

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: January 30, 1998 Revised: \_\_\_\_\_

Subject: Municipal Water and Sewer Utilities

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Schmith</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
2.	_____	_____	<u>RI</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The bill revises the statute limiting the rates, fees and charges imposed by a municipal water or sewer utility on consumers outside its municipal boundaries. The bill deletes all exceptions to and exemptions from application of the statute so that all municipal water and sewer utilities are treated equally under the law.

The bill substantially amends section 180.191 of the Florida Statutes.

**II. Present Situation:**

Section 180.19, F.S., provides that a municipality under the Municipal Public Works Law may permit another municipality and the owners of property outside its corporate limits or within the limits of another municipality to connect with or use such utilities.

Section 180.191, F.S., governs rates charged by a municipal water or sewer utility to consumers outside its city limits. The purpose of the statute is to limit the rates, fees and charges by a municipally-owned water or sewer utility to consumers outside its boundaries. As originally enacted, the statute provided that a municipal water or sewer utility which operated outside its city limits could set its rates, fees and charges in one of the two following ways:

- ▶ The municipality may charge the same rates, fees and charges to consumers outside its boundaries as it does to consumers within its boundaries, and may charge consumers outside its boundaries a surcharge of up to 25 percent. Rates, fees and charges set in this manner do not require a public hearing other than that provided for service to consumers within the municipal boundaries.

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- ▶ The municipality may charge rates, fees and charges to consumers outside its boundaries as long as they are “just and equitable” and are based on the same factors used in fixing the rates, fees and charges to consumers within its boundaries. In addition, the municipality may charge consumers outside its boundaries a surcharge of up to 25 percent; however, the total of rates, fees and charges to consumers outside the municipal boundaries may not exceed by more than 50 percent the rates, fees and charges to consumers within the municipal boundaries. Rates, fees and charges set in this manner require a public hearing at which all users of the utility system and all owners, tenants, or occupants of property served by the utility system, have an opportunity to be heard.

As originally enacted, the statute applied to municipally-owned water and sewer utilities within the confines of one county. [This is a limitation on the application of the statute.] The statute did not apply to a county operating under a home rule charter if the county has in operation an agency regulating water and sewer systems. [This is an exception to the application of the statute.] *See* ch. 70-997, *Laws of Florida*. Therefore, as originally enacted, the statute granted no authority for a municipality operating water and sewer utilities beyond the confines of a single county or in a county regulating water and sewer systems to charge more of the consumers outside its boundaries.

At that time Dade County, which operated under a home rule charter and regulated water and sewer systems through its own agency, required that the water and sewer utility of the City of North Miami Beach to provide its services to consumers outside its municipal boundaries at rates *below* those charged to customers within its municipal boundaries. *See* Staff Analysis & Economic Impact Statement for House Bill 1035, House Committee on Regulated Industries & Licensing (April 18, 1988). In response to arguments from the City of North Miami Beach that its city residents were subsidizing water and sewer services provided to consumers outside the municipal boundaries, the Legislature enacted chapter 88-301, *Laws of Florida*, revising s. 180.191, F.S.

Chapter 88-301, *Laws of Florida*, created subsection (5) of s. 180.191, F.S., which provides exemptions to the exception from 180.191, F.S., for a municipality operating water and sewer utilities within a county operating its own water and sewer regulatory agency. However, the extent of the exemption depends upon the date on which the county in which the municipality is located began regulating water and sewer rates.

Paragraph (a) of subsection (5) *requires* a municipally-owned water and sewer utility operating outside its municipal boundaries, but within the confines of a single county, and which exempts itself from county rate regulation (if applicable) to charge consumers outside its municipal boundaries *the same rates, fees and charges* it charges consumers within its boundaries. By comparison, paragraph (b) applies the original provisions of s. 180.191, F.S., (meaning authority to impose the 25 percent surcharge) to a municipally-owned water and sewer utility which operates outside its municipal boundaries, but within the boundaries of a single county, *and which is located within a county which was regulating water and sewer rates on or before May 1, 1988*, if the following conditions are met:

- The municipality was providing these services to consumers outside its municipal boundaries prior to the county agency assuming responsibility for regulating water and sewer utility rates;
- The municipality adopts an ordinance modifying its water and sewer system rate structure as necessary to bring the method of rate determination in compliance with this statute, and declaring its exemption from county agency regulation of water and sewer rates, fees and charges; and
- The municipality remains in compliance with this subsection.

According to the staff analysis, the City of North Miami Beach was the only city known to qualify for the exemption in paragraph (b), and the city estimated that the law would enable its residents to save \$350,000 per year, passing those costs along to outside consumers.

In 1992, the City of North Miami Beach again sought an amendment to s. 180.191, F.S., this time for relief from the limitation in subsection (3) that the statute only applies to a municipality operating water and sewer utilities outside its municipal boundaries, *and within the confines of a single county*. At this time the city was providing water and sewer services to both Dade and Broward counties, and could not exercise the exemption from county regulation provided by ch. 88-301, Laws of Florida, because it was no longer operating water and sewer utility services within the confines of a single county. *See Bill Analysis & Economic Impact Statement for House Bill 859, Committee on Regulated Industries & Technology (January 21, 1992).*

The Legislature enacted chapter 92-181, Laws of Florida, which amended subsection (3), the limitation on application of the statute. The amendment applied the provisions of the statute to a municipally-owned water and sewer utility operating beyond the confines of a single county *by interlocal agreement*. The amendment also deleted from subsection (5) the limitation that the municipality be operating a water and sewer utility within the confines of a single county in order to qualify for exemption from county regulation. The effect of the changes was to provide that a municipal water and sewer utility which provides service to consumers outside its municipal boundaries and in more than one county is eligible for exemption from county regulation pursuant to an interlocal agreement.

### **III. Effect of Proposed Changes:**

The bill deletes subsections (4) and (5) of s. 180.191, F.S.; thereby deleting the exception to application of the statute in a county operating its own water and sewer regulatory agency, and deleting the exemptions thereto crafted in 1988 for the City of North Miami Beach. The bill, in effect, restores the law to its original language, retaining only the 1992 amendment authorizing a municipality which operates a water and sewer utility beyond the confines of a single county to set its rates according to the statute. There are no exceptions to its application, or exemptions from those exceptions. The bill retains the modified limitation on the statute's application.

Therefore, all municipalities operating a water or sewer utility outside their boundaries are restricted as to the rates which may be charged to customers outside the boundaries, although a 25-percent surcharge over the rates charged in the boundaries is permitted.

**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:

Indeterminate.

C. Government Sector Impact:

The bill is filed on behalf of the City of North Miami Beach, which is the only municipality operating a water and sewer utility whose rate setting is treated differently under the law. The bill will lift restrictions on the city's rate setting and authorize it to operate under the same provisions as other municipal water and sewer utilities.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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