



LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	
04/16/2013 12:08 PM	.	
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Senator Latvala moved the following:

**Senate Amendment (with title amendment)**

Delete lines 127 - 141

and 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,



14 single and multipurpose public authority, metropolitan or  
15 consolidated government, a separate legal entity or  
16 administrative entity created under subsection (7), a public  
17 transit provider as defined in s. 341.031, an independently  
18 elected county officer, 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 section,  
23 any separate legal entity created under this section, the  
24 membership of which is limited to municipalities and counties of  
25 the state, and which may include a special district or a public  
26 agency of this state in addition to a municipality or county or  
27 both, may acquire, own, construct, improve, operate, and manage  
28 public facilities, or finance facilities on behalf of any  
29 person, relating to a governmental function or purpose,  
30 including, but not limited to, wastewater facilities, water or  
31 alternative water supply facilities, and water reuse facilities,  
32 which may serve populations within or outside of the members of  
33 the entity. Notwithstanding s. 367.171(7), any separate legal  
34 entity created under this paragraph is not subject to Public  
35 Service Commission jurisdiction. The separate legal entity may  
36 not provide utility services within the service area of an  
37 existing utility system unless it has received the consent of  
38 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



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43 located in the unincorporated area, or the governing body of a  
44 municipality, if the largest number of equivalent residential  
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



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72 host government may adopt a resolution to become a member of the  
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, the  
81 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  
129 facilities, services, or products. Except as may be limited by



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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  
157 any officer whose signature, or a facsimile of whose signature,  
158 appears on any bonds, notes, or other obligations ceases to be



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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.

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



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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  
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 =====

And the title is amended as follows:

Delete line 4

and insert:

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;  
amending