

**STORAGE NAME:** h3541z.ca  
**DATE:** June 25, 1998

**\*\*FINAL ACTION\*\***  
**\*\*SEE FINAL ACTION STATUS SECTION\*\***

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

**BILL #:** 1ST ENG/HB 3541  
**RELATING TO:** Brevard County  
**SPONSOR(S):** Representative Posey  
**COMPANION BILL(S):** CS/SB 1530 (i)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) COMMUNITY AFFAIRS YEAS 7 NAYS 0
- (2) FINANCE AND TAXATION (W/D)
- (3)
- (4)
- (5)

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**I. FINAL ACTION STATUS:**

House Bill 3541 was referred on March 2, 1998 to The House Committees on Community Affairs and Finance and Taxation. The bill was placed on the Community Affairs agenda on March 6, 1998. The bill was voted favorably by the committee on March 12, 1998. The bill was withdrawn from the Committee on Finance and Taxation on March 25, 1998. The bill passed the House on April 1, 1998 with a vote of 113 YEAS and 0 NAYS.

The bill was received in Senate messages on April 1, 1998 and referred to the Committees on Regulated Industries and Rules and Calendar. The bill was withdrawn from the Committee on Regulated Industries on April 29, 1998 and withdrawn from the Committee on Rules and Calendar on May 1, 1998. The bill passed the Senate on May 1, 1998 with a vote of 40 YEAS and 0 NAYS. The bill became law on May 27, 1998 without the Governor's signature as chapter 98-463, Laws of Florida.

**II. SUMMARY:**

The bill re-authorizes water utilities within Brevard County, at their option, to add a surcharge of not more than 10 percent of the rates, fees and charges for customers outside of their municipal boundaries. House Bill 3541 provides legislative intent that potable water utility systems should endeavor to adopt and impose just and equitable rates.

The bill clarifies statutory language which directs water utility operators in Brevard County to perform a rate study, when adding a surcharge in excess of 10 percent, for customers that reside outside of the suppliers municipal boundaries. The bill provides requirements of the supplier for the timing, performance, and approval of the rate study. The proposed surcharge may not exceed a 25 percent rate increase and must include only those expenses identified in the rate study as directly attributable to the cost of service delivery to those being assessed the surcharge.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Currently, there are four water utility providers in Brevard County they are; 1) the City of Cocoa, 2) the City of Melbourne, 3) the City of Titusville and, 4) Brevard County.

Chapter 94-442, Laws of Florida, provides 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 assessed to consumers inside the boundaries of a supplier municipality situated within Brevard County to consumers of such services residing outside of the supplier's municipal boundaries.

Furthermore, chapter 96-442, Laws of Florida, mandated that an initial distribution differential rate study be completed by all supplier municipalities within Brevard County by November, 1994. Only the City of Melbourne complied with this provision of the law.

In addition, with respect to any rate differential in excess of 10 percent, a rate study conducted by a consultant is required. An advisory group of three members, one member from each of the following; 1) the supplier city, a county commissioner from the affected area, and one representative selected by those municipalities subject to a distribution differential charge, must review and recommend to the supplier three potential consultants to perform the rate study.

Thirty days before the approval of a contract for a rate study, the proposed scope of work must be transmitted to each county commissioner and each customer municipality.

The rate study must justify any rate increase over 10 percent and the governing body of the municipality must call a public hearing related to the findings of the rate study within 14 days and give the public ample opportunity to be heard.

Section 180.191 provides that any municipality within the state operating a water or sewer utility outside the boundaries of such municipality shall charge consumers outside the boundaries rates, fees and charges as outlined in the section.

B. EFFECT OF PROPOSED CHANGES:

The bill re-authorizes water utilities within Brevard County, at their option, to add a surcharge of not more than 10 percent of the rates, fees and charges for customers outside of their municipal boundaries. House Bill 3541 provides legislative intent that potable water utility systems should endeavor to adopt and impose just and equitable rates.

The bill clarifies statutory language which directs water utility operators in Brevard County to perform a rate study, when adding a surcharge in excess of 10 percent, for customers that reside outside of the suppliers municipal boundaries. The bill provides requirements of the supplier for the timing, performance, and approval of the rate study. The proposed surcharge may not exceed a 25 percent rate increase and must include only those expenses identified in the rate study as directly attributable to the cost of service delivery to those being assessed the surcharge.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 94-443, Laws of Florida as amended by chapter 95-499, Laws of Florida.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

Yes, the bill re-authorizes water suppliers in Brevard County, at their option, to assess a surcharge for consumers outside the supplier's municipal boundaries for not more than 10 percent of the rates charged to consumers within a supplier's municipal boundaries.

In addition, subject to a rate study, the bill re-authorizes water suppliers in Brevard County to assess a surcharge for consumers outside a supplier's municipal boundaries, not to exceed a 25 percent rate increase of the rates charged to customers within a supplier's municipal boundaries.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

Yes, see 2b.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing service to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION RESEARCH:

**Section 1.** Sections 1 and 2 of chapter 94-442, Laws of Florida, as amended by chapter 94-499, Laws of Florida, are amended to clarify that the chapter applies to potable water systems; and provides that it is the intent of the Legislature that water suppliers within Brevard County adopt and impose just and equitable rates.

Notwithstanding the provisions of section 180.191, Florida Statutes, a water supplier within Brevard County may authorize a surcharge, of not more than 10 percent of the rates charged to consumers within a supplier's municipal boundaries, for consumers residing outside a supplier's municipal boundaries.

A surcharge shall not exceed 25 percent and shall only include those expenses identified in a rate study which are directly attributable to the cost of delivering water to the specific service area studied for the surcharge.

A rate study shall be performed by a consultant, for a surcharge which exceeds 10 percent of rates charged to consumers within a water supplier's municipal boundaries. The consultant shall be chosen by the water supplier from a list of three recommendations prepared by a three-member advisory group. The group shall include one from each of the following: 1) a representative of the supplier city, 2) a county commissioner selected by the board of county commissioners and, 3) one representative selected by those municipalities subject to the proposed surcharge.

In instances where the proposed surcharge only affects an unincorporated area, the county commission shall appoint a citizen from the unincorporated area in lieu of a representative from the supplier.

At such time as the supplier proposes a surcharge increase in excess of 10 percent, the supplier shall convene a meeting of the advisory group by providing at least 30 days written notice to the county commission and each municipality which is subject to the proposed surcharge.

Any rates charged customers residing outside the supplier's municipal boundaries greater than 125 percent of the suppliers base rate shall be subject to the provisions 180.191, Florida Statutes.

A public hearing reviewing the findings of the consultant shall be held by the supplier's governing body no later than 60 days after the rate study has been completed.

Some conforming language is included in the bill.

**Section 2.** This act shall take effect upon becoming law.

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IV. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 13, 1998

WHERE? Orlando Sentinel

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

V. COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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