

By Representative Posey

1 A bill to be entitled
2 An act relating to Brevard County; amending
3 chapter 94-442, Laws of Florida, as amended by
4 chapter 95-499, Laws of Florida; clarifying the
5 method, procedure, and requirement for
6 performing a rate study to justify a
7 distribution differential surcharge rate
8 imposed by a potable water utility; limiting
9 the amount of distribution differential
10 surcharge a water utility may charge consumers
11 outside municipal boundaries; requiring a rate
12 study for increases in excess of the limit;
13 providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

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

20 Section 1. Intent. ~~Notwithstanding the provisions of~~
21 ~~s. 180.191, Florida Statutes, and except as otherwise provided~~
22 ~~in section 2(4) of this act, beginning September 1, 1994, a~~
23 ~~water utility operating in Brevard County may add a~~
24 ~~distribution differential surcharge of not more than 10~~
25 ~~percent of the rates, fees, and charges charged to consumers~~
26 ~~inside the boundaries of a supplier municipality situated~~
27 ~~within Brevard County to consumers of such services residing~~
28 ~~outside the supplier's municipal boundaries. It is the intent~~
29 of the Legislature that the potable water utility systems
30 exercising the authority granted by this section endeavor to
31 adopt and impose just and equitable ~~equal~~ rates with respect

1 to both the municipalities and the several unincorporated
2 areas to which they may be extending service, and that the
3 levels of service shall be substantially the same throughout
4 the distribution system.

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

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

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

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

25 ~~(3) Thirty days before approval of the contract for~~
26 ~~the rate study, the proposed scope of work shall be~~
27 ~~transmitted to each county commissioner and each customer~~
28 ~~municipality. The county commission and each customer~~
29 ~~municipality shall have the right to comment in writing on the~~
30 ~~proposed scope of the work no later than 2 weeks before~~
31 ~~approval of the contract. The supplier municipality shall~~

1 ~~respond in writing to all such comments at least 48 hours~~
2 ~~before approval of the contract.~~

3 (4) Rate setting.--Water rates shall include a base
4 rate and an optional ~~distribution differential~~ surcharge
5 authorized by this act when justified. Any ~~distribution~~
6 ~~differential surcharge of more than 10 percent must be~~
7 ~~justified by a rate study.~~ The ~~distribution differential~~
8 ~~surcharge shall only include those expenses which are directly~~
9 ~~attributable to the cost of delivering water to specific~~
10 ~~service areas.~~ Any rates charged customers residing outside
11 the supplier's municipal boundaries of 25 percent or greater
12 than 125 percent of the suppliers base rate shall be subject
13 to the provisions of s. 180.191, Florida Statutes.

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

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

30 Section 2. This act shall take effect upon becoming a
31 law.