

By Representative Attkisson

1 A bill to be entitled
2 An act relating to intergovernmental programs;
3 amending s. 163.01, F.S.; prohibiting legal
4 entities created under the Florida Interlocal
5 Cooperation Act of 1969 from acquiring water
6 utility facilities beyond the member entities'
7 territorial limits; providing an effective
8 date.

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

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12 Section 1. Paragraph (g) of subsection (7) of section
13 163.01, Florida Statutes, is amended to read:

14 163.01 Florida Interlocal Cooperation Act of 1969.--
15 (7)

16 (g)1. Notwithstanding any other provisions of this
17 section, any separate legal entity created under this section,
18 the membership of which is limited to municipalities and
19 counties of the state, may acquire, own, construct, improve,
20 operate, and manage public facilities relating to a
21 governmental function or purpose, including, but not limited
22 to, wastewater facilities, water or alternative water supply
23 facilities, and water reuse facilities, which may serve
24 populations within but not ~~or~~ outside of the territorial
25 limits of the members of the entity. Notwithstanding s.
26 367.171(7), any separate legal entity created under this
27 paragraph is not subject to commission jurisdiction and may
28 not provide utility services within the service area of an
29 existing utility system unless it has received the consent of
30 the utility. The entity may finance or refinance the
31 acquisition, construction, expansion, and improvement of the

1 public facility through the issuance of its bonds, notes, or
2 other obligations under this section. The entity has all the
3 powers provided by the interlocal agreement under which it is
4 created or which are necessary to own, operate, or manage the
5 public facility, including, without limitation, the power to
6 establish rates, charges, and fees for products or services
7 provided by it, the power to levy special assessments, the
8 power to sell all or a portion of its facility, and the power
9 to contract with a public or private entity to manage and
10 operate its facilities or to provide or receive services or
11 products. Except as may be limited by the interlocal agreement
12 under which the entity is created, all of the privileges,
13 benefits, powers, and terms of s. 125.01, relating to
14 counties, and s. 166.021, relating to municipalities, are
15 fully applicable to the entity. However, neither the entity
16 nor any of its members on behalf of the entity may exercise
17 the power of eminent domain over the facilities or property of
18 any existing water or wastewater plant utility system, nor may
19 the entity acquire title to any water or wastewater plant
20 utility facilities or property which was acquired by the use
21 of eminent domain after the effective date of this act. Bonds,
22 notes, and other obligations issued by the entity are issued
23 on behalf of the public agencies that are members of the
24 entity.

25 2. Any entity created under this section may also
26 issue bond anticipation notes in connection with the
27 authorization, issuance, and sale of bonds. The bonds may be
28 issued as serial bonds or as term bonds or both. Any entity
29 may issue capital appreciation bonds or variable rate bonds.
30 Any bonds, notes, or other obligations must be authorized by
31 resolution of the governing body of the entity and bear the

1 date or dates; mature at the time or times, not exceeding 40
2 years from their respective dates; bear interest at the rate
3 or rates; be payable at the time or times; be in the
4 denomination; be in the form; carry the registration
5 privileges; be executed in the manner; be payable from the
6 sources and in the medium or payment and at the place; and be
7 subject to the terms of redemption, including redemption prior
8 to maturity, as the resolution may provide. If any officer
9 whose signature, or a facsimile of whose signature, appears on
10 any bonds, notes, or other obligations ceases to be an officer
11 before the delivery of the bonds, notes, or other obligations,
12 the signature or facsimile is valid and sufficient for all
13 purposes as if he or she had remained in office until the
14 delivery. The bonds, notes, or other obligations may be sold
15 at public or private sale for such price as the governing body
16 of the entity shall determine. Pending preparation of the
17 definitive bonds, the entity may issue interim certificates,
18 which shall be exchanged for the definitive bonds. The bonds
19 may be secured by a form of credit enhancement, if any, as the
20 entity deems appropriate. The bonds may be secured by an
21 indenture of trust or trust agreement. In addition, the
22 governing body of the legal entity may delegate, to an
23 officer, official, or agent of the legal entity as the
24 governing body of the legal entity may select, the power to
25 determine the time; manner of sale, public or private;
26 maturities; rate of interest, which may be fixed or may vary
27 at the time and in accordance with a specified formula or
28 method of determination; and other terms and conditions as may
29 be deemed appropriate by the officer, official, or agent so
30 designated by the governing body of the legal entity. However,
31 the amount and maturity of the bonds, notes, or other

1 obligations and the interest rate of the bonds, notes, or
2 other obligations must be within the limits prescribed by the
3 governing body of the legal entity and its resolution
4 delegating to an officer, official, or agent the power to
5 authorize the issuance and sale of the bonds, notes, or other
6 obligations.

7 3. Bonds, notes, or other obligations issued under
8 subparagraph 1. may be validated as provided in chapter 75.
9 The complaint in any action to validate the bonds, notes, or
10 other obligations must be filed only in the Circuit Court for
11 Leon County. The notice required to be published by s. 75.06
12 must be published in Leon County and in each county that is a
13 member of the entity issuing the bonds, notes, or other
14 obligations, or in which a member of the entity is located,
15 and the complaint and order of the circuit court must be
16 served only on the State Attorney of the Second Judicial
17 Circuit and on the state attorney of each circuit in each
18 county that is a member of the entity issuing the bonds,
19 notes, or other obligations or in which a member of the entity
20 is located. Section 75.04(2) does not apply to a complaint for
21 validation brought by the legal entity.

22 4. The accomplishment of the authorized purposes of a
23 legal entity created under this paragraph is in all respects
24 for the benefit of the people of the state, for the increase
25 of their commerce and prosperity, and for the improvement of
26 their health and living conditions. Since the legal entity
27 will perform essential governmental functions in accomplishing
28 its purposes, the legal entity is not required to pay any
29 taxes or assessments of any kind whatsoever upon any property
30 acquired or used by it for such purposes or upon any revenues
31 at any time received by it. The bonds, notes, and other

1 obligations of an entity, their transfer and the income
2 therefrom, including any profits made on the sale thereof, are
3 at all times free from taxation of any kind by the state or by
4 any political subdivision or other agency or instrumentality
5 thereof. The exemption granted in this subparagraph is not
6 applicable to any tax imposed by chapter 220 on interest,
7 income, or profits on debt obligations owned by corporations.
8 Section 2. This act shall take effect upon becoming a
9 law.

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12 HOUSE SUMMARY

13 Prohibits legal entities created by interlocal agreement
14 from acquiring water utility facilities beyond the member
15 entities' territorial limits.
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