

By Senator Constantine

22-41-03

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

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

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13 Section 1. Paragraph (g) of subsection (7) of section
14 163.01, Florida Statutes, is amended to read:15 163.01 Florida Interlocal Cooperation Act of 1969.--
16 (7)

17 (g)1. Notwithstanding any other provisions of this
18 section, any separate legal entity created under this section,
19 the membership of which is limited to municipalities and
20 counties of the state, may acquire, own, construct, improve,
21 operate, and manage public facilities, or finance facilities
22 on behalf of any person, relating to a governmental function
23 or purpose, including, but not limited to, wastewater
24 facilities, water or alternative water supply facilities, and
25 water reuse facilities, which may serve populations by
26 providing wastewater facilities, water or alternative water
27 supply facilities, and water reuse facilities within but not
28 or outside the territorial limits of the members of the
29 entity. However, facilities owned prior to the effective date
30 of this act by any separate legal entity created under this
31 paragraph are exempt from its application.Notwithstanding s.

1 367.171(7), any separate legal entity created under this
2 paragraph is not subject to commission jurisdiction and may
3 not provide utility services within the service area of an
4 existing utility system unless it has received the consent of
5 the utility. The entity may finance or refinance the
6 acquisition, construction, expansion, and improvement of such
7 facilities relating to a governmental function or purpose
8 through the issuance of its bonds, notes, or other obligations
9 under this section or as otherwise authorized by law. The
10 entity has all the powers provided by the interlocal agreement
11 under which it is created or which are necessary to finance,
12 own, operate, or manage the public facility, including,
13 without limitation, the power to establish rates, charges, and
14 fees for products or services provided by it, the power to
15 levy special assessments, the power to sell or finance all or
16 a portion of such facility, and the power to contract with a
17 public or private entity to manage and operate such facilities
18 or to provide or receive facilities, services, or products.
19 Except as may be limited by the interlocal agreement under
20 which the entity is created, all of the privileges, benefits,
21 powers, and terms of s. 125.01, relating to counties, and s.
22 166.021, relating to municipalities, are fully applicable to
23 the entity. However, neither the entity nor any of its members
24 on behalf of the entity may exercise the power of eminent
25 domain over the facilities or property of any existing water
26 or wastewater plant utility system, nor may the entity acquire
27 title to any water or wastewater plant utility facilities,
28 other facilities, or property which was acquired by the use of
29 eminent domain after the effective date of this act. Bonds,
30 notes, and other obligations issued by the entity are issued
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1 on behalf of the public agencies that are members of the
2 entity.

3 2. Any entity created under this section may also
4 issue bond anticipation notes in connection with the
5 authorization, issuance, and sale of bonds. The bonds may be
6 issued as serial bonds or as term bonds or both. Any entity
7 may issue capital appreciation bonds or variable rate bonds.
8 Any bonds, notes, or other obligations must be authorized by
9 resolution of the governing body of the entity and bear the
10 date or dates; mature at the time or times, not exceeding 40
11 years from their respective dates; bear interest at the rate
12 or rates; be payable at the time or times; be in the
13 denomination; be in the form; carry the registration
14 privileges; be executed in the manner; be payable from the
15 sources and in the medium or payment and at the place; and be
16 subject to the terms of redemption, including redemption prior
17 to maturity, as the resolution may provide. If any officer
18 whose signature, or a facsimile of whose signature, appears on
19 any bonds, notes, or other obligations ceases to be an officer
20 before the delivery of the bonds, notes, or other obligations,
21 the signature or facsimile is valid and sufficient for all
22 purposes as if he or she had remained in office until the
23 delivery. The bonds, notes, or other obligations may be sold
24 at public or private sale for such price as the governing body
25 of the entity shall determine. Pending preparation of the
26 definitive bonds, the entity may issue interim certificates,
27 which shall be exchanged for the definitive bonds. The bonds
28 may be secured by a form of credit enhancement, if any, as the
29 entity deems appropriate. The bonds may be secured by an
30 indenture of trust or trust agreement. In addition, the
31 governing body of the legal entity may delegate, to an

1 officer, official, or agent of the legal entity as the
2 governing body of the legal entity may select, the power to
3 determine the time; manner of sale, public or private;
4 maturities; rate of interest, which may be fixed or may vary
5 at the time and in accordance with a specified formula or
6 method of determination; and other terms and conditions as may
7 be deemed appropriate by the officer, official, or agent so
8 designated by the governing body of the legal entity. However,
9 the amount and maturity of the bonds, notes, or other
10 obligations and the interest rate of the bonds, notes, or
11 other obligations must be within the limits prescribed by the
12 governing body of the legal entity and its resolution
13 delegating to an officer, official, or agent the power to
14 authorize the issuance and sale of the bonds, notes, or other
15 obligations.

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

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1 4. The accomplishment of the authorized purposes of a
 2 legal entity created under this paragraph is in all respects
 3 for the benefit of the people of the state, for the increase
 4 of their commerce and prosperity, and for the improvement of
 5 their health and living conditions. Since the legal entity
 6 will perform essential governmental functions in accomplishing
 7 its purposes, the legal entity is not required to pay any
 8 taxes or assessments of any kind whatsoever upon any property
 9 acquired or used by it for such purposes or upon any revenues
 10 at any time received by it. The bonds, notes, and other
 11 obligations of an entity, their transfer and the income
 12 therefrom, including any profits made on the sale thereof, are
 13 at all times free from taxation of any kind by the state or by
 14 any political subdivision or other agency or instrumentality
 15 thereof. The exemption granted in this subparagraph is not
 16 applicable to any tax imposed by chapter 220 on interest,
 17 income, or profits on debt obligations owned by corporations.

18 Section 2. This act shall take effect upon becoming a
 19 law.

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21 SENATE SUMMARY

22 Prohibits an entity created under the Interlocal
 23 Cooperation Act and composed of municipalities and
 24 counties from acquiring, owning, constructing, improving,
 25 operating, and managing facilities which serve
 26 populations by providing wastewater facilities, water or
 27 alternative water supply facilities, and water reuse
 28 facilities outside the territorial limits of the entity
 29 members.
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