

By the Fiscal Responsibility Council and Representative
Johnson

1 A bill to be entitled
2 An act relating to water and wastewater
3 utilities; amending s. 367.021, F.S.; revising
4 definitions; amending s. 367.022, F.S.;
5 revising an exemption from regulation for small
6 water and wastewater utilities; amending ss.
7 367.045 and 367.111, F.S.; deleting requirement
8 for descriptions of service areas in water and
9 wastewater utility certificates of
10 authorization; deleting requirements relating
11 to application for amended certificates of
12 authorization to reduce or extend a utility's
13 existing service area; amending s. 367.121,
14 F.S.; providing authority of the Public Service
15 Commission to resolve territorial disputes
16 involving water and wastewater utilities;
17 providing considerations; amending s. 367.171,
18 F.S.; authorizing counties to set rates and
19 charges for certain exempt small water and
20 wastewater utilities; providing applicability
21 of specified administrative procedures;
22 amending s. 288.0655, F.S.; correcting a cross
23 reference; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsections (1) and (10) of section
28 367.021, Florida Statutes, are amended to read:
29 367.021 Definitions.--As used in this chapter, the
30 following words or terms shall have the meanings indicated:
31

1 (1) "Certificate of authorization" means a document
2 issued by the commission authorizing a utility to provide
3 service ~~in a specific service area.~~

4 ~~(10) "Service area" means the geographical area~~
5 ~~described in a certificate of authorization, which may be~~
6 ~~within or without the boundaries of an incorporated~~
7 ~~municipality and may include areas in more than one county.~~

8 Section 2. Subsection (6) of section 367.022, Florida
9 Statutes, is amended to read:

10 367.022 Exemptions.--The following are not subject to
11 regulation by the commission as a utility nor are they subject
12 to the provisions of this chapter, except as expressly
13 provided:

14 (6) Systems with the capacity or proposed capacity to
15 serve 500 ~~100~~ or fewer persons.

16 Section 3. Section 367.045, Florida Statutes, is
17 amended to read:

18 367.045 Certificate of authorization; application and
19 amendment procedures.--

20 (1) When a utility applies for an initial certificate
21 of authorization from the commission, it shall:

22 (a) Provide notice of the actual application filed by
23 mail or personal delivery to the governing body of the county
24 or city affected, to the Public Counsel, to the commission,
25 and to such other persons and in such other manner as may be
26 prescribed by commission rule;

27 (b) Provide all information required by rule or order
28 of the commission, which information may include a detailed
29 inquiry into the ability of the applicant to provide service,
30 the area and facilities involved, the need for service in the
31 area involved, and the existence or nonexistence of service

1 from other sources within geographical proximity to the area
2 in which the applicant seeks to provide service;

3 (c) File with the commission schedules showing all
4 rates, classifications, and charges for service of every kind
5 proposed by it and all rules, regulations, and contracts
6 relating thereto;

7 (d) File the application fee required by s. 367.145;
8 and

9 (e) Submit an affidavit that the applicant has
10 provided notice of its actual application pursuant to this
11 section.

12 ~~(2) A utility may not delete or extend its service~~
13 ~~outside the area described in its certificate of authorization~~
14 ~~until it has obtained an amended certificate of authorization~~
15 ~~from the commission. When a utility applies for an amended~~
16 ~~certificate of authorization from the commission, it shall:~~

17 ~~(a) Provide notice of the actual application filed by~~
18 ~~mail or personal delivery to the governing body of the county~~
19 ~~or municipality affected, to the Public Counsel, to the~~
20 ~~commission, and to such other persons and in such other manner~~
21 ~~as may be prescribed by commission rule;~~

22 ~~(b) Provide all information required by rule or order~~
23 ~~of the commission, which information may include a detailed~~
24 ~~inquiry into the ability or inability of the applicant to~~
25 ~~provide service, the need or lack of need for service in the~~
26 ~~area that the applicant seeks to delete or add; the existence~~
27 ~~or nonexistence of service from other sources within~~
28 ~~geographical proximity to the area that the applicant seeks to~~
29 ~~delete or add, and a description of the area sought to be~~
30 ~~deleted or added to the area described in the applicant's~~
31 ~~current certificate of authorization;~~

1 ~~(c) Provide a reference to the number of the most~~
2 ~~recent order of the commission establishing or amending the~~
3 ~~applicant's rates and charges;~~

4 ~~(d) Submit an affidavit that the utility has tariffs~~
5 ~~and annual reports on file with the commission;~~

6 ~~(e) File the application fee required by s. 367.145;~~
7 ~~and~~

8 ~~(f) Submit an affidavit that the applicant has~~
9 ~~provided notice of its actual application pursuant to this~~
10 ~~section.~~

11 (2)~~(3)~~ If, within 30 days after the last day that
12 notice was mailed or published by the applicant, whichever is
13 later, the commission does not receive written objection to
14 the notice, the commission may dispose of the application
15 without hearing. If the applicant is dissatisfied with the
16 disposition, it may bring a proceeding under ss. 120.569 and
17 120.57.

18 (3)~~(4)~~ If, within 30 days after the last day that
19 notice was mailed or published by the applicant, whichever is
20 later, the commission receives from the Public Counsel, a
21 governmental authority, or a utility or consumer who would be
22 substantially affected by the requested certification ~~or~~
23 ~~amendment~~ a written objection requesting a proceeding pursuant
24 to ss. 120.569 and 120.57, the commission shall order such
25 proceeding conducted in or near the area for which application
26 is made, if feasible. Notwithstanding the ability to object
27 on any other ground, a county or municipality has standing to
28 object on the ground that the issuance ~~or amendment~~ of the
29 certificate of authorization violates established local
30 comprehensive plans developed pursuant to ss.
31 163.3161-163.3211. If a consumer, utility, or governmental

1 authority or the Public Counsel requests a public hearing on
2 the application, such hearing must, if feasible, be held in or
3 near the area for which application is made; and the
4 transcript of such hearing and any material submitted at or
5 before the hearing must be considered as part of the record of
6 the application and any proceeding related thereto.

7 (4)~~(5)~~(a) The commission may grant ~~or amend~~ a
8 certificate of authorization, in whole or in part or with
9 modifications if it determines its in the public interest, but
10 may not grant authority greater than that requested in the
11 application ~~or amendment thereto~~ and noticed under this
12 section; or it may deny a certificate of authorization ~~or an~~
13 ~~amendment to a certificate of authorization~~, if in the public
14 interest. The commission may deny an application for a
15 certificate of authorization for any new Class C wastewater
16 system, as defined by commission rule, if the public can be
17 adequately served by modifying or extending a current
18 wastewater system. The commission may not grant a certificate
19 of authorization for a proposed system, ~~or an amendment to a~~
20 ~~certificate of authorization for the extension of an existing~~
21 ~~system, which will be in competition with, or a duplication~~
22 of, any other system or portion of a system, unless it first
23 determines that such other system or portion thereof is
24 inadequate to meet the reasonable needs of the public or that
25 the person operating the system is unable, refuses, or
26 neglects to provide reasonably adequate service.

27 (b) When granting ~~or amending~~ a certificate of
28 authorization, the commission need not consider whether the
29 issuance ~~or amendment~~ of the certificate of authorization is
30 inconsistent with the local comprehensive plan of a county or
31 municipality unless a timely objection to the notice required

1 by this section has been made by an appropriate motion or
2 application. If such an objection has been timely made, the
3 commission shall consider, but is not bound by, the local
4 comprehensive plan of the county or municipality.

5 ~~(5)(6)~~ The revocation, suspension, or transfer, ~~or~~
6 ~~amendment~~ of a certificate of authorization is subject to the
7 provisions of this section. The commission shall give 30 days'
8 notice before it initiates any such action.

9 Section 4. Subsection (1) of section 367.111, Florida
10 Statutes, is amended to read:

11 367.111 Service.--

12 (1) Each utility shall provide service to its
13 ~~customers the area described in its certificate of~~
14 ~~authorization~~ within a reasonable time. If the commission
15 finds that any utility has failed to provide service to any
16 person reasonably entitled thereto, the commission ~~or finds~~
17 ~~that extension of service to any such person could be~~
18 ~~accomplished only at an unreasonable cost and that addition of~~
19 ~~the deleted area to that of another utility company is~~
20 ~~economical and feasible, it may amend the certificate of~~
21 ~~authorization to delete the area not served or not properly~~
22 ~~served by the utility, or it may rescind the certificate of~~
23 ~~authorization. If utility service has not been provided to~~
24 ~~any part of the area which a utility is authorized to serve,~~
25 ~~whether or not there has been a demand for such service,~~
26 ~~within 5 years after the date of authorization for service to~~
27 ~~such part, such authorization may be reviewed and amended or~~
28 ~~revoked by the commission.~~

29 Section 5. Paragraph (d) of subsection (1) of section
30 367.121, Florida Statutes, is amended, and paragraph (1) is
31 added to said subsection, to read:

1 367.121 Powers of commission.--

2 (1) In the exercise of its jurisdiction, the
3 commission shall have power:

4 (d) To require repairs, improvements, additions, and
5 extensions to any facility, or to require the construction of
6 a new facility, if reasonably necessary to provide adequate
7 and proper service to any person entitled to service or if
8 reasonably necessary to provide any prescribed quality of
9 service, ~~except that no utility shall be required to extend~~
10 ~~its service outside the geographic area described in its~~
11 ~~certificate of authorization,~~ or make additions to its plant
12 or equipment to serve outside such area, unless the commission
13 first finds that the utility is financially able to make such
14 additional investment without impairing its capacity to serve
15 its existing customers.

16 (1) To resolve, upon petition of a utility subject to
17 commission regulation or on its own motion, any territorial
18 dispute involving the service area for regulated water and
19 wastewater utilities. In resolving territorial disputes, the
20 commission may consider, but not be limited to consideration
21 of, the ability of the utilities to expand services within
22 their own capabilities and the nature of the area involved,
23 the ability to provide service, the need or lack of need for
24 service, and the existence or nonexistence of service from
25 other sources within geographical proximity to the area in
26 dispute.

27 Section 6. Paragraphs (a) and (b) of subsection (2)
28 and paragraph (b) of subsection (4) of section 367.171,
29 Florida Statutes, are amended, and subsection (9) is added to
30 said section, to read:

31 367.171 Effectiveness of this chapter.--

1 22)(a) Within 30 days after this chapter becomes
2 applicable to a county, each utility shall register by filing
3 with the commission a written statement setting forth the full
4 legal name of the utility and, its mailing address, ~~and a~~
5 ~~brief description of its service area.~~

6 (b) On the day this chapter becomes applicable to any
7 county, any utility engaged in the operation or construction
8 of a system shall be entitled to receive a certificate ~~for the~~
9 ~~area served by such utility~~ on the day this chapter becomes
10 applicable to it. Within 90 days after the day this chapter
11 becomes applicable to it, the utility shall make application
12 for a certificate by filing with the commission:

13 1. A map of its existing system or system under
14 construction; and

15 ~~2. A description of the area served by the system; and~~
16 2.3. A tariff listing all rates and charges and such
17 other financial information as may be required by the
18 commission.

19
20 Such application shall be accompanied by a fee as provided by
21 s. 367.145. If a utility fails to register with the commission
22 within the prescribed time, the commission may require that
23 the utility apply for an original certificate of authorization
24 in accordance with s. 367.045.

25 (4) As of the day a utility is no longer regulated by
26 the commission under this chapter, each such utility which is
27 engaged in the operation or construction of a system shall be
28 entitled to receive from the county in which it is located and
29 operating a certificate of authorization for each area for
30 which such utility held a certificate of authorization from
31 the commission on the day the utility became subject to

1 regulation by the county. The utility will make application by
2 filing with the governing body of the county:

3 (b) A certified copy of the certificate of
4 authorization issued by the commission, ~~including a legal~~
5 ~~description of the service area for which the certificate of~~
6 ~~authorization was issued;~~

7 (9) Each county, whether excluded from or subject to
8 the provisions of this chapter, may set the rates and charges
9 of utilities with the capacity or proposed capacity to serve
10 500 or fewer persons, except as provided in subsection (7).
11 For this purpose the county or its agency shall proceed as
12 though the county or agency were the commission. In all
13 proceedings conducted by a county or its agency under the
14 authority of this chapter, the provisions of ss. 120.569 and
15 120.57 shall apply.

16 Section 7. Paragraph (b) of subsection (2) of section
17 288.0655, Florida Statutes, is amended to read:

18 288.0655 Rural Infrastructure Fund.--

19 (2)

20 (b) To facilitate access of rural communities and
21 rural areas of critical economic concern as defined by the
22 Rural Economic Development Initiative to infrastructure
23 funding programs of the Federal Government, such as those
24 offered by the United States Department of Agriculture and the
25 United States Department of Commerce, the office may award
26 grants to applicants for such federal programs for up to 30
27 percent of the total infrastructure project cost. Eligible
28 projects must be related to specific job-creating
29 opportunities. Eligible uses of funds shall include
30 improvements to public infrastructure for industrial or
31 commercial sites and upgrades to or development of public

1 tourism infrastructure. Authorized infrastructure may include
2 the following public or public-private partnership facilities:
3 storm water systems; telecommunications facilities; roads or
4 other remedies to transportation impediments; nature-based
5 tourism facilities; or other physical requirements necessary
6 to facilitate tourism, trade, and economic development
7 activities in the community. Authorized infrastructure may
8 also include publicly owned self-powered nature-based tourism
9 facilities and additions to the distribution facilities of the
10 existing natural gas utility as defined in s. 366.04(3)(c),
11 the existing electric utility as defined in s. 366.02, or the
12 existing water or wastewater utility as defined in s.
13 367.021(11)~~(12)~~, or any other existing water or wastewater
14 facility, which owns a gas or electric distribution system or
15 a water or wastewater system in this state where:
16 1. A contribution-in-aid of construction is required
17 to serve public or public-private partnership facilities under
18 the tariffs of any natural gas, electric, water, or wastewater
19 utility as defined herein; and
20 2. Such utilities as defined herein are willing and
21 able to provide such service.
22 Section 8. This act shall take effect July 1, 2001.

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HOUSE SUMMARY

Eliminates provisions that require a service area description in a water or wastewater utility certificate of authorization and require amendment to the certificate of authorization for reduction or extension of the service area. Provides authority of the Public Service Commission to resolve territorial disputes involving water and wastewater utilities. Increases from 100 to 500 persons the allowable capacity or proposed capacity of a small water and wastewater utility exempt from commission regulation. Authorizes counties to set the rates and charges of such exempt small water and wastewater utilities, and provides applicability of certain administrative procedures.