

STORAGE NAME: h0791z.uc
DATE: May 11, 1998

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

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
UTILITIES AND COMMUNICATIONS
FINAL FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 791
RELATING TO: Municipal Water and Sewer Utilities
SPONSOR(S): Representative Heyman
COMPANION BILL(S):

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

- (1) COMMUNITY AFFAIRS YEAS 6 NAYS 0
- (2) UTILITIES & COMMUNICATIONS YEAS 13 NAYS 0
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

On March 17, 1998, the bill was favorably passed by the House and placed in messages. It passed the Senate on April 8, 1998 and was ordered enrolled. The bill became law without the Governor's signature on April 22, 1998. Chapter Number 98-15.

II. SUMMARY:

This bill repeals the current exceptions from the specific 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.

The bill would authorize the municipal utilities located in home rule charter counties to add a surcharge on the fees of consumers outside the city limits, subject to the fee and surcharge limitations of this section.

This act shall take effect upon becoming law.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

In 1970, the Legislature adopted chapter 70-997, Laws of Florida, which established a limitation on the ability of municipally owned electric, water, sewer, and gas utilities to set rates and surcharges on consumers located outside the municipality's boundaries. This limitation applied to municipally owned electric or gas utilities and municipally owned water and sewer utilities within the confines of a single county.

These provisions were codified at section 172.081 and section 180.191, Florida Statutes. The Division of Statutory Revision codified the parts of the act dealing with municipal electric and gas operations in section 172.081 and municipal water and sewer operations in section 180.191. Section 172.081, Florida Statutes, was subsequently repealed by chapter 73-129, Laws of Florida. The provisions regulating the rates, fees, and charges for municipal water and sewer utilities did not apply to home rule charter counties that had an agency regulating water and sewer systems.

In 1988, the Legislature adopted chapter 88-301, Laws of Florida, amending section 180.191, Florida Statutes, relating to municipally owned water and sewer utilities operating within home rule counties. That amendment gave municipal utilities the authority to operate under the rate limitations and restrictions of general law rather than under county regulation yet continued the restriction from the operation of this section for home rule counties that had in operation an agency regulating water and sewer systems.

In 1992, the Legislature adopted chapter 92-181, Laws of Florida, which further amended section 180.191, Florida Statutes. That amendment to section 180.191, Florida Statutes, expanded the exemption of municipal water and sewer utilities operating outside municipal boundaries from county regulation and, allowed a municipally owned utility to operate in more than a single county pursuant to an interlocal agreement. Any municipality operating a municipally owned water and sewer utility and providing water and sewer service outside the municipal boundaries would be eligible for and could specifically exercise the exemption from county rate regulation as provided in section 180.191(5)(b), Florida Statutes, and must charge consumers outside the boundaries the same just and equitable rates, fees, and charges as consumers inside the municipal boundaries.

Currently, subsection 180.191(5)(b), Florida Statutes, as amended, provides:

(b) the provisions of this section shall be applicable within a county that was regulating water and sewer rates on or before May 1, 1988 with respect to any municipality operating. . .outside the boundaries of the municipality, provided that:

1. The municipality was providing water and sewer service to any consumers outside its municipal boundaries before May 1, 1988.
2. The governing body of the municipality adopts an ordinance, under the authority of this section, modifying the current water and sewer system rate structure. . .as may be necessary to bring the method of rate determination into

compliance with the provisions of this subsection and declaring the municipality's exemption. . .

3. The municipality remains in compliance with this subsection.

Additionally, section 180.191(1), Florida Statutes, provides that any municipality, which operates water or sewer utilities outside of its boundaries, but not in a home rule charter county, could determine rates, fees, and charges in one of the following manners:

(a) The same rates, fees and charges as consumers inside the municipal boundaries; provided, in addition thereto, the municipality may add a surcharge of not more than 25% of such rates, fees and charges to consumers outside the boundaries. Fixing of such rates, fees and charges shall not require a public hearing except a may be provided for service to consumers inside the municipality.

(b) Rates, fees and charges that are just and equitable and which are based on the same factors used in fixing the rates, fees and charges for consumers inside the municipal boundary. In addition thereto, the municipality may add a surcharge not to exceed 25% of such rates, fees and charges for said services to consumers outside the boundaries; provided that the total of these charges to non-municipal consumers was no more than 50% in excess of municipality consumers. Rates established in this manner would not be fixed without a public hearing.

B. EFFECT OF PROPOSED CHANGES:

This bill would repeal the current exemption from the specific limitation on fees and surcharges that a municipal water and sewer utility operating 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 section 180.191(1), Florida Statutes.

C. 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?

N/A.

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

N/A.

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

N/A.

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. Municipal utilities previously exempted from the operation of this section will be authorized to impose surcharges on the fees of consumers outside the city limits, subject to the fee and surcharge 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 "2.b." above.

3. Personal Responsibility:

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

N/A.

- 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?

N/A.

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

N/A.

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?

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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 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:

- (1) parents and guardians?

N/A.

- (2) service providers?

N/A.

- (3) government employees/agencies?

N/A.

D. STATUTE(S) AFFECTED:

Section 180.191, Florida Statutes

E. SECTION-BY-SECTION RESEARCH:

IV. FISCAL RESEARCH & 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 for municipal water and sewer utilities operating in home rule charter counties.

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:

None.

D. FISCAL COMMENTS:

None.

V. 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.

VI. COMMENTS:

According to the City Manager of North Miami Beach, the City of North Miami Beach Municipal Utility is the only utility exempted by this section. Additionally, due to its exempt status, the utility is unable to recoup costs associated with service to consumers located outside the city limits.

On October 7, 1997, the Committee on Utilities and Communications unanimously passed HB 791.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VIII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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