

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Peters offered the following:

**Amendment (with directory and title amendments)**

Between lines 23 and 24, insert:

(7)

(g)1. Notwithstanding any other provisions of this section, any separate legal entity created under this section, the membership of which is limited to municipalities and counties of the state, and which may include a special district or a public agency of this state in addition to a municipality or county or both, may acquire, own, construct, improve, operate, and manage public facilities, or finance facilities on behalf of any person, relating to a governmental function or purpose, including, but not limited to, wastewater facilities, water or alternative water supply facilities, and water reuse facilities, which may serve populations within or outside of the

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17 members of the entity. Notwithstanding s. 367.171(7), any  
18 separate legal entity created under this paragraph is not  
19 subject to Public Service Commission jurisdiction. The separate  
20 legal entity may not provide utility services within the service  
21 area of an existing utility system unless it has received the  
22 consent of the utility.

23 2. For purposes of this paragraph, the term:

24 a. "Host government" means the governing body of the  
25 county, if the largest number of equivalent residential  
26 connections currently served by a system of the utility is  
27 located in the unincorporated area, or the governing body of a  
28 municipality, if the largest number of equivalent residential  
29 connections currently served by a system of the utility is  
30 located within that municipality's boundaries.

31 b. "Separate legal entity" means any entity created by  
32 interlocal agreement the membership of which is limited to two  
33 or more special districts, municipalities, ~~or~~ or  
34 public agencies of the state, but which entity is legally  
35 separate and apart from any of its member governments.

36 c. "System" means a water or wastewater facility or group  
37 of such facilities owned by one entity or affiliate entities.

38 d. "Utility" means a water or wastewater utility and  
39 includes every person, separate legal entity, lessee, trustee,  
40 or receiver owning, operating, managing, or controlling a  
41 system, or proposing construction of a system, who is providing,  
42 or proposes to provide, water or wastewater service to the  
43 public for compensation.

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44 3. A separate legal entity that seeks to acquire any  
45 utility shall notify the host government in writing by certified  
46 mail about the contemplated acquisition not less than 30 days  
47 before any proposed transfer of ownership, use, or possession of  
48 any utility assets by such separate legal entity. The potential  
49 acquisition notice shall be provided to the legislative head of  
50 the governing body of the host government and to its chief  
51 administrative officer and shall provide the name and address of  
52 a contact person for the separate legal entity and information  
53 identified in s. 367.071(4) (a) concerning the contemplated  
54 acquisition.

55 4.a. Within 30 days following receipt of the notice, the  
56 host government may adopt a resolution to become a member of the  
57 separate legal entity, adopt a resolution to approve the utility  
58 acquisition, or adopt a resolution to prohibit the utility  
59 acquisition by the separate legal entity if the host government  
60 determines that the proposed acquisition is not in the public  
61 interest. A resolution adopted by the host government which  
62 prohibits the acquisition may include conditions that would make  
63 the proposal acceptable to the host government.

64 b. If a host government adopts a membership resolution,  
65 the separate legal entity shall accept the host government as a  
66 member on the same basis as its existing members before any  
67 transfer of ownership, use, or possession of the utility or the  
68 utility facilities. If a host government adopts a resolution to  
69 approve the utility acquisition, the separate legal entity may  
70 complete the acquisition. If a host government adopts a  
71 prohibition resolution, the separate legal entity may not

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72 acquire the utility within that host government's territory  
73 without the specific consent of the host government by future  
74 resolution. If a host government does not adopt a prohibition  
75 resolution or an approval resolution, the separate legal entity  
76 may proceed to acquire the utility after the 30-day notice  
77 period without further notice.

78 5. After the acquisition or construction of any utility  
79 systems by a separate legal entity created under this paragraph,  
80 revenues or any other income may not be transferred or paid to a  
81 member of a separate legal entity, or to any other special  
82 district, county, ~~or~~ municipality, or public agency of this  
83 state, from user fees or other charges or revenues generated  
84 from customers that are not physically located within the  
85 jurisdictional or service delivery boundaries of the member,  
86 special district, county, ~~or~~ municipality, or public agency  
87 receiving the transfer or payment. Any transfer or payment to a  
88 member, special district, ~~or other~~ local government, or public  
89 agency of this state must be solely from user fees or other  
90 charges or revenues generated from customers that are physically  
91 located within the jurisdictional or service delivery boundaries  
92 of the member, special district, ~~or~~ local government, or public  
93 agency receiving the transfer of payment.

94 6. This section is an alternative provision otherwise  
95 provided by law as authorized in s. 4, Art. VIII of the State  
96 Constitution for any transfer of power as a result of an  
97 acquisition of a utility by a separate legal entity from a  
98 municipality, county, ~~or~~ special district, or public agency of  
99 this state.

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100       7. The entity may finance or refinance the acquisition,  
101 construction, expansion, and improvement of such facilities  
102 relating to a governmental function or purpose through the  
103 issuance of its bonds, notes, or other obligations under this  
104 section or as otherwise authorized by law. The entity has all  
105 the powers provided by the interlocal agreement under which it  
106 is created or which are necessary to finance, own, operate, or  
107 manage the public facility, including, without limitation, the  
108 power to establish rates, charges, and fees for products or  
109 services provided by it, the power to levy special assessments,  
110 the power to sell or finance all or a portion of such facility,  
111 and the power to contract with a public or private entity to  
112 manage and operate such facilities or to provide or receive  
113 facilities, services, or products. Except as may be limited by  
114 the interlocal agreement under which the entity is created, all  
115 of the privileges, benefits, powers, and terms of s. 125.01,  
116 relating to counties, and s. 166.021, relating to  
117 municipalities, are fully applicable to the entity. However,  
118 neither the entity nor any of its members on behalf of the  
119 entity may exercise the power of eminent domain over the  
120 facilities or property of any existing water or wastewater plant  
121 utility system, nor may the entity acquire title to any water or  
122 wastewater plant utility facilities, other facilities, or  
123 property which was acquired by the use of eminent domain after  
124 the effective date of this act. Bonds, notes, and other  
125 obligations issued by the entity are issued on behalf of the  
126 public agencies that are members of the entity.

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127           8. Any entity created under this section may also issue  
128 bond anticipation notes in connection with the authorization,  
129 issuance, and sale of bonds. The bonds may be issued as serial  
130 bonds or as term bonds or both. Any entity may issue capital  
131 appreciation bonds or variable rate bonds. Any bonds, notes, or  
132 other obligations must be authorized by resolution of the  
133 governing body of the entity and bear the date or dates; mature  
134 at the time or times, not exceeding 40 years from their  
135 respective dates; bear interest at the rate or rates; be payable  
136 at the time or times; be in the denomination; be in the form;  
137 carry the registration privileges; be executed in the manner; be  
138 payable from the sources and in the medium or payment and at the  
139 place; and be subject to the terms of redemption, including  
140 redemption prior to maturity, as the resolution may provide. If  
141 any officer whose signature, or a facsimile of whose signature,  
142 appears on any bonds, notes, or other obligations ceases to be  
143 an officer before the delivery of the bonds, notes, or other  
144 obligations, the signature or facsimile is valid and sufficient  
145 for all purposes as if he or she had remained in office until  
146 the delivery. The bonds, notes, or other obligations may be sold  
147 at public or private sale for such price as the governing body  
148 of the entity shall determine. Pending preparation of the  
149 definitive bonds, the entity may issue interim certificates,  
150 which shall be exchanged for the definitive bonds. The bonds may  
151 be secured by a form of credit enhancement, if any, as the  
152 entity deems appropriate. The bonds may be secured by an  
153 indenture of trust or trust agreement. In addition, the  
154 governing body of the legal entity may delegate, to an officer,

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155 official, or agent of the legal entity as the governing body of  
156 the legal entity may select, the power to determine the time;  
157 manner of sale, public or private; maturities; rate of interest,  
158 which may be fixed or may vary at the time and in accordance  
159 with a specified formula or method of determination; and other  
160 terms and conditions as may be deemed appropriate by the  
161 officer, official, or agent so designated by the governing body  
162 of the legal entity. However, the amount and maturity of the  
163 bonds, notes, or other obligations and the interest rate of the  
164 bonds, notes, or other obligations must be within the limits  
165 prescribed by the governing body of the legal entity and its  
166 resolution delegating to an officer, official, or agent the  
167 power to authorize the issuance and sale of the bonds, notes, or  
168 other obligations.

169 9. Bonds, notes, or other obligations issued under this  
170 paragraph may be validated as provided in chapter 75. The  
171 complaint in any action to validate the bonds, notes, or other  
172 obligations must be filed only in the Circuit Court for Leon  
173 County. The notice required to be published by s. 75.06 must be  
174 published in Leon County and in each county that is a member of  
175 the entity issuing the bonds, notes, or other obligations, or in  
176 which a member of the entity is located, and the complaint and  
177 order of the circuit court must be served only on the State  
178 Attorney of the Second Judicial Circuit and on the state  
179 attorney of each circuit in each county that is a member of the  
180 entity issuing the bonds, notes, or other obligations or in  
181 which a member of the entity is located. Section 75.04(2) does

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182 not apply to a complaint for validation brought by the legal  
183 entity.

184 10. The accomplishment of the authorized purposes of a  
185 legal entity created under this paragraph is in all respects for  
186 the benefit of the people of the state, for the increase of  
187 their commerce and prosperity, and for the improvement of their  
188 health and living conditions. Since the legal entity will  
189 perform essential governmental functions in accomplishing its  
190 purposes, the legal entity is not required to pay any taxes or  
191 assessments of any kind whatsoever upon any property acquired or  
192 used by it for such purposes or upon any revenues at any time  
193 received by it. The bonds, notes, and other obligations of an  
194 entity, their transfer, and the income therefrom, including any  
195 profits made on the sale thereof, are at all times free from  
196 taxation of any kind by the state or by any political  
197 subdivision or other agency or instrumentality thereof. The  
198 exemption granted in this subparagraph is not applicable to any  
199 tax imposed by chapter 220 on interest, income, or profits on  
200 debt obligations owned by corporations.

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**D I R E C T O R Y A M E N D M E N T**

203 Remove lines 9-10 and insert:

204 Section 1. Paragraph (b) of subsection (3) and paragraph  
205 (g) of subsection (7) of section 163.01, Florida Statutes, are  
206 amended to read:  
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**T I T L E   A M E N D M E N T**

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Remove lines 3-4 and insert:  
163.01, F.S.; modifying the definition of "public  
agency" to include a public transit provider;  
providing that a public agency of this state may have  
membership in a separate legal entity created under  
the Florida Interlocal Cooperation Act of 1969;