

By the Committee on Utilities & Communications and
Representatives Fiorentino and Fasano

1 A bill to be entitled
2 An act relating to public utility rate case
3 expense recovery; amending s. 166.041, F.S.;
4 providing procedural requirements for enacting
5 certain municipal ordinances; providing for
6 notice and public hearings for rate charges for
7 municipal water and sewer utilities; amending
8 s. 367.0816, F.S.; requiring a public utility
9 to reduce its rates after a period to recover
10 rate case expenses under certain circumstances;
11 excluding rate case expense from certain
12 determinations; providing for application of
13 rate reductions; providing for return of
14 certain excess collections to utility customers
15 under certain circumstances; requiring the
16 Florida Public Service Commission to make
17 separate determinations of a utility's rate of
18 return under certain circumstances; requiring
19 the commission to reduce a utility's rate case
20 expense under certain circumstances; amending
21 s. 367.171, F.S.; requiring application of
22 certain provisions of the Administrative
23 Procedure Act to certain county rate
24 proceedings; providing for retroactive effect;
25 providing an effective date.

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27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Paragraph (d) is added to subsection (3) of
30 section 166.041, Florida Statutes, to read:

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1 166.041 Procedures for adoption of ordinances and
2 resolutions.--

3 (3)

4 (d) Ordinances initiated by the municipality that
5 change the rates, charges, or fees of any municipal water or
6 sewer utility shall be enacted pursuant to the following
7 procedure:

8 1. Each municipality that provides utility services
9 shall create and maintain a list of persons who request, in
10 writing, a copy of all notices required by this paragraph to
11 be mailed to customers and real property owners. The
12 governing body shall direct the clerk of the governing body to
13 maintain the list of persons who have requested notice. The
14 list of persons who have requested notice shall be kept
15 available for public inspection during the regular business
16 hours of the office of the clerk of the governing body. The
17 governing body shall direct the clerk of the governing body to
18 notify by mail each person that has requested notice, each
19 customer of the municipal utility, and each real property
20 owner whose land is, or may be, subject to the rates, charges,
21 or fees by enactment of an ordinance that changes such rates,
22 charges, or fees. The real property owners who shall receive
23 notice pursuant to this paragraph shall be those whose address
24 is known by reference to the latest ad valorem tax records.
25 The notice shall state the substance of the proposed ordinance
26 as it affects the customers and real property owners and shall
27 set a time and place for two public hearings on such ordinance
28 advertised as provided in this paragraph. Such notice shall
29 be given at least 30 days prior to the date set for the first
30 public hearing, and a copy of the notice shall be kept

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1 available for public inspection during the regular business
2 hours of the office of the clerk of the governing body.
3 2. In addition to the notice by mail required in this
4 paragraph, the governing body shall schedule and provide for
5 advertisement of the public hearings as follows:
6 a. The local governing body shall hold two advertised
7 public hearings on the proposed ordinance and may, upon the
8 conclusion of the second hearing, immediately adopt the
9 ordinance. At least one hearing shall be held after 5 p.m. on
10 a weekday, unless the local governing body, by a majority plus
11 one vote, elects to conduct that hearing at another time of
12 day. The first public hearing shall be held at least 7 days
13 after the day that the first advertisement is published. The
14 second hearing shall be held at least 10 days after the first
15 hearing and shall be advertised at least 5 days prior to the
16 public hearing.
17 b. The required advertisements shall be no less than 2
18 columns wide by 10 inches long in a standard-size or a
19 tabloid-size newspaper and the headline in the advertisement
20 shall be in a type no smaller than 18 point. The
21 advertisement shall not be placed in that portion of the
22 newspaper where legal notices and classified advertisements
23 appear. The advertisement shall be placed in a newspaper of
24 general paid circulation and of general interest and
25 readership in the municipality and current and proposed
26 service territory of the municipal water or sewer utility, not
27 one of limited subject matter pursuant to chapter 50. It is
28 the legislative intent that, whenever possible, the
29 advertisement appear in a newspaper that is published at least
30 5 days a week unless the only newspaper in the municipality
31 and current and proposed service territory is published less

1 frequently than 5 days a week. The advertisement shall be in
2 substantially the following form:

3
4 NOTICE OF (TYPE OF) CHANGE

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6
7 The ... (name of local government unit)...
8 proposes to adopt the following
9 ordinance:...(title of the ordinance).... A
10 public hearing on the ordinance will be held on
11 ...(date and time)... at ...(meeting place).

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13 The advertisement shall contain a geographic location map
14 which clearly indicates the area covered by the proposed
15 ordinance. The map shall include major street names as a
16 means of identification of the general area.

17 Section 2. Section 367.0816, Florida Statutes, is
18 amended to read:

19 367.0816 Recovery of rate case expenses.--The amount
20 of rate case expense determined by the commission pursuant to
21 the provisions of this chapter to be recovered through a
22 public utility's ~~utilities~~ rate shall be apportioned for
23 recovery over a period of 4 years. At the conclusion of the
24 recovery period, the rates of the public utility shall be
25 reduced by the amount of rate case expense previously included
26 in rates if the commission determines that the public utility
27 earned a rate of return at or above the bottom of the range of
28 the utility's current authorized rate of return for the
29 12-month period ending with the conclusion of the recovery
30 period. Rate case expense shall not be included when making
31 such determination. Any such reduction in rates shall take

1 effect as of the end of the recovery period, and any amounts
2 collected after the conclusion of the recovery period in
3 excess of the amount which should have been collected under
4 such reduced rates shall be refunded to customers of the
5 utility. If there is no such reduction in the utility's
6 rates, the commission shall make a separate determination of
7 the utility's rate of return after the recovery period and
8 shall reduce the utility's rates by the amount of rate case
9 expense previously included in rates if the utility's rate of
10 return for the 12-month period ending with the conclusion of
11 the recovery period is at or above the bottom of the utility's
12 range of authorized rates of return for such period.

13 Section 3. Subsection (8) of section 367.171, Florida
14 Statutes, is amended to read:

15 367.171 Effectiveness of this chapter.--

16 (8) Each county which is excluded from the provisions
17 of this chapter shall regulate the rates of all utilities in
18 that county which would otherwise be subject to regulation by
19 the commission pursuant to s. 367.081(1), (2), (3), and (6).
20 The county shall not regulate the rates or charges of any
21 system or facility which would otherwise be exempt from
22 commission regulation pursuant to s. 367.022(2). For this
23 purpose the county or its agency shall proceed as though the
24 county or agency is the commission. The provisions of ss.
25 120.569 and 120.57 shall apply to all proceedings conducted by
26 a county or an agency of the county under the authority of
27 this chapter.

28 Section 4. This act shall take effect upon becoming a
29 law and shall operate retroactively to June 11, 1999.

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