

# 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: SB 2234

SPONSOR: Senator Klein

SUBJECT: Water & Wastewater/Rates/PSC

DATE: March 19, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wimsett	Guthrie	RI	Favorable
2.				
3.				
4.				
5.				

## I. Summary:

This bill allows the Public Service Commission (PSC) to grant interim rates in staff assisted rate cases to allow the utility to recover operations and maintenance expenses while the case is being processed. It also eliminates requirements that reseller utilities file annual reports with the PSC and conduct meter testing. Finally, the bill corrects inconsistent statutory language and clarifies that the PSC completes an active rate case when a county takes back jurisdiction under the county option.

This bill substantially amends the following sections of the Florida Statutes: Sections 367.022, 367.0814, and 367.082.

## II. Present Situation:

Like electric and gas utilities, water and wastewater utilities are regulated as “natural monopolies” on the premise that the public interest is best served by rate base/rate of return regulation. As with all utilities, rate case proceedings are costly, technically complex and oftentimes contentious. With water and wastewater utilities, however, these expenses can be particularly burdensome because they are recovered from a much smaller base of customers.

With the exception of twelve categories of exempted operations or transactions, the PSC exercises exclusive rate-setting and other regulatory jurisdiction over investor-owned and operated water and wastewater utilities in 37 of the 67 counties. However, the law permits counties to retain regulatory jurisdiction over investor-owned water and wastewater utilities. Counties that have “opted out” of PSC jurisdiction for investor-owned utilities are referred to as “nonjurisdictional counties.” These nonjurisdictional counties may opt back into PSC jurisdiction through board of county commissioners’ resolutions or declarations.

Section 367.022(8), F.S., exempts reseller utilities from PSC regulation. An example of a reseller is an apartment complex. The statute currently requires reseller utilities to file annual reports and

perform meter testing, necessitating review and analysis by the Commission without any mechanism to offset the cost of regulation, and no effective method of accomplishing the task.

Section 367.0814, F.S., provides that small utilities (whose annual revenues are \$150,000, or less) may request and obtain PSC staff assistance in a rate case. This section allows for the final order of the commission to be rendered within 15 months. If a small utility that qualifies for staff assistance is filing for rate relief and believes that interim rates are necessary (but no emergency exists), it may use the file-and-suspend rate case procedure under Section 367.082, F.S. The difference between the interim rates and the previously authorized rates is collected under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the PSC. In some cases, especially in receivership situations, small utilities are not able to obtain security for interim rates. Furthermore, escrowing the increase is counterproductive because the utility is in immediate need of the money.

Sections 367.082 and 367.0814, F.S., provide that if there is a change in regulation (utility transferred to an exempt entity), or jurisdiction (county option), during the pendency of a rate case, the case is deemed to be withdrawn and interim or temporary rates must be refunded. Temporary rates may be distinguished from interim rates in that they are set, after interim rates, pursuant to a PSC Proposed Agency Action Order (PAA) pending the resolution of any protest proceedings. Subsection (5) of s. 367.171, F.S., states that if a utility becomes subject to county jurisdiction during the pendency of a case, the Commission shall complete the case. The Commission does, in fact, complete pending cases if there is a change in jurisdiction, but not if there is a change in regulation.

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

The bill eliminates the requirement that reseller utilities, who are statutorily exempt from PSC regulation, file annual reports with the PSC and conduct meter testing. This eliminates unnecessary filings by entities over which the PSC has no regulatory authority.

The bill allows the PSC to grant interim rates in staff assisted rate cases to allow the utility to recover operation and maintenance expenses while the rate case is being processed. The bill gives the PSC discretion as to whether rates would be collected subject to refund.

The bill clarifies the effect on interim rates or temporary rates if a utility becomes exempt from Commission regulation during the pendency of a rate case. Since interim rates are set at the minimum level necessary to cover day-to-day operating expenses, they will be deemed final in the event of a change in regulation. If a utility becomes exempt and temporary rates are in effect, the utility should refund only the difference between temporary and interim rates, if interim rates were previously approved. If the utility decides not to request interim rates, any money collected pursuant to temporary rates should be refunded.

The bill corrects an inconsistency with subsection (5) of s. 367.071, F.S., by deleting the reference to a change in "jurisdiction," thereby clarifying that the PSC will complete any rate case that is underway when a county opts to take back jurisdiction.

**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 allow small investor owned utilities greater access to interim relief during the pendency of a rate case.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.