

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Regulatory Affairs
 2 Committee

3 Representative Santiago offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

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

9 367.072 Petition to revoke certificate of authorization.-

10 The Legislature finds that it is in the public interest that
 11 water service be of good quality and consistent with the
 12 standards set forth in this chapter. Therefore, a utility's
 13 certificate of authorization to provide water service may be
 14 revoked if, after its customers file a petition with the
 15 commission, the commission finds that revocation is in the best
 16 interest of the customers in accordance with this section. As
 17 used in this section, the term "customer" means an individual

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18 whose property is serviced by a single meter or a person whose
19 name appears on the bill for a master meter.

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

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

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

42 (2) A petition must:

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43 (a) State with specificity each issue that customers have
44 with the quality of water service, each time the problem was
45 reported to the utility, and how long each issue has existed;
46 and

47 (b) Be signed by at least 65 percent of the customers of
48 the service area covered under the certificate of authorization.
49 A person whose name appears on the bill for a master meter may
50 sign a petition if at least 65 percent of the customers,
51 tenants, or unit owners served by the master meter support the
52 petition, in which case documentation of such support must be
53 included with the petition.

54 (3) If the petition is in compliance with this section and
55 the issues identified within the petition support a reasonable
56 likelihood that the utility is failing to provide quality of
57 water service, a docket shall be opened. The utility shall use
58 the following criteria in preparing a response to the
59 commission, addressing the issues identified within the petition
60 and defending the quality of its water service:

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

63 (b) The relationship between the utility and its
64 customers, including each complaint received regarding the
65 quality of water service, the length of time each customer has
66 been complaining about the service, the resolution of each
67 complaint, and the time it has taken to address such complaints.

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68 (4) The commission shall evaluate the issues identified in
69 the petition, the utility's response as to whether it is
70 providing quality of water service, and any other factor the
71 commission deems relevant.

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

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

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

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

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

92 Section 2. Section 367.0812, Florida Statutes, is created
93 to read:

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94 367.0812 Rate fixing; quality of water service as
95 criterion.-

96 (1) In fixing rates that are just, reasonable,
97 compensatory, and not unfairly discriminatory, the commission
98 shall consider the extent to which the utility provides water
99 service that meets secondary water quality standards as
100 established by the Department of Environmental Protection. In
101 determining whether a utility has satisfied its obligation to
102 provide quality of water service that meets these standards, the
103 commission shall consider:

104 (a) Testimony and evidence provided by customers and the
105 utility;

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

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

115 (d) If the commission deems necessary, the results of any
116 updated test.

117 (2) (a) In determining the quality of water service, the
118 commission shall consider a finding by the Department of
119 Environmental Protection as to whether the utility has failed to

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120 provide water service that meets the secondary water quality
121 standards of the department.

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

125 (c) The utility shall meet with its customers within a
126 time prescribed by the commission to discuss the estimated costs
127 and benefits of and time necessary for implementing a plausible
128 solution for each quality of water service issue identified, and
129 the utility shall report the results of such meetings to the
130 commission.

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

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

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

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

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

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

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

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

167 Section 4. This act shall take effect July 1, 2014.
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172 **T I T L E A M E N D M E N T**
173 Remove everything before the enacting clause and insert:
174 A bill to be entitled
175 An act relating to water utilities; creating s. 367.072, F.S.;
176 providing legislative findings; defining the term "customer";
177 authorizing the Florida Public Service Commission to revoke a
178 certificate of authorization upon receipt of a petition;
179 providing criteria for such petition; authorizing the commission
180 to adopt rules; creating s. 367.0812, F.S.; requiring the
181 commission to consider the quality of water service when fixing
182 rates; providing criteria that the commission must consider in
183 making its determination; requiring the utility to meet with its
184 customers to discuss the costs and benefits of plausible
185 solutions if the commission finds that the utility has failed to
186 meet certain quality of water standards; prohibiting a customer
187 from petitioning the commission to revoke the certificate of
188 authorization of a utility under certain circumstances;
189 authorizing the commission to prescribe penalties for certain
190 failures of the utility; requiring the commission to adopt
191 rules; providing an appropriation; providing an effective date.