



752326

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/15/2014	.	
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The Committee on Communications, Energy, and Public Utilities (Simpson) 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 and wastewater service be of good quality and consistent  
with the standards set forth in this chapter. The Legislature



752326

11 finds that the customers of a utility are in a position to  
12 initially assess the quality of the water or wastewater service  
13 provided. Therefore, a utility's certificate of authorization  
14 may be suspended or revoked if its customers file a petition  
15 with the commission in accordance with this section.

16 (1) For the purpose of determining whether a utility is  
17 providing quality water or wastewater service, a petition must:

18 (a) State with specificity each issue customers have with  
19 the water or wastewater service; and

20 (b) Be signed by at least 65 percent of a system's  
21 customers. The term "customer" means an individual whose  
22 property is serviced by a single meter or a person whose name  
23 appears on the bill for a master meter. A person whose name  
24 appears on the bill for a master meter may sign a petition if at  
25 least 65 percent of the customers, tenants, or unit owners  
26 served by the master meter support the petition, in which case  
27 documentation of such support must be included with the  
28 petition.

29 (2) Upon receipt, the commission shall review the petition  
30 and determine if it is in compliance with this section and  
31 whether the issues identified within the petition support a  
32 finding that the water or wastewater utility is failing to  
33 provide quality water or wastewater service. If the commission  
34 finds that there is a reasonable likelihood that the utility is  
35 not providing quality water or wastewater service, then it shall  
36 submit a copy of the petition to the respective utility. The  
37 utility shall submit a response to the commission addressing the  
38 issues identified within the petition and explaining whether it  
39 is providing quality water or wastewater service using the



752326

40 following criteria:

41 (a) Federal, state, and local primary standards or quality  
42 standards pursuant to s. 367.0812; and

43 (b) The relationship between the utility and its customers,  
44 including each complaint received regarding service quality, the  
45 length of time each customer has been complaining about service,  
46 the resolution of each complaint, and the time it has taken to  
47 address such complaints.

48 (3) The commission shall evaluate the issues identified  
49 within the petition; the utility's response as to whether it is  
50 providing quality water or wastewater service; the rates of the  
51 utility in comparison with other utilities of similar size and  
52 operational characteristics; and any other factor the commission  
53 deems relevant.

54 (4) Notwithstanding s. 367.045 and based upon its  
55 evaluation, the commission shall:

56 (a) Dismiss the petition if the decision is supported by  
57 competent substantial evidence, in which case the decision is  
58 subject to ss. 120.569 and 120.57;

59 (b) Suspend the utility's certificate and require the  
60 utility to take the necessary steps to correct the water or  
61 wastewater service issues identified. The commission shall set  
62 benchmarks within a timeframe, not to exceed 3 years, and may  
63 require the utility to provide interim reports describing its  
64 progress in meeting such benchmarks; or

65 (c) Revoke the utility's certificate, in which case a  
66 receiver must be appointed pursuant to s. 367.165 until a sale  
67 of the utility system has been approved pursuant to s. 367.071.

68 (5) The commission shall adopt by rule the format of and



752326

69 requirements for a petition and may adopt other rules to  
70 administer this section.

71 Section 2. Section 367.0812, Florida Statutes, is created  
72 to read:

73 367.0812 Rate fixing; quality of water or wastewater  
74 service as criterion.-

75 (1) In fixing rates that are just, reasonable,  
76 compensatory, and not unfairly discriminatory, the commission  
77 shall consider the extent to which the utility provides water  
78 service that meets secondary water quality standards for taste,  
79 odor, color, or corrosiveness, as established by the Department  
80 of Environmental Protection, the respective water management  
81 district, or the local governmental entity. The commission may  
82 deny all or part of a rate increase for a utility's system or  
83 part of a system if it determines that the quality of water  
84 service is less than satisfactory. In determining whether a  
85 utility has satisfied its obligation to provide water service to  
86 its customers which meets the standards for taste, odor, color,  
87 or corrosiveness, the commission shall consider:

88 (a) Testimony and evidence provided by customers and the  
89 utility;

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

94 (c) Complaints regarding the applicable secondary water  
95 quality standards filed by customers with the commission, the  
96 Department of Environmental Protection, the respective water  
97 management district, or the respective local governmental entity



752326

98 during the past 5 years; and

99 (d) If the commission deems necessary, the results of any  
100 updated test.

101 (2) In fixing just, reasonable, compensatory, and not  
102 unfairly discriminatory rates, the commission shall consider the  
103 extent to which the utility provides wastewater service to its  
104 customers without generating odor, noise, aerosol drift, or  
105 lighting that adversely affects customers. The commission may  
106 deny all or part of a rate increase for a utility's system or  
107 part of a system if it determines that the quality of wastewater  
108 service is less than satisfactory. In determining the extent to  
109 which the utility provides wastewater service to its customers  
110 without generating odor, noise, aerosol drift, or lighting that  
111 adversely affects customers, the commission shall consider:

112 (a) Testimony and evidence provided by customers and the  
113 utility;

114 (b) Complaints regarding the alleged odor, noise, aerosol  
115 drift, or lighting filed with the Department of Environmental  
116 Protection, a county health department, or the respective local  
117 governmental entity during the past 5 years; and

118 (c) Complaints regarding the alleged odor, noise, aerosol  
119 drift, or lighting filed with the commission during the past 5  
120 years.

121 (3) (a) If the commission determines that a utility:

122 1. Has failed to provide water service that meets the  
123 secondary water quality standards of the department, the  
124 respective water management district, or the local governmental  
125 entity, regarding taste, odor, color, or corrosiveness; or

126 2. Has generated odor, noise, aerosol drift, or lighting in



752326

127 providing wastewater service that adversely affects customers,  
128  
129 the utility shall create an estimate of the costs and benefits  
130 of a plausible solution to each issue identified by the  
131 commission.

132 (b) The utility shall meet with its customers within a time  
133 prescribed by the commission to discuss the estimated costs and  
134 benefits of and time necessary for implementation of a plausible  
135 solution for each quality of service issue identified and the  
136 utility shall report the results of such meetings to the  
137 commission.

138 (c) The utility shall inform the commission if:

139 1. The customers and the utility agree on a solution for  
140 each quality of service issue identified; or

141 2. The customers and utility prefer a different solution to  
142 at least one of the quality of service issues identified.

143 (d) The commission may require the utility to implement a  
144 solution that is in the best interest of the customers for each  
145 quality of service issue. The commission may establish the  
146 necessary benchmarks a utility must meet for each solution and  
147 require the utility to report periodically until each solution  
148 is completed.

149 (4) The commission shall adopt rules to assess and enforce  
150 compliance with this section. The rules must prescribe penalties  
151 for a utility's failure to adequately resolve each quality of  
152 service issue as required by the commission, which may include  
153 finances as provided in s. 367.161, a reduction of return on equity  
154 of up to 100 basis points, or cancellation of the certificate of  
155 authority under s. 367.072.



752326

156 Section 3. This act shall take effect July 1, 2014.

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

159 And the title is amended as follows:

160 Delete everything before the enacting clause

161 and insert:

162 A bill to be entitled

163 An act relating to water and wastewater utilities;  
164 creating s. 367.072, F.S.; providing legislative  
165 intent; authorizing the Florida Public Service  
166 Commission to suspend or revoke a certificate of  
167 authorization upon receipt of a petition; providing  
168 criteria for such petition; authorizing the commission  
169 to adopt rules; creating s. 367.0812, F.S.; requiring  
170 the commission to consider the quality of water or  
171 wastewater service when fixing rates; providing  
172 criteria that the commission must consider in making  
173 its determination; requiring the utility to meet with  
174 its customers to discuss the costs and benefits of  
175 plausible solutions if the commission finds that the  
176 utility has failed to meet certain water or wastewater  
177 quality standards; requiring the commission to adopt  
178 rules; providing an effective date.