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1 A bill to be entitled
2 An act relating to interlocal agreements; amending s.
3 163.01, F.S.; modifying the definition of "public
4 agency" to include a public transit provider;
5 providing that a public agency of this state may have
6 membership in a separate legal entity created under
7 the Florida Interlocal Cooperation Act of 1969;
8 providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Paragraph (b) of subsection (3) and paragraph
13 (g) of subsection (7) of section 163.01, Florida Statutes, are
14 amended to read:

15 163.01 Florida Interlocal Cooperation Act of 1969.—

16 (3) As used in this section:

17 (b) "Public agency" means a political subdivision, agency,
18 or officer of this state or of any state of the United States,
19 including, but not limited to, state government, county, city,
20 school district, single and multipurpose special district,
21 single and multipurpose public authority, metropolitan or
22 consolidated government, a separate legal entity or
23 administrative entity created under subsection (7), a public
24 transit provider as defined in s. 341.031, an independently
25 elected county officer, an ~~any~~ agency of the United States
26 Government, a federally recognized Native American tribe, and
27 any similar entity of any other state of the United States.

28 (7)

29 (g)1. Notwithstanding any other provisions of this section,

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

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

47 a. "Host government" means the governing body of the
48 county, if the largest number of equivalent residential
49 connections currently served by a system of the utility is
50 located in the unincorporated area, or the governing body of a
51 municipality, if the largest number of equivalent residential
52 connections currently served by a system of the utility is
53 located within that municipality's boundaries.

54 b. "Separate legal entity" means any entity created by
55 interlocal agreement the membership of which is limited to two
56 or more special districts, municipalities, ~~or~~ or
57 public agencies of the state, but which entity is legally
58 separate and apart from any of its member governments.

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

61 d. "Utility" means a water or wastewater utility and
62 includes every person, separate legal entity, lessee, trustee,
63 or receiver owning, operating, managing, or controlling a
64 system, or proposing construction of a system, who is providing,
65 or proposes to provide, water or wastewater service to the
66 public for compensation.

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

78 4.a. Within 30 days following receipt of the notice, the
79 host government may adopt a resolution to become a member of the
80 separate legal entity, adopt a resolution to approve the utility
81 acquisition, or adopt a resolution to prohibit the utility
82 acquisition by the separate legal entity if the host government
83 determines that the proposed acquisition is not in the public
84 interest. A resolution adopted by the host government which
85 prohibits the acquisition may include conditions that would make
86 the proposal acceptable to the host government.

87 b. If a host government adopts a membership resolution, the

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

101 5. After the acquisition or construction of any utility
102 systems by a separate legal entity created under this paragraph,
103 revenues or any other income may not be transferred or paid to a
104 member of a separate legal entity, or to any other special
105 district, county, ~~or~~ municipality, or public agency of this
106 state, from user fees or other charges or revenues generated
107 from customers that are not physically located within the
108 jurisdictional or service delivery boundaries of the member,
109 special district, county, ~~or~~ municipality, or public agency
110 receiving the transfer or payment. Any transfer or payment to a
111 member, special district, ~~or other~~ local government, or public
112 agency of this state must be solely from user fees or other
113 charges or revenues generated from customers that are physically
114 located within the jurisdictional or service delivery boundaries
115 of the member, special district, ~~or~~ local government, or public
116 agency receiving the transfer of payment.

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117 6. This section is an alternative provision otherwise
118 provided by law as authorized in s. 4, Art. VIII of the State
119 Constitution for any transfer of power as a result of an
120 acquisition of a utility by a separate legal entity from a
121 municipality, county, ~~or~~ special district, or public agency of
122 this state.

123 7. The entity may finance or refinance the acquisition,
124 construction, expansion, and improvement of such facilities
125 relating to a governmental function or purpose through the
126 issuance of its bonds, notes, or other obligations under this
127 section or as otherwise authorized by law. The entity has all
128 the powers provided by the interlocal agreement under which it
129 is created or which are necessary to finance, own, operate, or
130 manage the public facility, including, without limitation, the
131 power to establish rates, charges, and fees for products or
132 services provided by it, the power to levy special assessments,
133 the power to sell or finance all or a portion of such facility,
134 and the power to contract with a public or private entity to
135 manage and operate such facilities or to provide or receive
136 facilities, services, or products. Except as may be limited by
137 the interlocal agreement under which the entity is created, all
138 of the privileges, benefits, powers, and terms of s. 125.01,
139 relating to counties, and s. 166.021, relating to
140 municipalities, are fully applicable to the entity. However,
141 neither the entity nor any of its members on behalf of the
142 entity may exercise the power of eminent domain over the
143 facilities or property of any existing water or wastewater plant
144 utility system, nor may the entity acquire title to any water or
145 wastewater plant utility facilities, other facilities, or

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146 property which was acquired by the use of eminent domain after
147 the effective date of this act. Bonds, notes, and other
148 obligations issued by the entity are issued on behalf of the
149 public agencies that are members of the entity.

150 8. Any entity created under this section may also issue
151 bond anticipation notes in connection with the authorization,
152 issuance, and sale of bonds. The bonds may be issued as serial
153 bonds or as term bonds or both. Any entity may issue capital
154 appreciation bonds or variable rate bonds. Any bonds, notes, or
155 other obligations must be authorized by resolution of the
156 governing body of the entity and bear the date or dates; mature
157 at the time or times, not exceeding 40 years from their
158 respective dates; bear interest at the rate or rates; be payable
159 at the time or times; be in the denomination; be in the form;
160 carry the registration privileges; be executed in the manner; be
161 payable from the sources and in the medium or payment and at the
162 place; and be subject to the terms of redemption, including
163 redemption prior to maturity, as the resolution may provide. If
164 any officer whose signature, or a facsimile of whose signature,
165 appears on any bonds, notes, or other obligations ceases to be
166 an officer before the delivery of the bonds, notes, or other
167 obligations, the signature or facsimile is valid and sufficient
168 for all purposes as if he or she had remained in office until
169 the delivery. The bonds, notes, or other obligations may be sold
170 at public or private sale for such price as the governing body
171 of the entity shall determine. Pending preparation of the
172 definitive bonds, the entity may issue interim certificates,
173 which shall be exchanged for the definitive bonds. The bonds may
174 be secured by a form of credit enhancement, if any, as the

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175 entity deems appropriate. The bonds may be secured by an
176 indenture of trust or trust agreement. In addition, the
177 governing body of the legal entity may delegate, to an officer,
178 official, or agent of the legal entity as the governing body of
179 the legal entity may select, the power to determine the time;
180 manner of sale, public or private; maturities; rate of interest,
181 which may be fixed or may vary at the time and in accordance
182 with a specified formula or method of determination; and other
183 terms and conditions as may be deemed appropriate by the
184 officer, official, or agent so designated by the governing body
185 of the legal entity. However, the amount and maturity of the
186 bonds, notes, or other obligations and the interest rate of the
187 bonds, notes, or other obligations must be within the limits
188 prescribed by the governing body of the legal entity and its
189 resolution delegating to an officer, official, or agent the
190 power to authorize the issuance and sale of the bonds, notes, or
191 other obligations.

192 9. Bonds, notes, or other obligations issued under this
193 paragraph may be validated as provided in chapter 75. The
194 complaint in any action to validate the bonds, notes, or other
195 obligations must be filed only in the Circuit Court for Leon
196 County. The notice required to be published by s. 75.06 must be
197 published in Leon County and in each county that is a member of
198 the entity issuing the bonds, notes, or other obligations, or in
199 which a member of the entity is located, and the complaint and
200 order of the circuit court must be served only on the State
201 Attorney of the Second Judicial Circuit and on the state
202 attorney of each circuit in each county that is a member of the
203 entity issuing the bonds, notes, or other obligations or in

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204 which a member of the entity is located. Section 75.04(2) does
205 not apply to a complaint for validation brought by the legal
206 entity.

207 10. The accomplishment of the authorized purposes of a
208 legal entity created under this paragraph is in all respects for
209 the benefit of the people of the state, for the increase of
210 their commerce and prosperity, and for the improvement of their
211 health and living conditions. Since the legal entity will
212 perform essential governmental functions in accomplishing its
213 purposes, the legal entity is not required to pay any taxes or
214 assessments of any kind whatsoever upon any property acquired or
215 used by it for such purposes or upon any revenues at any time
216 received by it. The bonds, notes, and other obligations of an
217 entity, their transfer, and the income therefrom, including any
218 profits made on the sale thereof, are at all times free from
219 taxation of any kind by the state or by any political
220 subdivision or other agency or instrumentality thereof. The
221 exemption granted in this subparagraph is not applicable to any
222 tax imposed by chapter 220 on interest, income, or profits on
223 debt obligations owned by corporations.

224 Section 2. This act shall take effect July 1, 2013.