

By Senator Constantine

9-1326-02

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A bill to be entitled  
An act relating to intergovernmental programs;  
amending s. 163.01, F.S.; prohibiting an entity  
created under the Interlocal Cooperation Act  
and consisting of municipalities and counties  
from owning and operating certain public  
facilities that serve populations outside the  
territorial limits of the entity members;  
providing an effective date.

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

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

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

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

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

13 Prohibits an entity created under the Interlocal  
14 Cooperation Act and composed of municipalities and  
15 counties from acquiring, owning, constructing, improving,  
16 operating, and managing public facilities relating to a  
17 governmental function or purpose which serve populations  
18 outside the territorial limits of the entity members.  
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