

**By** the Committees on Appropriations; Community Affairs; and Communications, Energy, and Public Utilities; and Senator Simpson

576-02573-14

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1                                   A bill to be entitled  
2       An act relating to water utilities; creating s.  
3       367.072, F.S.; providing legislative findings;  
4       defining the term "customer"; authorizing the Florida  
5       Public Service Commission to revoke a certificate of  
6       authorization upon receipt of a petition; providing  
7       criteria for such petition; authorizing the commission  
8       to adopt rules; creating s. 367.0812, F.S.; requiring  
9       the commission to consider the quality of water  
10      service when fixing rates; providing criteria that the  
11      commission must consider in making its determination;  
12      requiring the utility to meet with its customers to  
13      discuss the costs and benefits of plausible solutions  
14      if the commission finds that the utility has failed to  
15      meet certain quality of water standards; prohibiting a  
16      customer from petitioning the commission to revoke the  
17      certificate of authorization of a utility under  
18      certain circumstances; authorizing the commission to  
19      prescribe penalties for certain failures of the  
20      utility; requiring the commission to adopt rules;  
21      providing an appropriation; providing an effective  
22      date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26       Section 1. Section 367.072, Florida Statutes, is created to  
27 read:

28       367.072 Petition to revoke certificate of authorization.-  
29 The Legislature finds that it is in the public interest that

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30 water service be of good quality and consistent with the  
31 standards set forth in this chapter. Therefore, a utility's  
32 certificate of authorization to provide water service may be  
33 revoked if, after its customers file a petition with the  
34 commission, the commission finds that revocation is in the best  
35 interest of the customers in accordance with this section. As  
36 used in this section, the term "customer" means an individual  
37 whose property is serviced by a single meter or a person whose  
38 name appears on the bill for a master meter.

39 (1) If the commission receives a letter from the customers  
40 of a utility stating their intent to file a petition, the  
41 utility is prohibited from filing a rate case until the petition  
42 is acted upon by the commission.

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

47 (b) Commission staff shall send to the customers  
48 instructions regarding the information required on the petition  
49 and the subsequent process the commission will follow. The  
50 petition must be filed within 90 days after the receipt of the  
51 instruction. Commission staff shall review the petition and  
52 notify the customers within 10 days after receipt of the  
53 petition that the petition is sufficient for the commission to  
54 act or that additional information is necessary. The customers  
55 must file a cured petition within 30 days after receipt of the  
56 notice to cure and provide a copy of the petition to the  
57 utility. If the customers fail to file or refile a petition  
58 within the allotted time, the commission shall dismiss the

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59 petition with prejudice, and the customers may not file another  
60 petition for 1 year after the dismissal.

61 (2) A petition must:

62 (a) State with specificity each issue that customers have  
63 with the quality of water service, each time the problem was  
64 reported to the utility, and how long each issue has existed;  
65 and

66 (b) Be signed by at least 65 percent of the customers of  
67 the service area covered under the certificate of authorization.  
68 A person whose name appears on the bill for a master meter may  
69 sign a petition if at least 65 percent of the customers,  
70 tenants, or unit owners served by the master meter support the  
71 petition, in which case documentation of such support must be  
72 included with the petition.

73 (3) If the petition is in compliance with this section and  
74 the issues identified within the petition support a reasonable  
75 likelihood that the utility is failing to provide quality of  
76 water service, a docket shall be opened. The utility shall use  
77 the following criteria in preparing a response to the  
78 commission, addressing the issues identified within the petition  
79 and defending the quality of its water service:

80 (a) Federal and state primary water quality standards or  
81 secondary water quality standards pursuant to s. 367.0812; and

82 (b) The relationship between the utility and its customers,  
83 including each complaint received regarding the quality of water  
84 service, the length of time each customer has been complaining  
85 about the service, the resolution of each complaint, and the  
86 time it has taken to address such complaints.

87 (4) The commission shall evaluate the issues identified in

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88 the petition, the utility's response as to whether it is  
89 providing quality of water service, and any other factor the  
90 commission deems relevant.

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

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

95 (b) Require the utility to take the necessary steps to  
96 correct the quality of water service issues identified in the  
97 petition. The commission shall set benchmarks within a  
98 timeframe, not to exceed 3 years, and may require the utility to  
99 provide interim reports describing its progress in meeting such  
100 benchmarks. The commission may extend the term 3 years for  
101 circumstances that delay the project which are not in the  
102 control of the utility, such as natural disasters and obtaining  
103 permits necessary for meeting such benchmarks; or

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

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

111 Section 2. Section 367.0812, Florida Statutes, is created  
112 to read:

113 367.0812 Rate fixing; quality of water service as  
114 criterion.-

115 (1) In fixing rates that are just, reasonable,  
116 compensatory, and not unfairly discriminatory, the commission

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117 shall consider the extent to which the utility provides water  
118 service that meets secondary water quality standards as  
119 established by the Department of Environmental Protection. In  
120 determining whether a utility has satisfied its obligation to  
121 provide quality of water service that meets these standards, the  
122 commission shall consider:

123 (a) Testimony and evidence provided by customers and the  
124 utility;

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

129 (c) Complaints regarding the applicable secondary water  
130 quality standards filed by customers with the commission, the  
131 Department of Environmental Protection, the respective local  
132 governmental entity, or a county health department during the  
133 past 5 years; and

134 (d) If the commission deems necessary, the results of any  
135 updated test.

136 (2) (a) In determining the quality of water service, the  
137 commission shall consider a finding by the Department of  
138 Environmental Protection as to whether the utility has failed to  
139 provide water service that meets the secondary water quality  
140 standards of the department.

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

144 (c) The utility shall meet with its customers within a time  
145 prescribed by the commission to discuss the estimated costs and

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146 benefits of and time necessary for implementing a plausible  
147 solution for each quality of water service issue identified, and  
148 the utility shall report the results of such meetings to the  
149 commission.

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

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

154 2. The customers and the utility prefer a different  
155 solution to at least one of the quality of water service issues  
156 identified, of the preferred solutions by each and the cost of  
157 each solution.

158 (e) The commission may require the utility to implement a  
159 solution that is in the best interest of the customers for each  
160 quality of water service issue. The utility may recover its  
161 costs in implementing the solutions ordered by the commission.  
162 The commission may establish the necessary benchmarks that a  
163 utility must meet for each solution and require the utility to  
164 report periodically until each solution is completed.

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

168 (4) The commission may prescribe penalties for a utility's  
169 failure to adequately resolve each quality of water service  
170 issue as required. Penalties may include penalties as provided  
171 in s. 367.161, a reduction of return on equity of up to 100  
172 basis points, the denial of all or part of a rate increase for a  
173 utility's system or part of a system if it determines that the  
174 quality of water service is less than satisfactory until the

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175 quality of water is found to be satisfactory, or revocation of  
176 the certificate of authorization pursuant to s. 367.072.

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

179 Section 3. For the 2014-2015 fiscal year, the sums of  
180 \$212,521 in recurring funds and \$12,012 in nonrecurring funds  
181 from the General Revenue Fund and three full-time equivalent  
182 positions with an associated salary rate of 131,235 are  
183 appropriated to the Florida Public Service Commission to  
184 implement the provisions of this act related to the regulation  
185 of the quality of water service.

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