

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Peters offered the following:

Amendment (with title amendment)

Between lines 92 and 93, insert:

Section 1. Paragraph (b) of subsection (3) and paragraph (g) of subsection (7) of section 163.01, Florida Statutes, are amended to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(3) As used in this section:

(b) "Public agency" means a political subdivision, agency, or officer of this state or of any state of the United States, including, but not limited to, state government, county, city, school district, single and multipurpose special district, single and multipurpose public authority, metropolitan or consolidated government, a separate legal entity or administrative entity created under subsection (7), a public

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17 transit provider as defined in s. 341.031, an independently
18 elected county officer, an ~~any~~ agency of the United States
19 Government, a federally recognized Native American tribe, and
20 any similar entity of any other state of the United States.

21 (7)

22 (g)1. Notwithstanding any other provisions of this
23 section, any separate legal entity created under this section,
24 the membership of which is limited to municipalities and
25 counties of the state, and which may include a special district
26 or a public agency of this state in addition to a municipality
27 or county or both, may acquire, own, construct, improve,
28 operate, and manage public facilities, or finance facilities on
29 behalf of any person, relating to a governmental function or
30 purpose, including, but not limited to, wastewater facilities,
31 water or alternative water supply facilities, and water reuse
32 facilities, which may serve populations within or outside of the
33 members of the entity. Notwithstanding s. 367.171(7), any
34 separate legal entity created under this paragraph is not
35 subject to Public Service Commission jurisdiction. The separate
36 legal entity may not provide utility services within the service
37 area of an existing utility system unless it has received the
38 consent of the utility.

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

40 a. "Host government" means the governing body of the
41 county, if the largest number of equivalent residential
42 connections currently served by a system of the utility is
43 located in the unincorporated area, or the governing body of a
44 municipality, if the largest number of equivalent residential

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45 connections currently served by a system of the utility is
46 located within that municipality's boundaries.

47 b. "Separate legal entity" means any entity created by
48 interlocal agreement the membership of which is limited to two
49 or more special districts, municipalities, ~~or~~ counties, or
50 public agencies of the state, but which entity is legally
51 separate and apart from any of its member governments.

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

54 d. "Utility" means a water or wastewater utility and
55 includes every person, separate legal entity, lessee, trustee,
56 or receiver owning, operating, managing, or controlling a
57 system, or proposing construction of a system, who is providing,
58 or proposes to provide, water or wastewater service to the
59 public for compensation.

60 3. A separate legal entity that seeks to acquire any
61 utility shall notify the host government in writing by certified
62 mail about the contemplated acquisition not less than 30 days
63 before any proposed transfer of ownership, use, or possession of
64 any utility assets by such separate legal entity. The potential
65 acquisition notice shall be provided to the legislative head of
66 the governing body of the host government and to its chief
67 administrative officer and shall provide the name and address of
68 a contact person for the separate legal entity and information
69 identified in s. 367.071(4)(a) concerning the contemplated
70 acquisition.

71 4.a. Within 30 days following receipt of the notice, the
72 host government may adopt a resolution to become a member of the

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73 separate legal entity, adopt a resolution to approve the utility
74 acquisition, or adopt a resolution to prohibit the utility
75 acquisition by the separate legal entity if the host government
76 determines that the proposed acquisition is not in the public
77 interest. A resolution adopted by the host government which
78 prohibits the acquisition may include conditions that would make
79 the proposal acceptable to the host government.

80 b. If a host government adopts a membership resolution,
81 the separate legal entity shall accept the host government as a
82 member on the same basis as its existing members before any
83 transfer of ownership, use, or possession of the utility or the
84 utility facilities. If a host government adopts a resolution to
85 approve the utility acquisition, the separate legal entity may
86 complete the acquisition. If a host government adopts a
87 prohibition resolution, the separate legal entity may not
88 acquire the utility within that host government's territory
89 without the specific consent of the host government by future
90 resolution. If a host government does not adopt a prohibition
91 resolution or an approval resolution, the separate legal entity
92 may proceed to acquire the utility after the 30-day notice
93 period without further notice.

94 5. After the acquisition or construction of any utility
95 systems by a separate legal entity created under this paragraph,
96 revenues or any other income may not be transferred or paid to a
97 member of a separate legal entity, or to any other special
98 district, county, ~~or~~ municipality, or public agency of this
99 state, from user fees or other charges or revenues generated
100 from customers that are not physically located within the

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101 jurisdictional or service delivery boundaries of the member,
102 special district, county, ~~or~~ municipality, or public agency
103 receiving the transfer or payment. Any transfer or payment to a
104 member, special district, ~~or other~~ local government, or public
105 agency of this state must be solely from user fees or other
106 charges or revenues generated from customers that are physically
107 located within the jurisdictional or service delivery boundaries
108 of the member, special district, ~~or~~ local government, or public
109 agency receiving the transfer of payment.

110 6. This section is an alternative provision otherwise
111 provided by law as authorized in s. 4, Art. VIII of the State
112 Constitution for any transfer of power as a result of an
113 acquisition of a utility by a separate legal entity from a
114 municipality, county, ~~or~~ special district, or public agency of
115 this state.

116 7. The entity may finance or refinance the acquisition,
117 construction, expansion, and improvement of such facilities
118 relating to a governmental function or purpose through the
119 issuance of its bonds, notes, or other obligations under this
120 section or as otherwise authorized by law. The entity has all
121 the powers provided by the interlocal agreement under which it
122 is created or which are necessary to finance, own, operate, or
123 manage the public facility, including, without limitation, the
124 power to establish rates, charges, and fees for products or
125 services provided by it, the power to levy special assessments,
126 the power to sell or finance all or a portion of such facility,
127 and the power to contract with a public or private entity to
128 manage and operate such facilities or to provide or receive

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129 facilities, services, or products. Except as may be limited by
130 the interlocal agreement under which the entity is created, all
131 of the privileges, benefits, powers, and terms of s. 125.01,
132 relating to counties, and s. 166.021, relating to
133 municipalities, are fully applicable to the entity. However,
134 neither the entity nor any of its members on behalf of the
135 entity may exercise the power of eminent domain over the
136 facilities or property of any existing water or wastewater plant
137 utility system, nor may the entity acquire title to any water or
138 wastewater plant utility facilities, other facilities, or
139 property which was acquired by the use of eminent domain after
140 the effective date of this act. Bonds, notes, and other
141 obligations issued by the entity are issued on behalf of the
142 public agencies that are members of the entity.

143 8. Any entity created under this section may also issue
144 bond anticipation notes in connection with the authorization,
145 issuance, and sale of bonds. The bonds may be issued as serial
146 bonds or as term bonds or both. Any entity may issue capital
147 appreciation bonds or variable rate bonds. Any bonds, notes, or
148 other obligations must be authorized by resolution of the
149 governing body of the entity and bear the date or dates; mature
150 at the time or times, not exceeding 40 years from their
151 respective dates; bear interest at the rate or rates; be payable
152 at the time or times; be in the denomination; be in the form;
153 carry the registration privileges; be executed in the manner; be
154 payable from the sources and in the medium or payment and at the
155 place; and be subject to the terms of redemption, including
156 redemption prior to maturity, as the resolution may provide. If

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157 any officer whose signature, or a facsimile of whose signature,
158 appears on any bonds, notes, or other obligations ceases to be
159 an officer before the delivery of the bonds, notes, or other
160 obligations, the signature or facsimile is valid and sufficient
161 for all purposes as if he or she had remained in office until
162 the delivery. The bonds, notes, or other obligations may be sold
163 at public or private sale for such price as the governing body
164 of the entity shall determine. Pending preparation of the
165 definitive bonds, the entity may issue interim certificates,
166 which shall be exchanged for the definitive bonds. The bonds may
167 be secured by a form of credit enhancement, if any, as the
168 entity deems appropriate. The bonds may be secured by an
169 indenture of trust or trust agreement. In addition, the
170 governing body of the legal entity may delegate, to an officer,
171 official, or agent of the legal entity as the governing body of
172 the legal entity may select, the power to determine the time;
173 manner of sale, public or private; maturities; rate of interest,
174 which may be fixed or may vary at the time and in accordance
175 with a specified formula or method of determination; and other
176 terms and conditions as may be deemed appropriate by the
177 officer, official, or agent so designated by the governing body
178 of the legal entity. However, the amount and maturity of the
179 bonds, notes, or other obligations and the interest rate of the
180 bonds, notes, or other obligations must be within the limits
181 prescribed by the governing body of the legal entity and its
182 resolution delegating to an officer, official, or agent the
183 power to authorize the issuance and sale of the bonds, notes, or
184 other obligations.

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185 9. Bonds, notes, or other obligations issued under this
186 paragraph may be validated as provided in chapter 75. The
187 complaint in any action to validate the bonds, notes, or other
188 obligations must be filed only in the Circuit Court for Leon
189 County. The notice required to be published by s. 75.06 must be
190 published in Leon County and in each county that is a member of
191 the entity issuing the bonds, notes, or other obligations, or in
192 which a member of the entity is located, and the complaint and
193 order of the circuit court must be served only on the State
194 Attorney of the Second Judicial Circuit and on the state
195 attorney of each circuit in each county that is a member of the
196 entity issuing the bonds, notes, or other obligations or in
197 which a member of the entity is located. Section 75.04(2) does
198 not apply to a complaint for validation brought by the legal
199 entity.

200 10. The accomplishment of the authorized purposes of a
201 legal entity created under this paragraph is in all respects for
202 the benefit of the people of the state, for the increase of
203 their commerce and prosperity, and for the improvement of their
204 health and living conditions. Since the legal entity will
205 perform essential governmental functions in accomplishing its
206 purposes, the legal entity is not required to pay any taxes or
207 assessments of any kind whatsoever upon any property acquired or
208 used by it for such purposes or upon any revenues at any time
209 received by it. The bonds, notes, and other obligations of an
210 entity, their transfer, and the income therefrom, including any
211 profits made on the sale thereof, are at all times free from
212 taxation of any kind by the state or by any political

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213 subdivision or other agency or instrumentality thereof. The
214 exemption granted in this subparagraph is not applicable to any
215 tax imposed by chapter 220 on interest, income, or profits on
216 debt obligations owned by corporations.

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T I T L E A M E N D M E N T

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Remove line 2 and insert:

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An act relating to transportation; amending s. 163.01,

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F.S.; modifying the definition of the term "public

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agency" to include a public transit provider;

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providing that a public agency of this state may have

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membership in a separate legal entity created under

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the Florida Interlocal Cooperation Act of 1969;

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amending provisions