

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1614

SPONSOR: Senator Latvala

SUBJECT: Local Government Utilities Assistance

DATE: March 20, 2001 REVISED: 03/27/01 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Voigt</u>	<u>NR</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill provides legislative intent regarding the condition or operation of privately owned water-wastewater utility systems and facilities. The bill provides for a pilot program to assist local governments in acquiring privately owned water-wastewater utilizes and to finance such acquisitions through the issuance of revenue bonds by the sponsoring local government. A Local Government Utilities Assistance Program is established in the Department of Environmental Protection. The pilot program will be implemented in Pasco County and is to be funded by reallocating certain moneys from the Solid Waste Management Trust Fund.

II. Present Situation:

In Florida there are an estimated 2,500 permitted wastewater facilities and approximately 7,000 permitted drinking water facilities. Sometimes private utilities are formed to serve an area whose population may not be large enough to allow operation and maintenance of the utility to function profitably for extended periods of time.

Without adequate financial resources to operate the utility, problems can arise with compliance with environmental and public health laws. Raising a sufficient amount of operating funds for the utility to comply with environmental and public health laws can result in monthly utility rates for customers that are significantly higher than other nearby utilities operated by general purpose local governments that have a service area and number of customers that allow more economical operating costs.

Often times, a solution to these types of problems created by private utilities with small customer bases, is to consolidate their service area with a general government utility and purchase the assets from private utility. However, for these transactions to proceed smoothly, detailed plans

are needed to assist with the negotiations for the sale or consolidation. Also, a funding source is needed that could be pledged for bond proceeds or otherwise committed for use in the initial buyout or development of detailed plans for these transactions.

III. Effect of Proposed Changes:

The bill makes a legislative finding that in many areas of the state the condition or operation of privately owned water-wastewater utility systems and facilities creates a present or potential threat to the environment or to the health of the utility customers. The intent is for the Legislature to establish a pilot program to assist local governments in acquiring privately owned water-wastewater utilities, and to finance the cost of such acquisition of privately owned waste-water utilities through the issuance of revenue bonds by sponsoring local governments.

The Local Government Utilities Assistance Program is established in the Department of Environmental Protection. A local government may receive a grant or state assistance in the form of a share or a nonlapsing share of the moneys allocated to the program to be pledged for payment of debt service on bonds, as provided in section 5 of the bill, issued to finance the acquisition of privately owned waste-wastewater utilities.

A private water-wastewater utility is deemed to be eligible for assistance under the program if it meets one or more of the following criteria:

- The water-wastewater utility is not capable of making the improvements necessary to alleviate the public health or environmental threats through its own resources without increasing its rate for services to an amount beyond that which is commensurate with community standards.
- The water-wastewater utility is confronted with a public health or environmental threat or both, including secondary state water quality standards, that may be better addressed through public management or ownership, or both.
- The private utility desires to sell or consolidate.

The department may allocate proceeds from the program in the form of a grant or a share of such proceeds to be pledged to the payment of debt service on bonds to assist a local government in financing the cost of acquiring a privately owned water-wastewater utility if the acquisition by the local government presents a preferable and cost-effective solution.

If the Department of Environmental Protection determines that acquisition of a privately owned water-wastewater utility is necessary, the department may authorize the expenditure of proceeds from the program for such purposes. The local government may pledge the proceeds for the issuance of revenue bonds necessary to acquire the private water-wastewater utility as otherwise authorized by law.

The department may adopt rules to implement the program, including, but not limited to, administering the program, determining project eligibility and priority, establishing application requirements, providing for disbursement from the trust fund, and auditing the program. Notwithstanding s. 212.20 (6) (e) 2., F.S., for fiscal year 2001-2002, one-half of the moneys that would otherwise be distributed to the Solid Waste Management Trust Fund pursuant to

s. 212.20, F.S. , not to exceed \$5 million, shall be distributed to the program to be used as provided in this act to implement the program as a pilot program in Pasco County. Such moneys may be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds or any other form of indebtedness issued by an appropriate local government or used to purchase credit support to permit such borrowings. Such debt shall be indebtedness of the local government and shall not constitute a general obligation of the state. The state covenants with holders of such revenue bonds or other instruments of indebtedness issued under the program that it will not repeal or impair or amend this act in any manner which will materially affect the rights of bondholders so long as bonds supported by revenues from the program are outstanding. Any revenues that are not pledged to the repayment of bonds may be used for purposes authorized under section 4 of the bill.

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:

For eligible utilities, the customer impact would be beneficial if environmental and health problems are resolved through acquisition of a water-wastewater utility by a local government that has a more economical base of customers. The impact on future rate levels charged by the acquiring local government may vary on a case by case basis.

C. Government Sector Impact:

No estimate is available at this time on the amount of funds needed for a pilot program in Pasco County.

Up to \$5 million in sales tax revenue that otherwise would be transferred to the Solid Waste Management Trust Fund would be diverted to fund the Pasco County utilities acquisition pilot program. The historical use of these funds is for the Solid Waste Management Trust Fund and to provide grants to local recycling programs. The emerging Senate Appropriations Bill has already diverted a substantial portion of the Solid Waste

Management Funds and this additional amount may exhaust any remaining funds for local government grants or DEP staff functions relating to solid waste management.

VI. Technical Deficiencies:

The financial provisions in section 7 provide for a one fiscal year transfer of \$5 million, but purports to allow the moneys to be pledged for payment of bond debt service. Without a multi-year revenue source, it not clear how bond debt service can be provided since bond debt service payments often run over a 10-20 year period.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Natural Resources:

This amendment rewrites the bill to establish a Local Government Utilities Assistance Program. The fundamental concept is the same as the original bill, which is to establish a program in the Department of Environmental Protection to assist local governments in acquiring privately owned water-wastewater utilities that are struggling financially to operate in compliance with water quality standards and public health requirements.

The bill provides that notwithstanding the provisions of s. 212.20(6)(e)2., F.S., for FY 2001-2002, one-half of the moneys that would otherwise be distributed to the Solid Waste Management Trust Fund pursuant to s. 212.20, F.S., not to exceed \$5 million, shall be distributed to the Local Government Utilities Assistance Program to implement a pilot program in Pasco County. The department may use up to 2 percent of the funds appropriated for the program to pay the costs of administering the pilot program.

By January 1, 2003, the department shall provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the Pasco County pilot program. The report also shall evaluate the need to expand the Local Government Utilities Assistance Program to address the acquisition or consolidation of publicly owned water-wastewater utilities that threaten water quality or public health. The report shall recommend any statutory changes necessary to implement to the Local Government Utilities Assistance Program and identify any rules that would be useful in implementing the program. (WITH TITLE AMENDMENT)