

1                                   A bill to be entitled  
2           An act relating to water utilities; creating s.  
3           367.172, F.S.; providing legislative findings  
4           with respect to monopoly water utilities;  
5           providing for a pilot project for Pasco County  
6           to facilitate county response to certain  
7           consumer complaints; providing legislative  
8           intent; allowing the chairman of the board of  
9           county commissioners to establish a monopoly  
10          water utility ad hoc committee for a prescribed  
11          period; providing for the membership and duties  
12          of the ad hoc committee; allowing the county  
13          commission to adopt additional technological  
14          standards to address issues relating to black  
15          water; requiring that utilities receive notice  
16          of the standards and that they submit a  
17          compliance plan to the county; prohibiting  
18          county commissions from adopting standards that  
19          relate to the finances of a monopoly water  
20          utility or that conflict with specified  
21          standards imposed by other regulatory bodies;  
22          providing procedures for challenging standards  
23          adopted by the county; providing for a monopoly  
24          water utility to recover certain costs of  
25          compliance with the county requirements;  
26          providing that this act supersedes conflicting  
27          provisions of ch. 367, F.S.; providing for  
28          future repeal; providing an effective date.

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30 Be It Enacted by the Legislature of the State of Florida:  
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1 Section 1. Section 367.172, Florida Statutes, is  
2 created to read:

3 367.172 Monopoly water utilities; legislative intent;  
4 Pasco County pilot project, countywide standards for black  
5 water and customer service.--

6 (1) The Legislature recognizes that by extending the  
7 privilege of monopoly status to certain utilities, this  
8 chapter creates a class of captive customers who cannot choose  
9 to purchase service from an open market. Accordingly, the  
10 Legislature finds that it is a priority to ensure that  
11 drinking water delivered to captive customers meets  
12 appropriate quality standards. The Legislature further finds  
13 that there exists a variety of factors that affect the quality  
14 of the water delivered into customers' homes. It is the  
15 further intent of the Legislature to establish a pilot program  
16 in Pasco County regarding monopoly water utilities which is  
17 intended to allow Pasco County the ability to respond to  
18 consumer criticisms regarding black water and other consumer  
19 complaints dealing with customer service. It is also the  
20 intent of the Legislature to maintain a statewide uniform  
21 system of regulation with respect to the establishment of  
22 water quality standards. Therefore, the Legislature recognizes  
23 that only the Department of Environmental Protection, the  
24 Public Service Commission, and the Environmental Protection  
25 Agency are authorized to establish water quality criteria  
26 requirements. Nonetheless, it is recognized that technology  
27 may be available to assist in lessening black water problems.  
28 It is also recognized that monopoly water utilities have  
29 established varying degrees of customer service programs that  
30 are designed to respond to consumer complaints regarding  
31 customer service.

1           (2) If Pasco County is receiving black water or other  
2 customer service complaints from a significant number of those  
3 customers serviced by a monopoly water utility, the chairman  
4 of the county commission may establish a monopoly water  
5 utility ad hoc committee consisting of the chairman of the  
6 county commission, two utility representatives from monopoly  
7 water utilities, two customer representatives, the county  
8 health officer, and two independent scientific experts in  
9 water chemistry. The committee shall be in existence for no  
10 more than a 2-year period, and its function shall be:

11           (a) To review and evaluate customer service complaints  
12 and, if deemed necessary, recommend to the county commission  
13 the establishment of uniform customer service criteria to be  
14 applied by all monopoly water utilities;

15           (b) To review and evaluate black water concerns  
16 expressed by customers serviced by a monopoly water utility if  
17 similar complaints have also been filed with the Public  
18 Service Commission; and

19           (c) If deemed necessary, recommend to the county  
20 commission the propriety of requiring new technology or new  
21 uniform minimum technology standards for use by monopoly water  
22 utilities in the treatment of black water and customer service  
23 responsiveness. The ad hoc committee may evaluate a monopoly  
24 water utility's operational protocol only insofar as it  
25 relates to customer service. The ad hoc committee may not  
26 recommend standards that deal with the financial aspects of a  
27 water utility or standards or criteria relating to water  
28 quality which would either conflict with or be more stringent  
29 than water quality standards presently imposed by the Public  
30 Service Commission, the Department of Environmental  
31 Protection, or the Environmental Protection Agency. However,

1 the ad hoc committee may recommend the establishment of local  
2 technological standards or methods of treatment relating to  
3 the esthetics of black water or other minimum standards  
4 regarding general responsiveness to customer service  
5 complaints. Such technological standards relating to black  
6 water must be economically, technologically, and  
7 environmentally feasible. The ad hoc committee shall consult  
8 with the Public Service Commission, the Department of  
9 Environmental Protection, or the Environmental Protection  
10 Agency as necessary.

11 (3) On the recommendation of the ad hoc committee, the  
12 county commission may choose to adopt additional technological  
13 standards designed to resolve black water issues which are not  
14 required by the Public Service Commission, the Department of  
15 Environmental Protection, or the Environmental Protection  
16 Agency and may also choose to adopt other minimum standards  
17 for customer service responsiveness. Upon the adoption of any  
18 such standards, each monopoly water utility shall be informed  
19 of those new standards and shall be given 3 months to submit  
20 to the county a plan for compliance with those standards. The  
21 county shall allow for a reasonable time to bring such systems  
22 into compliance with the new standards. Notwithstanding any  
23 other provisions of this section, the county commission may  
24 not adopt standards that deal with the financial aspects of a  
25 monopoly water utility or standards or criteria relating to  
26 water quality as applied to a monopoly water utility which  
27 would either conflict with or be more stringent than water  
28 quality standards or criteria presently imposed by the Public  
29 Service Commission, the Department of Environmental  
30 Protection, or the Environmental Protection Agency. The  
31 county's decision to adopt any technological or customer

1 service standards is agency action only for the purposes of  
2 this act and is subject to chapter 120, Florida Statutes. Any  
3 affected monopoly water utility, consumer, or state agency may  
4 challenge, pursuant to chapter 120, Florida Statutes, the  
5 county's decision to adopt such standards as not complying  
6 with the provisions contained in this section, and the county  
7 shall refer the petition to the Division of Administrative  
8 Hearings. Any decision of an administrative law judge is final  
9 agency action, subject to appeal pursuant to section 120.68,  
10 Florida Statutes. If there is no challenge to the decision of  
11 the county commission to impose additional standards as  
12 provided for in this section or the county prevails in an  
13 administrative challenge to the proposed standards, the full  
14 amount of any reasonable and prudent costs incurred in  
15 complying with the county requirements are recoverable by a  
16 monopoly water utility under section 367.081(4)(b), Florida  
17 Statutes.

18 (4) If any other provision of this chapter is  
19 inconsistent with this section, this section shall prevail.

20 (5) This section shall expire effective July 1, 2005.

21 Section 2. This act shall take effect July 1, 2003.  
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