

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 129 Water and Wastewater Utility Facilities
SPONSOR(S): Attkisson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Energy (Sub)</u>	<u>9 Y, 0 N</u>	<u>Holt</u>	<u>Liepshutz</u>
2) <u>Business Regulation</u>	<u></u>	<u></u>	<u></u>
3) <u>Local Government & Veterans' Affairs</u>	<u></u>	<u></u>	<u></u>
4) <u>Natural Resources</u>	<u></u>	<u></u>	<u></u>
5) <u>Transportation & Econ. Dev. Apps. (Sub)</u>	<u></u>	<u></u>	<u></u>
6) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill requires that a water or wastewater utility acquired after September 1, 2003 by a governmental utility authority (GUA) created under s. 163.01(7)(g), F.S. that serves customers outside the territorial boundaries of the members of the GUA, to be subject to county commission jurisdiction unless the ownership is transferred to a local government. The bill details how the local government may acquire the utility, and it addresses how the local government may establish rates. Also, the bill allows local governments to not purchase the utility, and to petition the circuit court to appoint a receiver to operate the utility on behalf of the local government. The bill further repeals paragraph (g) of section (7) of section 163.01, F.S. Section 163.01(g)(7), F.S., allows local governments to enter into an interlocal agreement to form a governmental utility authority (GUA) to acquire and operate water and wastewater within and outside the boundaries of the members of the GUA.

The bill has an indeterminate fiscal impact on local governments.

The bill takes effect upon becoming a law.

[HB 129 was reported favorable by the Subcommittee on Energy on March 11, 2003 with a strike everything amendment]

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: March 22, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Chapter 163, F.S., relates to intergovernmental programs. This section is known as the Florida Interlocal Government Cooperation Act of 1969 (Act). The purpose of the Act is to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities

Section 163.01(g)(7), F.S., allows local governments to enter into an interlocal agreement to form a governmental utility authority (GUA) to acquire and operate water and wastewater within and outside the boundaries of the members of the GUA .

Pursuant to s. 367.021(7), F.S., “Governmental authority” means a political subdivision, as defined by s. 1.01(8), a regional water supply authority created pursuant to s. 373.1962, or a nonprofit corporation formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility.

The words “public body,” “body politic,” or “political subdivision” include counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state. See s. 1.01(8), F.S.

Section 367.022(2), F.S., provides an exemption from Florida Public Service Commission (FPSC) regulation for systems owned, operated, managed, or controlled by governmental authorities, including water and wastewater facilities.

According to the FPSC, there appears to be nothing in the statutes that would require a GUA to sell an individual system to a local government, and the ability of the local government to use eminent domain to acquire a system is not addressed.

The bill repeals s. 163.01(7)(g), F.S.; therefore, no new governmental utility authorities can be created under the section. Any water or wastewater utility facility acquired after September 1, 2003, by a GUA that will serve outside the territorial limits of the members of the GUA will be subject to the jurisdiction of the county commission in the county where the services are provided, unless the ownership of the facility is transferred to the local government. The transfer to the local government must be within 12 months of the effective date of this Act.

The bill provides that the local governments in which the facility is located must obtain from the GUA all the financial information about the utility prior to the acquisition. Further, the local government may establish rates using a traditional ratemaking formula.

Options are provided in the bill for local governments that choose not to purchase the utility. A local government may establish a government authority pursuant to s. 367.021, F.S., to purchase and operate the facility on behalf of the local government. Another option is to petition the appropriate circuit court to appoint a receiver.

Finally, the bill slightly modifies the definition of a "governmental authority" in s.367.021, F.S. to add the word "utility."

C. SECTION DIRECTORY:

Section 1. Creates a new section relating to the purchase of a water and wastewater utility by a GUA.

Section 2. Repeals s. 163.01, F.S.

Section 3. Slightly modifies the definition of a "governmental authority."

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate.

2. Expenditures:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

According to the Office of Program Policy Analysis and Government Accountability, intergovernmental authorities can provide a public benefit by facilitating government ownership and consolidated operations of small water utilities. This in turn can reduce costs for these utilities, the value of which may be used to meet capital expenditure requirements or passed on to customers through reduced utility rates. However, there is insufficient accountability over the acquisition and operations of water utilities owned by an intergovernmental authority. In addition, the Florida Statutes do not ensure that counties and municipalities are able to acquire utilities owned by an intergovernmental authority.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES