

By Senator Simpson

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1 A bill to be entitled
2 An act relating to water and wastewater utilities;
3 amending s. 367.081, F.S.; limiting the rates that may
4 be charged by a public water and wastewater utility;
5 requiring the Public Service Commission to adjust
6 public water or wastewater utilities rates under
7 certain circumstances; requiring rates to be adjusted
8 retroactively; requiring a public water or wastewater
9 utility to refund rates upon an adjustment; creating
10 s. 367.0812, F.S.; requiring the commission to
11 consider the value and quality of water or wastewater
12 service provided by a utility when fixing rates;
13 providing criteria that the commission must consider
14 in making its determination; requiring the utility to
15 meet with its customers to discuss the costs and
16 benefits of plausible solutions if the commission
17 finds that the utility failed to meet certain water
18 and wastewater quality standards; requiring the
19 commission to adopt rules; providing an effective
20 date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsection (2) of section 367.081, Florida
25 Statutes, is amended to read:

26 367.081 Rates; procedure for fixing and changing.—

27 (2) (a) ~~1-~~ The commission shall, ~~either~~ upon request or upon
28 its own motion, fix rates that ~~which~~ are just, reasonable,
29 compensatory, and not unfairly discriminatory.

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30 1. In ~~each every~~ such proceeding, the commission shall
31 consider the value and quality of the service and the cost of
32 providing the service, which must ~~shall~~ include, but is not ~~be~~
33 limited to, debt interest; the requirements of the utility for
34 working capital; maintenance, depreciation, tax, and operating
35 expenses incurred in the operation of all property used and
36 useful in the public service; and a fair return on the
37 investment of the utility in property used and useful in the
38 public service. However, the commission may ~~shall~~ not allow the
39 inclusion of contributions-in-aid-of-construction in the rate
40 base of any utility during a rate proceeding or, ~~nor shall the~~
41 ~~commission~~ impute prospective future contributions-in-aid-of-
42 construction against the utility's investment in property used
43 and useful in the public service, ~~and~~ Accumulated depreciation
44 on such contributions-in-aid-of-construction may ~~shall~~ not be
45 used to reduce the rate base, and ~~nor shall~~ depreciation on such
46 contributed assets may not be considered a cost of providing
47 utility service.

48 2. Notwithstanding subparagraph 1., the rates of a public
49 water or wastewater utility may not exceed the rates charged by
50 a government-owned water or wastewater utility if a government-
51 owned utility is located in the same county as the public
52 utility. If more than one government-owned water or wastewater
53 utility is located in the same county, the maximum rate shall be
54 the average of the government-owned utilities' rates.

55 a. The commission shall adjust the rates of a public water
56 or wastewater utility that exceeds the rates charged by a
57 government-owned water or wastewater utility located in the same
58 county.

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59 b. The rates shall be adjusted retroactively to the date of
60 the most recent rate adjustment of the government-owned water or
61 wastewater utility. The public water or wastewater utility must
62 refund the amounts due within 12 months after such adjustment.

63 ~~3.2.~~ For purposes of such proceedings, the commission shall
64 consider utility property, including land acquired or facilities
65 constructed or to be constructed within a reasonable time in the
66 future, not to exceed 24 months after the end of the historic
67 base year used to set final rates unless a longer period is
68 approved by the commission, to be used and useful in the public
69 service, if:

70 a. Such property is needed to serve current customers;

71 b. Such property is needed to serve customers 5 years after
72 the end of the test year used in the commission's final order on
73 a rate request as provided in subsection (6) at a growth rate
74 for equivalent residential connections not to exceed 5 percent
75 per year; or

76 c. Such property is needed to serve customers more than 5
77 full years after the end of the test year used in the
78 commission's final order on a rate request as provided in
79 subsection (6) only to the extent that the utility presents
80 clear and convincing evidence to justify such consideration.

81
82 Notwithstanding the provisions of this paragraph, the commission
83 shall approve rates for service which allow a utility to recover
84 from customers the full amount of environmental compliance
85 costs. Such rates may not include charges for allowances for
86 funds prudently invested or similar charges. For purposes of
87 this requirement, the term "environmental compliance costs"

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88 includes all reasonable expenses and fair return on any prudent
89 investment incurred by a utility in complying with the
90 requirements or conditions contained in any permitting,
91 enforcement, or similar decision ~~decisions~~ of the United States
92 Environmental Protection Agency, the Department of Environmental
93 Protection, a water management district, or any other
94 governmental entity with similar regulatory jurisdiction.

95 (b) In establishing initial rates for a utility, the
96 commission may project the financial and operational data as
97 specified set-out in paragraph (a) to a point in time when the
98 utility is expected to be operating at a reasonable level of
99 capacity.

100 Section 2. Section 367.0812, Florida Statutes, is created
101 to read:

102 367.0812 Rate fixing; value and quality of water and
103 wastewater service as criterion.-

104 (1) In fixing rates that are just, reasonable,
105 compensatory, and not unfairly discriminatory, the commission
106 shall consider the extent to which the utility provides water
107 service that meets secondary water quality standards for taste,
108 odor, color, or corrosiveness, as established by the Department
109 of Environmental Protection, the respective water management
110 district, or the local governmental entity. In determining
111 whether a utility has satisfied its obligation to provide water
112 service to its customers which meets the standards for taste,
113 odor, color, or corrosiveness, the commission shall consider:

114 (a) Testimony and evidence provided by customers and the
115 utility;

116 (b) The results of past tests required by the Department of

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117 Environmental Protection or a county health department which
118 measure the utility's compliance with the applicable secondary
119 water quality standards;

120 (c) Complaints regarding the applicable secondary water
121 quality standards filed by customers with the commission, the
122 Department of Environmental Protection, the respective water
123 management district, or the respective local governmental entity
124 during the past 5 years; and

125 (d) If the commission deems necessary, the results of any
126 updated test.

127 (2) In fixing just, reasonable, compensatory, and not
128 unfairly discriminatory rates, the commission shall consider the
129 extent to which the utility provides wastewater service to its
130 customers without generating odor, noise, aerosol drift, or
131 light that adversely affects customers. In determining the
132 extent to which the utility provides wastewater service to its
133 customers without generating odor, noise, aerosol drift, or
134 light that adversely affects customers, the commission shall
135 consider:

136 (a) Testimony and evidence provided by customers and the
137 utility;

138 (b) Complaints regarding the alleged odor, noise, aerosol
139 drift, or light filed with the Department of Environmental
140 Protection, a county health department, or the respective local
141 governmental entity during the past 5 years; and

142 (c) Complaints regarding the alleged odor, noise, aerosol
143 drift, or light filed with the commission during the past 5
144 years.

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

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146 1. Has failed to provide water service that meets the
147 secondary water quality standards of the department, the
148 respective water management district, or the local governmental
149 entity, regarding taste, odor, color, or corrosiveness; or

150 2. Has generated odor, noise, aerosol drift, or light in
151 providing wastewater service that adversely affects customers,
152
153 the utility shall create an estimate of the costs and benefits
154 of plausible solutions to each concern identified by the
155 commission.

156 (b) The utility shall meet with its customers to discuss
157 the estimated costs and benefits of plausible solutions to each
158 concern identified by the commission and report the conclusions
159 of such meetings to the commission.

160 (4) The commission shall adopt rules to assess and enforce
161 the utility's compliance with this section. The rules must
162 prescribe penalties for a utility's failure to adequately
163 address or resolve each concern, which should include fines as
164 provided in s. 367.161 and a reduction of return on equity of up
165 to 100 basis points.

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