provisions of s. 180.191, Florida Statutes, and except as  
12 otherwise authorized by this act, a water utility operating in  
13 Brevard County may add a surcharge of not more than 10 percent  
14 of the rates, fees, and charges charged to consumers inside  
15 the boundaries of a supplier municipality situated within  
16 Brevard County to consumers of such services residing outside  
17 the supplier's municipal boundaries.With respect to any  
18 proposed surcharge ~~rate differential~~ in excess of the 10  
19 percent authorized by this act, a rate study shall be required  
20 to justify the surcharge increase above ~~said~~ 10 percent. A  
21 surcharge shall not exceed 25 percent. The surcharge shall  
22 only include those expenses identified in a rate study which  
23 are directly attributable to the cost of delivering water to  
24 the specific service area studied for the surcharge. Prior to  
25 adopting a surcharge authorized by this act which will result  
26 in customers residing outside the supplier's municipal  
27 boundaries paying rates more than 110 percent of the  
28 supplier's base rate, the supplier shall conduct a rate study  
29 as required by this act.

30           (2) Rate study.--The supplier shall identify the area  
31 which the consultant shall study for purposes of the rate

1 study required by this act.The rate study shall be conducted  
2 by a consultant, qualified by experience and hired under  
3 contract by the supplier. Said consultant shall be selected  
4 by the supplier from a list of three consultants prepared and  
5 submitted to the supplier by an advisory group as defined in  
6 subsection (3). ~~The advisory group shall be made up of three~~  
7 ~~members, one member from each of the following: the supplier~~  
8 ~~city, a county commissioner from the affected area, and one~~  
9 ~~representative selected by those municipalities subject to a~~  
10 ~~distribution differential surcharge. In instances where the~~  
11 ~~affected area is unincorporated, a county commissioner of said~~  
12 ~~area shall appoint a citizen from the unincorporated area.~~  
13 The criteria for the consultant's rate study shall be based on  
14 the fundamental principles recognized in similar studies  
15 conducted pursuant to guidelines of the Public Service  
16 Commission, set forth in s. 367.081(2)(a), Florida Statutes,  
17 and s. 25-30.433, Florida Administrative Code, as both  
18 sections are amended, modified, or renumbered from time to  
19 time. At least 30 days before approval of the contract for the  
20 rate study, the proposed scope of work shall be transmitted to  
21 the board of county commissioners and each customer  
22 municipality subject to the proposed surcharge. The county  
23 commission and each customer municipality shall have the right  
24 to comment in writing on the proposed scope of the work no  
25 later than 2 weeks before approval of the contract. The  
26 supplier municipality shall respond in writing to all such  
27 comments at least 48 hours before approval of the contract.  
28 (3) Advisory group.--The advisory group shall be made  
29 up of three members, one member from each of the following:  
30 the supplier city, a county commissioner selected by the board  
31 of county commissioners, and one representative selected by

1 those municipalities subject to the proposed surcharge. In  
2 instances where the proposed surcharge affects an  
3 unincorporated area and a municipality, the county commission  
4 may appoint a citizen from the unincorporated area in lieu of  
5 the county commissioner. In instances where the proposed  
6 surcharge only affects an unincorporated area, the county  
7 commission shall appoint a citizen from the unincorporated  
8 area in lieu of a representative selected by a user  
9 municipality. At such time the supplier proposes a surcharge  
10 in excess of 10 percent, the supplier shall convene a meeting  
11 of the advisory group by providing at least 30 days written  
12 notice to the county commission and to each municipality which  
13 could be subject to the proposed surcharge. The notice shall  
14 provide the date, time, and place of the meeting, identify the  
15 geographical area to be studied, and state the requirement to  
16 generate the list of consultants at that meeting. If the  
17 county or noticed municipalities fail to send a respective  
18 authorized representative to the scheduled advisory group  
19 meeting, the party failing to do so shall forfeit the ability  
20 to participate in the convened advisory group.

21 ~~(3) Thirty days before approval of the contract for~~  
22 ~~the rate study, the proposed scope of work shall be~~  
23 ~~transmitted to each county commissioner and each customer~~  
24 ~~municipality. The county commission and each customer~~  
25 ~~municipality shall have the right to comment in writing on the~~  
26 ~~proposed scope of the work no later than 2 weeks before~~  
27 ~~approval of the contract. The supplier municipality shall~~  
28 ~~respond in writing to all such comments at least 48 hours~~  
29 ~~before approval of the contract.~~

30 (4) Rate setting.--Water rates shall include a base  
31 rate and an optional ~~distribution differential~~ surcharge

1 authorized by this act ~~when justified. Any distribution~~  
2 ~~differential surcharge of more than 10 percent must be~~  
3 ~~justified by a rate study. The distribution differential~~  
4 ~~surcharge shall only include those expenses which are directly~~  
5 ~~attributable to the cost of delivering water to specific~~  
6 ~~service areas. Any rates~~ charged customers residing outside  
7 the supplier's municipal boundaries of 26 percent or greater  
8 than 125 percent of the suppliers base rate shall be subject  
9 to the provisions of s. 180.191, Florida Statutes.

10       ~~(5)~~ A surcharge ~~An increase~~ in excess of the 10  
11 percent authorized by this act shall be imposed only pursuant  
12 to the support of the consultant's findings in the rate study  
13 and following a public hearing called by the governing body of  
14 the supplier municipality, to be held no later than 60 days  
15 after ~~within 14 days of~~ the release of the consultant's  
16 findings. At any such public hearing on the surcharge rate  
17 increase, residents of the ~~affected~~ area affected by the  
18 surcharge shall be afforded ample opportunity to be heard.

19       ~~(5)(6)~~ Exception.--The provisions of subsections (2),  
20 (3), and ~~(4)(5)~~ shall not be applicable in any case where a  
21 contrary intention or procedure is set forth in an interlocal  
22 agreement which is executed after the effective date of this  
23 act, thereby precluding the necessity to conduct a rate study  
24 applicable to the participating consumer county or  
25 municipality.

26       Section 2. This act shall take effect upon becoming a  
27 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
SB1530

Corrects typographical and drafting errors.