

# 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.)

BILL: CS/SB 1494

SPONSOR: Regulated Industries Committee and Senator Saunders

SUBJECT: Water and Wastewater Systems

DATE: March 11, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Martin</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This bill amends the Water and Wastewater System Regulatory Law. It expands the definition of “governmental authority” to include a nonprofit corporation formed for the purpose of acting on behalf of a political subdivision, exempts systems owned by such corporations from regulation by the Florida Public Service Commission, and allows sales, assignments, or transfers of facilities that are subject to approval by the commission to occur prior to such approval, if the contract for sale, assignment or transfer is made contingent upon commission approval.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 367.021, 367.022, and 367.071.

## II. Present Situation:

Under Chapter 367, F.S., the Florida Public Service Commission (PSC) exercises exclusive jurisdiction over the economic regulation of investor-owned and private water and wastewater utilities, with the exception of those utilities that are regulated by counties that have opted to retain regulatory jurisdiction. Further, the law exempts systems operated by governmental authorities, including wastewater facilities operated by private firms under wastewater facility privatization contracts as defined in §153.91, F.S.

Currently, no utility shall sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without determination and approval of the PSC that the proposed sale, assignment, or transfer is in the public interest and that the buyer, assignee, or transferee will fulfill the commitments, obligations, and representations of the utility.

### III. Effect of Proposed Changes:

This bill amends §§367.021 and 367.022, F.S., to include within the definition of “governmental authority” nonprofit corporations formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility, and to expand the exemption from PSC regulation granted to utilities owned by governmental authorities to include facilities owned by these nonprofit corporations.

In the area of sales, assignments, or transfers of certificates of authorization, facilities, or any portion thereof of a facility under the regulatory jurisdiction of the PSC, the bill modifies the existing statutory requirement in §367.071(1), F.S., of prior approval by the PSC and allows the sale to occur if the contract for sale, assignment or transfer is made contingent on PSC approval.

### 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:

This bill will impact investor-owned water and wastewater utilities within PSC jurisdictional counties by providing the option to consummate specified transactions prior to PSC approving the transaction by making the contract for sale, assignment or transfer contingent upon eventual approval of the PSC.

#### C. Government Sector Impact:

This bill may facilitate the transition of private water and wastewater facilities to public ownership in cases where the local government and the private utility have negotiated such a sale. Some governmental authorities are acquiring facilities through nonprofit corporations in order to facilitate negotiation, purchase and transfer of the facility, and to provide a suitable level of insulation from operational activities by the corporation taken after acquisition. The

definition of governmental authorities is expanded to include nonprofit corporations, and they are granted specific exemptions from PSC jurisdiction.

**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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