

1 A bill to be entitled
2 An act relating to water and wastewater utilities;
3 creating s. 367.0819, F.S.; providing for recovery through
4 a surcharge of certain costs relating to water and
5 wastewater system improvement projects; defining the term
6 "nonrevenue-producing project"; requiring utilities to
7 submit surcharge tariffs reflecting the surcharge
8 calculation for recovery of such costs to the Florida
9 Public Service Commission for approval and to provide
10 specified notice of such surcharge tariff filings;
11 requiring utilities to submit specified sworn affirmations
12 to the commission; providing a penalty for false
13 statements with regard to such affirmations; authorizing
14 the commission to order utilities to make refunds to
15 ratepayers under certain conditions; providing
16 construction; providing for the automatic approval of the
17 surcharge tariff within a specified period after filing
18 the surcharge tariff with the commission; requiring the
19 surcharge notice to be presented as a separate line item
20 on the customer's bill; specifying a limitation for the
21 surcharge amount; providing requirements for billing,
22 reconciliation, and quarterly adjustment of the surcharge;
23 specifying a limitation for recovery of project costs;
24 providing project eligibility criteria; specifying water
25 and wastewater treatment criteria; providing requirements
26 for notice, maintenance, and availability of certain
27 records; authorizing the commission to review specified

28 projects; providing that surcharges are subject to refund
 29 under certain conditions; providing an effective date.
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31 Be It Enacted by the Legislature of the State of Florida:
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33 Section 1. Section 367.0819, Florida Statutes, is created
 34 to read:

35 367.0819 Recovery of costs for system improvement
 36 projects.—

37 (1) (a) In order to promote utility investment in system
 38 improvement projects, the commission shall allow a utility to
 39 recover prudently incurred capital costs related to nonrevenue-
 40 producing projects to enhance water quality, fire protection
 41 reliability, and long-term system viability through a surcharge
 42 collected pursuant to this section. The costs of existing or new
 43 facilities to serve new customers are not recoverable through
 44 this surcharge.

45 (b) For purposes of this section, a "nonrevenue-producing
 46 project" means a project that is not constructed or installed
 47 for the purpose of serving a new customer.

48 (2) A utility seeking to establish a surcharge pursuant to
 49 this section must:

50 (a) Submit, for commission approval, the proposed
 51 surcharge tariff establishing a formula for the calculation of
 52 rates reflecting the surcharge, which rates provide for recovery
 53 of depreciation and return on investment for each eligible
 54 project. The return on investment for each eligible project must
 55 be based on the utility's last authorized pretax rate of return.

56 The surcharge must be calculated, applied, and recovered in
57 accordance with the utility's last authorized rate structure.
58 Until the surcharge is reset pursuant to paragraph (5)(d), the
59 total cumulative amount of the surcharge revenue recovered by
60 the utility may not exceed 8 percent of the utility's total
61 annual retail water service revenues, and, where applicable, 8
62 percent of the utility's total annual wastewater service
63 revenues, excluding revenue collected through the surcharge, for
64 the preceding calendar year.

65 (b) Provide notice by mail of the initial surcharge tariff
66 filing to each customer in the affected service areas and
67 publish notice of the surcharge filing in a newspaper of general
68 circulation in the affected service areas.

69 (3)(a) Before implementing a surcharge pursuant to this
70 section, the utility shall file a sworn affirmation with the
71 commission as to the accuracy of the figures and calculations
72 upon which the surcharge or any adjustment thereto is based,
73 stating that the change in rates will not cause the utility to
74 exceed the range of its last authorized rate of return on
75 equity. A person who makes a false statement in the affirmation
76 required under this paragraph, which statement he or she does
77 not believe to be true in regard to any material matter, commits
78 a felony of the third degree, punishable as provided in s.
79 775.082, s. 775.083, or s. 775.084.

80 (b) If, within 15 months after the filing of a utility's
81 report pursuant to s. 367.121, the commission finds that the
82 utility exceeded the range of its last authorized rate of return
83 on equity after the implementation of the surcharge within the

84 year for which the report was filed, the commission may order
85 the utility to refund, with interest, the difference to the
86 ratepayers and adjust rates accordingly. This paragraph may not
87 be construed to require a bond or corporate undertaking in order
88 for the utility to implement the surcharge.

89 (4) A surcharge tariff submitted by a utility in
90 compliance with paragraph (2) (a) is not subject to s. 367.091
91 and shall be approved as a matter of right without hearing
92 within 60 days after filing the surcharge tariff with the
93 commission.

94 (5) A surcharge established pursuant to this section shall
95 be:

96 (a) Presented as a separate line item on the customer's
97 bill and billed in accordance with the billing cycle in the
98 utility's approved tariff. Any changes in the surcharge must be
99 reflected on the first bill the customer receives after the
100 change of the surcharge.

101 (b) Revaluated, and adjusted if necessary, quarterly to
102 reflect the costs of eligible projects placed into service. The
103 utility shall file the supporting data to increase or reduce the
104 surcharge with the commission for each revaluation along with a
105 sworn affirmation pursuant to paragraph (3) (a) and shall
106 contemporaneously deliver copies of the supporting data and the
107 sworn affirmation to the Office of the Public Counsel. The
108 surcharge adjustment is not subject to s. 367.091 and shall take
109 effect without hearing 45 days after the supporting data and
110 sworn affirmation are filed with the commission and delivered to
111 the Office of the Public Counsel.

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112 (c) Subject to an annual reconciliation of revenues and
113 costs based on a reconciliation period of 12 months to begin on
114 the date the surcharge is approved as a matter of right pursuant
115 to subsection (4). Within 30 days after the end of each
116 reconciliation period, the utility shall file with the
117 commission, and deliver to the Office of the Public Counsel, a
118 reconciliation report that compares the actual surcharge
119 revenues received and the actual eligible costs incurred by the
120 utility during the prior period along with the sworn affirmation
121 required by paragraph (3) (a). A reconciliation report filed in
122 accordance with this paragraph shall be administratively
123 approved by the commission without hearing within 45 days after
124 filing. The difference between revenue and costs shall be
125 recovered or refunded, as appropriate, by the utility without
126 hearing as an automatic adjustment to the subsequent surcharge
127 calculation. Revenues in excess of system-improvement costs
128 shall be refunded with interest to customers pursuant to the
129 commission's rule on interest for water and wastewater
130 utilities.

131 (d) Reset at zero as of the effective date of new base
132 rates that provide for prospective recovery of the costs that
133 had previously been recovered under the surcharge. Thereafter,
134 only the costs of new eligible projects that have not previously
135 been included in the base rate of the utility shall be reflected
136 in the surcharge.

137 (6) Recovery of project costs pursuant to this section
138 does not preclude such costs from being included in base rates
139 in subsequent rate proceedings. However, a project cost

140 recovered in base rates may not be recovered through a surcharge
141 established pursuant to this section.

142 (7) A project is eligible for recovery of costs through
143 the surcharge if it is:

144 (a) Completed and placed into service after the test year
145 upon which base rates were last established by the commission
146 for the utility; and

147 (b) For the construction of nonrevenue-producing
148 improvement projects that are used for the production,
149 treatment, transmission, storage, distribution, or provision of
150 potable or recycled water to the public or for the collection,
151 transportation, or disposal of wastewater for the public. Such
152 projects may include, but are not limited to, water quality
153 improvement projects designed to achieve primary or secondary
154 water standards as determined by the Department of Environmental
155 Protection, the United States Environmental Protection Agency,
156 or any other governmental entity having similar regulatory
157 jurisdiction; wastewater quality improvement projects; main,
158 service line, and valve replacement projects; main relining and
159 rehabilitation projects; fire and flushing hydrant installation
160 and replacement projects; main extension projects to eliminate
161 dead ends; interconnection projects; water, wastewater, and
162 reuse meter installation and replacement projects; wastewater
163 collection, replacement, relining, and rehabilitation projects;
164 and manhole replacement and rehabilitation projects.

165 (8) Water and wastewater treatment includes production of
166 any sodium solution, excluding sodium hypochlorite, used in
167 conjunction with the treatment process but does not include the

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168 onsite manufacturing of liquid chlorine or bleach.

169 (9) Upon approval of the surcharge tariff, the utility
170 shall maintain and make available for public inspection during
171 normal business hours at each utility location or on the
172 utility's website a detailed schedule for each completed
173 project, including the plant account number and title, the
174 category of the project, the project name and description, the
175 cost of the project in the month of closing, and the month and
176 year of closing. Notice of the availability of the schedules for
177 public inspection shall be posted in each office of the utility.

178 (10) The commission may review the prudence of all
179 projects subject to the surcharge in the utility's next base
180 rate proceeding following the commission's initial approval of
181 the surcharge pursuant to subsection (4). Revenues from such
182 surcharges are subject to refund if the commission subsequently
183 determines that the costs of a project were not prudently
184 incurred or that the project is not used and useful in the
185 public service, and any such refund shall be made pursuant to
186 the commission's rule on refunds for water and wastewater
187 utilities.

188 Section 2. This act shall take effect July 1, 2011.