

STORAGE NAME: h0791a.ca

DATE: April 15, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 791

RELATING TO: Municipal Water and Sewer Utilities

SPONSOR(S): Representative Heyman

STATUTE(S) AFFECTED: Section 180.191, Florida Statutes

COMPANION BILL(S): SB 950 (i)

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

- (1) COMMUNITY AFFAIRS YEAS 6 NAYS 0
- (2) UTILITIES & COMMUNICATIONS
- (3)
- (4)
- (5)

I. SUMMARY:

This bill repeals the exclusion from rate limitations of municipal utilities in home rule charter counties with fee regulations established prior to May 1, 1988. This bill would make all municipal utilities providing services to consumers outside their city limits but within the confines of one county, subject to the same fee and rate limitations contained within other subsections of this section of the law.

This bill may cause a slight increase in revenue by an indeterminate amount for qualified municipal utilities in home rule charter counties.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

In 1970, the Legislature adopted chapter 70-997, Laws of Florida, which established a limitation on the ability of municipal owned water and sewer utilities to set rates and surcharges on consumers located outside the municipality's boundaries. This limitation applied only to municipal water and sewer utilities which provide water and sewer services to consumers outside their municipal boundaries, but within the confines of one county.

In 1988, the Legislature adopted chapter 88-301, Laws of Florida, which substantially amended section 180.191, Florida Statutes, clarifying the rate and surcharge limitations. The section clarified the following criteria:

The municipal utility may charge non-municipal consumers the same rates, fees, and charges it charges to municipal consumers. In addition, it may add a surcharge on to the rates, fees, and charges of up to 25 percent of the municipal consumer's rate. No public hearing is required for this option; or

The municipal utility may charge non-municipal consumers rates, fees, and charges that are just and equitable and that are based on the same factors they use for establishing the municipal consumer's rate. In addition, it may add a surcharge of up to 25 percent excess of municipal consumer's rates on the non-municipal consumer's rates, fees, and charges. The total of all rates, fees, charges, and surcharges charged to non-municipal consumers may not exceed 50 percent of the municipal consumer's rate. A public hearing, at which all of the users of the municipality's water or sewer services may participate, is required for this option.

In 1992, the Legislature adopted chapter 92-181, Laws of Florida, and further amended section 180.191, Florida Statutes. Section 180.191, Florida Statutes, created an exemption from the rate and surcharge limitations of the section for certain municipal owned water and sewer systems that met the following criteria:

The municipal utility charges the same rates, fees, and charges to outside municipal boundary consumers that it charges to within municipal consumers; and

The county was regulating water and sewer rates of the municipal water and sewer utility on or before May 1, 1988; and

The municipal water and sewer utility was providing water and sewer services to outside municipal boundary consumers within the county before May 1, 1988; and

The governing body of the municipal water and sewer utility adopts an ordinance, under the authority of this section, to modify utility's rate structure to bring the utility's rate determination method into compliance with the limitations of subsection 180.191(5), Florida Statutes; and

The municipal ordinance declares the exemption from the county's regulatory agency is to take effect upon the effective date of the ordinance; and

The municipality remains in compliance with subsection 180.191(5), Florida Statutes.

Subsection 180.191(5), Florida Statutes, authorizes the eligible municipal utilities to charge consumers outside the city limits the same rate structure as they charge consumers within the city limits. This subsection does not authorized the utility to impose a surcharge on fees to consumers outside the city limits.

B. EFFECT OF PROPOSED CHANGES:

This bill repeals the current exemption from the general limitation on fees and surcharges that a municipal water and sewer utility located in an home rule charter county may charge consumers outside the city limits. This bill would authorize the previously exempted municipal utilities to add a surcharge on the fees of consumers outside the city limits, subject to the fee and surcharge limitations of this section.

The current exclusion from fee and surcharge limitations applies only to municipal utilities that meet the following criteria:

- 1) The municipality is located in a home rule charter county; and
- 2) The municipality is providing services to consumers outside the city limits but within the confines of one county; and
- 3) The municipality began providing services to consumers outside the city limits prior to May 1, 1988; and
- 4) The county began regulating utility fees prior to May 1, 1988; and
- 5) The county and municipality have entered an interlocal agreement regulating fees; and
- 6) The municipality adopted the regulations by ordinance; and
- 7) The municipality remains in compliance with the interlocal agreement.

Therefore, the effect of the proposed changes would be to place the previously exempted municipal utilities under the same rate and surcharge limitations as all municipal utilities providing services to consumers outside the city limits but within the confines of one county.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

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

Not applicable (N/A).

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

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

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

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

N/A

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

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

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

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. In the event a previously exempted municipal water and sewer utility fee to consumers outside the city limits did not include any additional costs associated with providing those services the removal of this exemption would authorize the municipal utilities to increase fees in accordance with the current statutory limitations of this section.

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 "b." above.

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?

N/A

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:

N/A

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

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

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

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 services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

N/A

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends section 180.191, Florida Statutes, to:

- ◆ Delete the exclusion of certain municipal sewer and water utilities located in home rule charter counties from the limitations on utility rates contained within this statute. These limitations include the following options:

The municipal utility may charge the same rate to consumers both in and outside of the city limits. In addition, the utility may add a surcharge of not more than 25% of the rate (no public hearing required).

The municipal utility may charge "just and equitable" rates to consumers outside city limits as long as the fees are based on the same factors used in calculating the rates of consumers inside the city limits. In addition, the utility may add a surcharge of 25% of the fees, however, the total of the fees and surcharge may not exceed 50% of the fees charged consumers inside the city limits (a public hearing is required).

- ◆ Delete the alternate rate limitation provisions which had been established for certain municipal sewer and water utilities located in home rule charter counties;
- ◆ Delete the criteria for determination of eligibility for the alternative rate limitation provisions of this statute for certain municipal sewer and water utilities located in home rule charter counties; and
- ◆ Delete the enforcement provision of the alternate rate limitation provisions previously established for certain municipal sewer and water utilities located in home rule charter counties;

Section 2: Provides that the act shall take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

There may be a recurring increase in revenue to certain municipalities in the event that the following has occurred:

- 1) There are municipal water and sewer utilities that are currently exempted from the general rate limitations that now may increase rates; and
- 2) Such municipal water and sewer utilities have been subsidizing the cost of providing services to consumers outside the city limits due to the statutory rate limitation requirement of this exception.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require the expenditure of funds by counties or municipalities.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue-raising authority of counties and municipalities.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

According to the City Manager of North Miami Beach, the City of North Miami Beach Municipal Utility is the only utility qualified for the current exemption. In addition, according to the City Manager, due to the exemption, the utility is unable to recoup the additional costs associated with the provision of services to consumers located outside the city limits.

STORAGE NAME: h0791a.ca

DATE: April 15, 1997

PAGE 9

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Tonya Sue Chavis, Esq.

Jenny Underwood Dietzel