25-816A-99

A bill to be entitled 1 2 An act relating to water and wastewater systems; amending s. 367.021, F.S.; redefining 3 4 the term "governmental authority"; amending s. 367.022, F.S.; providing for an additional 5 exemption; amending s. 367.071, F.S.; 6 7 authorizing specified transactions before Public Service Commission approval if bond is 8 9 posted; providing an effective date. 10 Be It Enacted by the Legislature of the State of Florida: 11 12 Section 1. Subsection (7) of section 367.021, Florida 13 Statutes, is amended to read: 14 367.021 Definitions.--As used in this chapter, the 15 16 following words or terms shall have the meanings indicated: (7) "Governmental authority" means a political 17 subdivision, as defined by s. 1.01(8), or a regional water 18 19 supply authority created pursuant to s. 373.1962, or a 20 nonprofit corporation formed for the purpose of acting on behalf of a political subdivision with respect to a water or 21 22 wastewater facility. 23 Section 2. Section 367.022, Florida Statutes, is 24 amended to read: 367.022 Exemptions.--The following are not subject to 25 26 regulation by the commission as a utility nor are they subject 27 to the provisions of this chapter, except as expressly provided: 28 The sale, distribution, or furnishing of bottled 29 30 water.; 31

1

2 3

4 5

6

7

8

9

10

11

12 13

14

15

16 17

18

19

20

21

22

23 24

25

26

27 28

29

30

- (2) Systems owned, operated, managed, or controlled by governmental authorities, including water or wastewater facilities operated by private firms under water or wastewater facility privatization contracts as defined in s. 153.91, and nonprofit corporations formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility. +
- (3) Manufacturers providing service solely in connection with their operations. +
- Public lodging establishments providing service solely in connection with service to their guests. \div
- (5) Landlords providing service to their tenants without specific compensation for the service. +
- (6) Systems with the capacity or proposed capacity to serve 100 or fewer persons. +
- (7) Nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives.; and
- (8) Any person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof, if such person files at least annually with the commission a list of charges and rates for all water service sold, the source and actual purchase price thereof, and any other information required by the commission to justify the exemption; but such person is subject to the provisions of s. 367.122.
- (9) Wastewater treatment plants operated exclusively for disposing of industrial wastewater.
- (10) The sale of bulk supplies of desalinated water to 31 a governmental authority.

6

7

8

9

11

12

13

14

15

16 17

18 19

20

21

22

2324

25

2627

28

29

30 31

- (11) Any person providing only nonpotable water for irrigation purposes in a geographic area where potable water service is available from a governmentally or privately owned utility or a private well.

 (12) The sale for resale of bulk supplies of water to
 - (12) The sale for resale of bulk supplies of water to a governmental authority or to a utility regulated pursuant to this chapter either by the commission or the county.
 - Section 3. Subsection (1) and paragraph (a) of subsection (4) of section 367.071, Florida Statutes, are amended to read:
 - 367.071 Sale, assignment, or transfer of certificate of authorization, facilities, or control.--
 - (1) 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 commission 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. However, a sale, assignment, or transfer of its certificate of authorization, facilities or any portion thereof, or majority organizational control may occur prior to commission approval if the buyer posts a surety bond in an amount equal to at least 5 percent of the gross sales price. The bond must be applied to the expenses of the buyer and seller to rescind the transaction if the commission does not approve the transaction and shall be released or canceled upon commission approval of the transaction.
 - (4) An application shall be disposed of as provided in s. 367.045, except that:

1 (a) The sale of facilities, in whole or part, to a 2 governmental authority shall be approved as a matter of right 3 upon delivery of written notice by the governmental authority 4 to the commission of the consummation of such a transaction. + 5 however, The governmental authority shall, prior to taking any 6 official action, obtain from the utility or commission with 7 respect to the facilities to be sold the most recent available income and expense statement, balance sheet, and statement of 8 rate base for regulatory purposes and 9 10 contributions-in-aid-of-construction. Any request for rate relief pending before the commission at the time of sale is 11 12 deemed to have been withdrawn. Interim rates, if previously approved by the commission, must be discontinued, and any 13 14 money collected pursuant to interim rate relief must be 15 refunded to the customers of the utility with interest. Section 4. This act shall take effect upon becoming a 16 17 law. 18 19 20 SENATE SUMMARY For purposes of the water and wastewater system law:

1. Redefines the term "governmental authority" to include a nonprofit corporation acting on behalf of a 21 22 political subdivision. 2. Provides an exemption from regulation by the Public Service Commission for a nonprofit corporation acting on 23 behalf of a political subdivision.

3. Authorizes the sale of facilities when a surety 24 25 bond is posted. 26 27 28 29 30 31