

By the Committee on Utilities & Communications and  
Representatives Argenziano and Russell

1                                   A bill to be entitled  
2           An act relating to water and wastewater  
3           systems; amending s. 166.041, F.S.; providing  
4           for notice and public hearings for rates  
5           changes for municipal water and sewer  
6           utilities; amending s. 350.0611, F.S.;  
7           requiring the Public Counsel to provide legal  
8           representation in proceedings before counties  
9           under certain circumstances; amending s.  
10          367.171, F.S.; requiring county rate  
11          proceedings to follow certain provisions of the  
12          Administrative Procedure Act; providing an  
13          effective date.

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

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

19           166.041 Procedures for adoption of ordinances and  
20 resolutions.--

21           (3)

22           (d) Ordinances initiated by the municipality that  
23 change the rates, charges, or fees of any municipal water or  
24 sewer utility shall be enacted pursuant to the following  
25 procedure:

26           1. Each municipality that provides utility services  
27 shall create and maintain a list of persons who request, in  
28 writing, that they receive a copy of all notices required by  
29 this paragraph to be mailed to customers and real property  
30 owners. The governing body shall direct the clerk of the  
31 governing body to maintain the list of persons who have

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

21 2. In addition to the notice by mail required in this  
22 paragraph, the governing body shall schedule and provide for  
23 advertisement of the public hearings as follows:

24 a. The local governing body shall hold two advertised  
25 public hearings on the proposed ordinance and may, upon the  
26 conclusion of the second hearing, immediately adopt the  
27 ordinance. At least one hearing shall be held after 5 p.m. on  
28 a weekday, unless the local governing body, by a majority plus  
29 one vote, elects to conduct that hearing at another time of  
30 day. The first public hearing shall be held at least 7 days  
31 after the day that the first advertisement is published. The

1 second hearing shall be held at least 10 days after the first  
2 hearing and shall be advertised at least 5 days prior to the  
3 public hearing.

4 b. The required advertisements shall be no less than 2  
5 columns wide by 10 inches long in a standard size or a tabloid  
6 size newspaper, and the headline in the advertisement shall be  
7 in a type no smaller than 18 point. The advertisement shall  
8 not be placed in that portion of the newspaper where legal  
9 notices and classified advertisements appear. The  
10 advertisement shall be placed in a newspaper of general paid  
11 circulation and of general interest and readership in the  
12 municipality and current and proposed service territory of the  
13 municipal water or sewer utility, not one of limited subject  
14 matter, pursuant to chapter 50. It is the legislative intent  
15 that, whenever possible, the advertisement appear in a  
16 newspaper that is published at least 5 days a week unless the  
17 only newspaper in the municipality and current and proposed  
18 service territory is published less than 5 days a week. The  
19 advertisement shall be in substantially the following form:

20  
21 NOTICE OF (TYPE OF) CHANGE

22  
23 The ... (name of local government unit)... proposes to  
24 adopt the following ordinance:....(title of the ordinance)....

25 A public hearing on the ordinance will be held on  
26 ...(date and time)... at...(meeting place).

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28 The advertisement shall contain a geographic location map  
29 which clearly indicates the area covered by the proposed  
30 ordinance. The map shall include major street names as a  
31 means of identification of the general area.

1           Section 2. Section 350.0611, Florida Statutes, is  
2 amended to read:  
3           350.0611 Public Counsel; duties and powers.--It shall  
4 be the duty of the Public Counsel to provide legal  
5 representation for the people of the state in proceedings  
6 before the commission and in proceedings before counties  
7 pursuant to s. 367.171(8). The Public Counsel shall have such  
8 powers as are necessary to carry out the duties of his or her  
9 office, including, but not limited to, the following specific  
10 powers:

11           (1) To recommend to the commission, by petition, the  
12 commencement of any proceeding or action or to appear, in the  
13 name of the state or its citizens, in any proceeding or action  
14 before the commission and urge therein any position which he  
15 or she deems to be in the public interest, whether consistent  
16 or inconsistent with positions previously adopted by the  
17 commission, and utilize therein all forms of discovery  
18 available to attorneys in civil actions generally, subject to  
19 protective orders of the commission which shall be reviewable  
20 by summary procedure in the circuit courts of this state.†

21           (2) To have access to and use of all files, records,  
22 and data of the commission available to any other attorney  
23 representing parties in a proceeding before the commission.†

24           (3) In any proceeding in which he or she has  
25 participated as a party, to seek review of any determination,  
26 finding, or order of the commission, or of any hearing  
27 examiner designated by the commission, in the name of the  
28 state or its citizens.†

29           (4) To prepare and issue reports, recommendations, and  
30 proposed orders to the commission, the Governor, and the  
31 Legislature on any matter or subject within the jurisdiction

1 of the commission, and to make such recommendations as he or  
2 she deems appropriate for legislation relative to commission  
3 procedures, rules, jurisdiction, personnel, and functions.~~†~~

4 (5) To appear before other state agencies, federal  
5 agencies, and state and federal courts in connection with  
6 matters under the jurisdiction of the commission, in the name  
7 of the state or its citizens.

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

10 367.171 Effectiveness of this chapter.--

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

23 Section 4. This act shall take effect upon becoming a  
24 law.

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