

By Senator Fasano

11-1608-04

See HB

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

5 (1) The Legislature recognizes that by extending the
6 privilege of monopoly status to certain utilities, chapter
7 367, Florida Statutes, creates a class of captive customers
8 who cannot choose to purchase service from an open market.
9 Accordingly, the Legislature finds that it is a priority to
10 ensure that drinking water delivered to captive customers
11 meets appropriate quality standards. The Legislature further
12 finds that there exists a variety of factors that affect the
13 quality of the water delivered into customers' homes. It is
14 the intent of the Legislature to establish a pilot program in
15 Pasco County regarding monopoly water utilities which is
16 intended to allow Pasco County the ability to respond to
17 consumer complaints regarding black water, rotten-egg odor
18 arising from local variations in raw water chemistry, and
19 customer service. It is also the intent of the Legislature to
20 maintain a statewide uniform system of regulation with respect
21 to the establishment of water quality standards. Therefore,
22 the Legislature recognizes that only the Public Service
23 Commission, the Department of Environmental Protection, and
24 the Environmental Protection Agency are authorized to
25 establish statewide water quality criteria requirements.
26 Nonetheless, it is recognized that technology may be available
27 to assist in lessening black water and rotten-egg odor arising
28 from local variations in raw water chemistry. It is also
29 recognized that monopoly water utilities have established
30 varying degrees of customer service programs that are designed
31 to respond to consumer complaints regarding customer service.

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

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

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

20 (c) If deemed necessary, to recommend to the county
21 commission the propriety of requiring new technology or new
22 uniform minimum technology standards for use by monopoly water
23 utilities in the treatment of black water and rotten-egg odor
24 and the delivery of customer service. The ad hoc committee may
25 evaluate a monopoly water utility's operational protocol only
26 insofar as it relates to customer service and water quality
27 issues related to local variations in water chemistry. The ad
28 hoc committee may not recommend standards that deal with the
29 financial aspects of a water utility or standards or criteria
30 relating to water quality which would conflict with water
31 quality standards presently imposed by the Public Service

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

13 (3) On the recommendation of the ad hoc committee, the
14 county commission may choose to adopt additional technological
15 standards upon demonstration that there will be a substantial
16 improvement in black water and rotten-egg odor conditions and
17 such standards do not conflict with the permitting
18 requirements of the Public Service Commission, the Department
19 of Environmental Protection, or the Environmental Protection
20 Agency. The county commission may also choose to adopt other
21 minimum standards for customer service responsiveness. Upon
22 the adoption of any such standards, each monopoly water
23 utility shall be informed of those new standards and shall be
24 given 3 months to submit to the county a plan for compliance
25 with those standards. The county shall allow for a reasonable
26 time to bring such systems into compliance with the new
27 standards. Notwithstanding any other provisions of this act,
28 the county commission may not adopt standards that deal with
29 the financial aspects of a monopoly water utility or standards
30 or criteria relating to water quality as applied to a monopoly
31 water utility which would either conflict with or be more

1 stringent than water quality standards or criteria presently
2 imposed by the Public Service Commission, the Department of
3 Environmental Protection, or the Environmental Protection
4 Agency. The county's decision to adopt any technological or
5 customer service standards is agency action only for the
6 purposes of this act and is subject to chapter 120, Florida
7 Statutes. Any affected monopoly water utility, consumer, or
8 state agency may challenge, pursuant to chapter 120, Florida
9 Statutes, the county's decision to adopt such standards as not
10 complying with the provisions contained in this act, and the
11 county shall refer the petition to the Division of
12 Administrative Hearings. Any decision of an administrative law
13 judge is final agency action, subject to appeal pursuant to
14 section 120.68, Florida Statutes. If there is no challenge to
15 the decision of the county commission to impose additional
16 standards as provided for in this act, or if the county
17 prevails in an administrative challenge to the proposed
18 standards, the full amount of any reasonable and prudent costs
19 incurred in complying with the county requirements and any
20 legal or other costs incurred by the utility in participating
21 in the process outlined in this section are recoverable by a
22 monopoly water utility under section 367.081(4)(b), Florida
23 Statutes, if that monopoly water utility is regulated by the
24 Public Service Commission.

25 (4) This act is intended to supersede the provisions
26 of chapter 367, Florida Statutes, to the extent that such
27 provisions are inconsistent with this act.

28 (5) This act shall expire July 1, 2005.

29 Section 2. This act shall take effect upon becoming a
30 law.

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