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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2014	.	
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The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 367.072, Florida Statutes, is created to
read:

367.072 Petition to revoke certificate of authorization.-

The Legislature finds that it is in the public interest that
water service be of good quality and consistent with the
standards set forth in this chapter. Therefore, a utility's



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11 certificate of authorization to provide water service may be
12 revoked if, after its customers file a petition with the
13 commission, the commission finds that revocation is in the best
14 interest of the customers in accordance with this section. As
15 used in this section, the term "customer" means an individual
16 whose property is serviced by a single meter or a person whose
17 name appears on the bill for a master meter.

18 (1) If the commission receives a letter from the customers
19 of a utility stating their intent to file a petition, the
20 utility is prohibited from filing a rate case until the petition
21 is acted upon by the commission.

22 (a) Within 10 days after receipt of the letter, commission
23 staff shall notify the utility of the customers' intent to file
24 a petition and that the utility may not file for a rate increase
25 until the petition is acted upon by the commission.

26 (b) Commission staff shall send to the customers
27 instructions regarding the information required on the petition
28 and the subsequent process the commission will follow. The
29 petition must be filed within 90 days after the receipt of the
30 instruction. Commission staff shall review the petition and
31 notify the customers within 10 days after receipt of the
32 petition that the petition is sufficient for the commission to
33 act or that additional information is necessary. The customers
34 must file a cured petition within 30 days after receipt of the
35 notice to cure and provide a copy of the petition to the
36 utility. If the customers fail to file or refile a petition
37 within the allotted time, the commission shall dismiss the
38 petition with prejudice, and the customers may not file another
39 petition for 1 year after the dismissal.



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40 (2) A petition must:
41 (a) State with specificity each issue that customers have
42 with the quality of water service, each time the problem was
43 reported to the utility, and how long each issue has existed;
44 and
45 (b) Be signed by at least 65 percent of the customers of
46 the service area covered under the certificate of authorization.
47 A person whose name appears on the bill for a master meter may
48 sign a petition if at least 65 percent of the customers,
49 tenants, or unit owners served by the master meter support the
50 petition, in which case documentation of such support must be
51 included with the petition.
52 (3) If the petition is in compliance with this section and
53 the issues identified within the petition support a reasonable
54 likelihood that the utility is failing to provide quality of
55 water service, a docket shall be opened. The utility shall use
56 the following criteria in preparing a response to the
57 commission, addressing the issues identified within the petition
58 and defending the quality of its water service:
59 (a) Federal and state primary water quality standards or
60 secondary water quality standards pursuant to s. 367.0812; and
61 (b) The relationship between the utility and its customers,
62 including each complaint received regarding the quality of water
63 service, the length of time each customer has been complaining
64 about the service, the resolution of each complaint, and the
65 time it has taken to address such complaints.
66 (4) The commission shall evaluate the issues identified in
67 the petition, the utility's response as to whether it is
68 providing quality of water service, and any other factor the



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69 commission deems relevant.

70 (5) Based upon its evaluation, the commission shall:

71 (a) Dismiss the petition, in which case the decision must
72 be supported by clear and convincing evidence and is subject to
73 ss. 120.569 and 120.57;

74 (b) Require the utility to take the necessary steps to
75 correct the quality of water service issues identified in the
76 petition. The commission shall set benchmarks within a
77 timeframe, not to exceed 3 years, and may require the utility to
78 provide interim reports describing its progress in meeting such
79 benchmarks. The commission may extend the term 3 years for
80 circumstances that delay the project which are not in the
81 control of the utility, such as natural disasters and obtaining
82 permits necessary for meeting such benchmarks; or

83 (c) Notwithstanding s. 367.045, revoke the utility's
84 certificate of authorization, in which case a receiver must be
85 appointed pursuant to s. 367.165 until a sale of the utility
86 system has been approved pursuant to s. 367.071.

87 (6) The commission shall adopt by rule the format of and
88 requirements for a petition and may adopt other rules to
89 administer this section.

90 Section 2. Section 367.0812, Florida Statutes, is created
91 to read:

92 367.0812 Rate fixing; quality of water service as
93 criterion.—

94 (1) In fixing rates that are just, reasonable,
95 compensatory, and not unfairly discriminatory, the commission
96 shall consider the extent to which the utility provides water
97 service that meets secondary water quality standards as



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98 established by the Department of Environmental Protection. In
99 determining whether a utility has satisfied its obligation to
100 provide quality of water service that meets these standards, the
101 commission shall consider:

102 (a) Testimony and evidence provided by customers and the
103 utility;

104 (b) The results of past tests required by a county health
105 department or the Department of Environmental Protection which
106 measure the utility's compliance with the applicable secondary
107 water quality standards;

108 (c) Complaints regarding the applicable secondary water
109 quality standards filed by customers with the commission, the
110 Department of Environmental Protection, the respective local
111 governmental entity, or a county health department during the
112 past 5 years; and

113 (d) If the commission deems necessary, the results of any
114 updated test.

115 (2) (a) In determining the quality of water service, the
116 commission shall consider a finding by the Department of
117 Environmental Protection as to whether the utility has failed to
118 provide water service that meets the secondary water quality
119 standards of the department.

120 (b) The utility shall create an estimate of the costs and
121 benefits of a plausible solution to each issue identified by the
122 commission.

123 (c) The utility shall meet with its customers within a time
124 prescribed by the commission to discuss the estimated costs and
125 benefits of and time necessary for implementing a plausible
126 solution for each quality of water service issue identified, and



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127 the utility shall report the results of such meetings to the
128 commission.

129 (d) The utility shall inform the commission, if:

130 1. The customers and the utility agree on a solution for
131 each quality of water service issue identified, of each agreed
132 on solution and the cost of each solution; or

133 2. The customers and the utility prefer a different
134 solution to at least one of the quality of water service issues
135 identified, of the preferred solutions by each and the cost of
136 each solution.

137 (e) The commission may require the utility to implement a
138 solution that is in the best interest of the customers for each
139 quality of water service issue. The utility may recover its
140 costs in implementing the solutions ordered by the commission.
141 The commission may establish the necessary benchmarks that a
142 utility must meet for each solution and require the utility to
143 report periodically until each solution is completed.

144 (3) Notwithstanding s. 367.072, customers may not petition
145 the commission to revoke the certificate of authorization of a
146 utility if it is the subject of a proceeding under this chapter.

147 (4) The commission may prescribe penalties for a utility's
148 failure to adequately resolve each quality of water service
149 issue as required. Penalties may include penalties as provided
150 in s. 367.161, a reduction of return on equity of up to 100
151 basis points, the denial of all or part of a rate increase for a
152 utility's system or part of a system if it determines that the
153 quality of water service is less than satisfactory until the
154 quality of water is found to be satisfactory, or revocation of
155 the certificate of authorization pursuant to s. 367.072.



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156 (5) The commission shall adopt rules to assess and enforce
157 compliance with this section.

158 Section 3. For the 2014-2015 fiscal year, the sums of
159 \$212,521 in recurring funds and \$12,012 in nonrecurring funds
160 from the General Revenue Fund and three full-time equivalent
161 positions with an associated salary rate of 131,235 are
162 appropriated to the Florida Public Service Commission to
163 implement the provisions of this act related to the regulation
164 of the quality of water service.

165 Section 4. This act shall take effect July 1, 2014.

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

168 And the title is amended as follows:

169 Delete everything before the enacting clause
170 and insert:

171 A bill to be entitled
172 An act relating to water utilities; creating s.
173 367.072, F.S.; providing legislative findings;
174 defining the term "customer"; authorizing the Florida
175 Public Service Commission to revoke a certificate of
176 authorization upon receipt of a petition; providing
177 criteria for such petition; authorizing the commission
178 to adopt rules; creating s. 367.0812, F.S.; requiring
179 the commission to consider the quality of water
180 service when fixing rates; providing criteria that the
181 commission must consider in making its determination
182 on the petition; requiring the utility to meet with
183 its customers to discuss the costs and benefits of
184 plausible solutions if the commission finds that the



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185 utility has failed to meet certain quality of water
186 standards; prohibiting a customer from petitioning the
187 commission to revoke the certificate of authorization
188 of a utility under certain circumstances; authorizing
189 the commission to prescribe penalties for certain
190 failures of the utility; requiring the commission to
191 adopt rules; providing an appropriation; providing an
192 effective date.