

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	_____	(Y/N)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

1 Committee/Subcommittee hearing bill: Energy & Utilities
2 Subcommittee

3 Representative Porter offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 159.8105, Florida Statutes, is created
8 to read:

9 159.8105 Allocation of bonds for water and wastewater
10 infrastructure projects.—The division shall review the
11 allocation of private activity bonds to determine the
12 availability of additional allocation or reallocation of bonds
13 for water and wastewater infrastructure projects.

14 Section 2. Paragraph (nnn) is added to subsection (7) of
15 section 212.08, Florida Statutes, to read:

16 212.08 Sales, rental, use, consumption, distribution, and
17 storage tax; specified exemptions.—The sale at retail, the

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18 rental, the use, the consumption, the distribution, and the
19 storage to be used or consumed in this state of the following
20 are hereby specifically exempt from the tax imposed by this
21 chapter.

22 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
23 entity by this chapter do not inure to any transaction that is
24 otherwise taxable under this chapter when payment is made by a
25 representative or employee of the entity by any means,
26 including, but not limited to, cash, check, or credit card, even
27 when that representative or employee is subsequently reimbursed
28 by the entity. In addition, exemptions provided to any entity by
29 this subsection do not inure to any transaction that is
30 otherwise taxable under this chapter unless the entity has
31 obtained a sales tax exemption certificate from the department
32 or the entity obtains or provides other documentation as
33 required by the department. Eligible purchases or leases made
34 with such a certificate must be in strict compliance with this
35 subsection and departmental rules, and any person who makes an
36 exempt purchase with a certificate that is not in strict
37 compliance with this subsection and the rules is liable for and
38 shall pay the tax. The department may adopt rules to administer
39 this subsection.

40 (nnn) Investor-owned water and wastewater utilities.—Sales
41 or leases to an investor-owned water or wastewater utility owned
42 or operated by a Florida corporation are exempt from the tax
43 imposed by this chapter if the sole or primary function of the

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44 corporation is to construct, maintain, or operate a water or
45 wastewater system in this state and if the goods or services
46 purchased or leased are used in this state and used for the
47 water or wastewater utility.

48 Section 3. Subsections (9) through (12) of section
49 367.022, Florida Statutes, are renumbered as subsections (10)
50 through (13), respectively, and a new subsection (9) is added to
51 that section, to read:

52 367.022 Exemptions.—The following are not subject to
53 regulation by the commission as a utility nor are they subject
54 to the provisions of this chapter, except as expressly provided:

55 (9) A person who resells water service to his or her
56 tenants or to individually metered residents for a fee that does
57 not exceed the actual purchase price plus the actual cost of
58 meter reading and billing, not to exceed 9 percent of the actual
59 cost of service.

60 Section 4. Paragraph (c) is added to subsection (2) of
61 section 367.081, Florida Statutes, and paragraph (b) of
62 subsection (4) and subsection (7) of that section are amended,
63 to read:

64 367.081 Rates; procedure for fixing and changing.—

65 (2)

66 (c) In establishing a utility's rates, the commission may
67 create a utility reserve fund for that utility to help it repair
68 and replace any of its existing distribution and collection
69 infrastructure that is nearing the end of its useful life or

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70 negatively impacting water quality or reliability of service, to
71 be funded by a portion of the rates charged by the utility, by a
72 secured escrow account, or through a letter of credit. The
73 commission shall adopt rules to govern the implementation,
74 management, and utilization of the fund, including, but not
75 limited to, rules related to expenses for which the fund may be
76 used, segregation of reserve account funds, requirements for a
77 capital improvement plan, and requirements for commission
78 authorization before disbursements are made from the fund.

(4)

80 (b) ~~The approved rates of any utility which receives all~~
81 ~~or any portion of its utility service from a governmental~~
82 ~~authority or from a water or wastewater utility regulated by the~~
83 ~~commission and which redistributes that service to its utility~~
84 ~~customers shall be automatically increased or decreased without~~
85 ~~hearing, upon verified notice to the commission 45 days prior to~~
86 ~~its implementation of the increase or decrease that its costs~~
87 ~~for any specified expense item the rates charged by the~~
88 ~~governmental authority or other utility have changed. The~~
89 ~~approved rates of any utility which is subject to an increase or~~
90 ~~decrease in the rates or fees that it is charged for electric~~
91 ~~power, the amount of ad valorem taxes assessed against its used~~
92 ~~and useful property, the fees charged by the Department of~~
93 ~~Environmental Protection in connection with the National~~
94 ~~Pollutant Discharge Elimination System Program, or the~~
95 ~~regulatory assessment fees imposed upon it by the commission~~

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96 ~~shall be increased or decreased by the utility, without action~~
97 ~~by the commission, upon verified notice to the commission 45~~
98 ~~days prior to its implementation of the increase or decrease~~
99 ~~that the rates charged by the supplier of the electric power or~~
100 ~~the taxes imposed by the governmental authority, or the~~
101 ~~regulatory assessment fees imposed upon it by the commission~~
102 ~~have changed. The new rates authorized shall reflect the amount~~
103 ~~of the change of the ad valorem taxes or rates imposed upon the~~
104 ~~utility by the governmental authority, other utility, or~~
105 ~~supplier of electric power, or the regulatory assessment fees~~
106 ~~imposed upon it by the commission. The approved rates of any~~
107 ~~utility shall be automatically increased, without hearing, upon~~
108 ~~verified notice to the commission 45 days prior to~~
109 ~~implementation of the increase that costs have been incurred for~~
110 ~~water quality or wastewater quality testing required by the~~
111 ~~Department of Environmental Protection.~~

112 1. The new rates authorized shall reflect, on an amortized
113 or annual basis, as appropriate, the cost of, or the amount of
114 change in the cost of, the specified expense item, ~~required~~
115 ~~water quality or wastewater quality testing performed by~~
116 ~~laboratories approved by the Department of Environmental~~
117 ~~Protection for that purpose.~~ The new rates, however, shall not
118 reflect the costs of a specified expense item ~~any required water~~
119 ~~quality or wastewater quality testing~~ already included in a
120 utility's rates. Specified expense items that are eligible for

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121 automatic increase or decrease of a utility's rates include, but
122 are not limited to:

123 a. The rates charged by a governmental authority or other
124 water or wastewater utility regulated by the commission which
125 provides utility service to the utility.

126 b. The rates or fees that the utility is charged for
127 electric power.

128 c. The amount of ad valorem taxes assessed against the
129 utility's used and useful property.

130 d. The fees charged by the Department of Environmental
131 Protection in connection with the National Pollutant Discharge
132 Elimination System Program.

133 e. The regulatory assessment fees imposed upon the utility
134 by the commission.

135 f. Costs incurred for water quality or wastewater quality
136 testing required by the Department of Environmental Protection.

137 g. The fees charged for wastewater biosolids disposal.

138 h. Costs incurred for tank inspection required by the
139 Department of Environmental Protection or a local governmental
140 authority.

141 i. Operator and distribution license fees required by the
142 Department of Environmental Protection or a local governmental
143 authority.

144 j. Water or wastewater operating permit fees charged by
145 the Department of Environmental Protection or a local
146 governmental authority.

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147 k. Consumptive or water use permit fees charged by a water
148 management district.

149 2. A utility may not use this procedure to increase its
150 rates as a result of an increase in a specific expense item
151 which occurred ~~water quality or wastewater quality testing or an~~
152 increase in the cost of purchased water services, sewer
153 services, or electric power or in assessed ad valorem taxes,
154 which increase was initiated more than 12 months before the
155 filing by the utility.

156 3. The commission may establish by rule additional
157 specific expense items that are outside the control of the
158 utility but have been imposed upon the utility by a federal,
159 state, or local law, rule, order, or notice. If the commission
160 establishes such rule, the commission shall, at least once every
161 5 years, review the rule and determine if each expense item
162 should continue to be cause for an automatic increase or
163 decrease and whether additional items should be included.

164 4. ~~The provisions of~~ This subsection does ~~de~~ not prevent a
165 utility from seeking a change in rates pursuant to ~~the~~
166 ~~provisions of~~ subsection (2).

167 (7) The commission shall determine the reasonableness of
168 rate case expenses and shall disallow all rate case expenses
169 determined to be unreasonable. No rate case expense determined
170 to be unreasonable shall be paid by a consumer. In determining
171 the reasonable level of rate case expense, the commission shall
172 consider the extent to which a utility has utilized or failed to

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173 utilize ~~the provisions of~~ paragraph (4) (a) or paragraph (4) (b)
174 and such other criteria as it may establish by rule. A utility
175 may recover only up to 50 percent of rate case expenses that are
176 determined to be reasonable.

177 Section 5. Subsection (3) of section 367.0814, Florida
178 Statutes, is amended to read:

179 367.0814 Staff assistance in changing rates and charges;
180 interim rates.—

181 (3) The provisions of s. 367.081(1), (2) (a), and (3) shall
182 apply in determining the utility's rates and charges. However,
183 the commission may not award rate case expenses to recover
184 attorney fees or fees of other outside consultants who are
185 engaged to prepare or file the case if a utility receives staff
186 assistance in changing rates and charges pursuant to this
187 section, unless the Office of Public Counsel or interested
188 parties have intervened. After the initial staff report is made
189 available to customers and the utility, the commission may award
190 rate case expenses for attorney fees or other outside consultant
191 fees if the fees are incurred in providing consulting or legal
192 services to the utility. If there is a protest or appeal by a
193 party other than the utility, the commission may award rate case
194 expense to the utility for attorney fees or other outside
195 consultant fees for costs incurred after the protest or appeal.
196 By December 31, 2015, the commission must adopt rules to
197 administer this subsection.

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198 Section 6. Section 367.0816, Florida Statutes, is amended
199 to read:

200 367.0816 Recovery of rate case expenses.—

201 (1) The amount of rate case expense determined by the
202 commission pursuant to the provisions of this chapter to be
203 recovered through a public utilities rate shall be apportioned
204 for recovery over a period of 4 years. At the conclusion of the
205 recovery period, the rate of the public utility shall be reduced
206 immediately by the amount of rate case expense previously
207 included in rates.

208 (2) A utility may not recover the 4-year amortized rate
209 case expense for more than one rate case at any given time. If
210 the commission approves and a utility implements a rate change
211 from a subsequent rate case pursuant to this section, any
212 unamortized rate case expense for a prior rate case shall be
213 discontinued. The unamortized portion of rate case expense for a
214 prior case must be removed from rates before the implementation
215 of an additional amortized rate case expense for the most recent
216 rate proceeding.

217 Section 7. Subsection (3) is added to section 367.111,
218 Florida Statutes, to read:

219 367.111 Service.—

220 (3) The commission may, on its own motion or based on
221 complaints of customers of a water utility subject to its
222 jurisdiction, review water quality pertaining to secondary
223 drinking water standards established by the Department of

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224 Environmental Protection. The commission may, on its own motion
225 or based on complaints of customers of a wastewater utility
226 subject to its jurisdiction, review wastewater service
227 pertaining to odor, noise, aerosol drift, or lighting.

228 Section 8. Subsection (3) of section 403.8532, Florida
229 Statutes, is amended to read:

230 403.8532 Drinking water state revolving loan fund; use;
231 rules.—

232 (3) The department may make, or request that the
233 corporation make, loans, grants, and deposits to community water
234 systems; for-profit, privately owned, or investor-owned water
235 systems; ~~nonprofit, transient, noncommunity water systems;~~ and
236 nonprofit, nontransient, noncommunity water systems to assist
237 them in planning, designing, and constructing public water
238 systems, ~~unless such public water systems are for-profit~~
239 ~~privately owned or investor-owned systems that regularly serve~~
240 ~~1,500 service connections or more within a single certified or~~
241 ~~franchised area. However, a for-profit privately owned or~~
242 ~~investor-owned public water system that regularly serves 1,500~~
243 ~~service connections or more within a single certified or~~
244 ~~franchised area may qualify for a loan only if the proposed~~
245 ~~project will result in the consolidation of two or more public~~
246 ~~water systems.~~ The department may provide loan guarantees,
247 purchase loan insurance, and refinance local debt through the
248 issue of new loans for projects approved by the department.
249 Public water systems may borrow funds made available pursuant to

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250 this section and may pledge any revenues or other adequate
251 security available to them to repay any funds borrowed.

252 (a) The department shall administer loans so that amounts
253 credited to the Drinking Water Revolving Loan Trust Fund in any
254 fiscal year are reserved for the following purposes:

255 1. At least 15 percent for qualifying small public water
256 systems.

257 2. Up to 15 percent for qualifying financially
258 disadvantaged communities.

259 (b) If an insufficient number of the projects for which
260 funds are reserved under this subsection have been submitted to
261 the department at the time the funding priority list authorized
262 under this section is adopted, the reservation of these funds no
263 longer applies. The department may award the unreserved funds as
264 otherwise provided in this section.

265 Section 9. Section 367.084, Florida Statutes, is amended
266 to read:

267 367.084 Rate adjustment orders.—~~An~~ Any order issued by the
268 commission adjusting general increases or reductions of the
269 rates and charges of a ~~any~~ utility or regulated company must be
270 reduced to writing, including any dissenting or concurring
271 opinions, within 20 days after the official vote of the
272 commission. Within such 20-day period, the commission shall also
273 mail a copy to the clerk of the circuit court of each county in
274 which customers of the utility or regulated company are served
275 who are affected by the rate adjustment, which copy must be kept

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276 on file and made available to the public. The commission shall
277 notify all parties of record in the proceeding of the date of
278 such mailing. Such an order is not considered rendered for
279 purposes of appeal, rehearing, or judicial review until the date
280 the copies are mailed as required by this section. This
281 provision does not delay the effective date of the order. Such
282 an order is considered rendered on the date of the official vote
283 for the purposes of s. 367.081(7) ~~s. 367.081(6)~~.

284 Section 10. Subsection (8) of section 367.171, Florida
285 Statutes, is amended to read:

286 367.171 Effectiveness of this chapter.—

287 (8) Each county that ~~which~~ is not subject to ~~excluded from~~
288 ~~the provisions of~~ this chapter shall regulate the rates of all
289 utilities in that county which would otherwise be subject to
290 regulation by the commission pursuant to s. 367.081(1), (2),
291 (3), and (7) and s. 367.165 ~~(6)~~. The county shall not regulate
292 the rates or charges of any system or facility that ~~which~~ would
293 otherwise be exempt from commission regulation pursuant to s.
294 367.022(2). For this purpose the county or its agency shall
295 proceed as though the county or agency is the commission.

296 Section 11. This act shall take effect July 1, 2015.

297
298 -----
299 **T I T L E A M E N D M E N T**

300 Remove everything before the enacting clause and insert:

301 A bill to be entitled

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302 An act relating to water and wastewater; creating s.
303 159.8105, F.S.; requiring the Division of Bond Finance
304 of the State Board of Administration to review the
305 allocation of private activity bonds for certain
306 purposes; amending s. 212.08, F.S.; exempting from the
307 sales and use tax the sales and leases of certain
308 investor-owned water and wastewater utilities;
309 amending s. 367.022, F.S.; exempting from regulation
310 by the Florida Public Service Commission a person who
311 resells water service to certain tenants or residents
312 up to a specified percentage of cost of providing
313 service; amending s. 367.081, F.S.; authorizing the
314 commission to create a utility reserve fund for
315 certain utilities; requiring the commission to adopt
316 rules to govern the implementation and management of
317 the fund; expanding the categories of utilities that
318 may automatically increase or decrease rates under
319 certain conditions; establishing criteria for adjusted
320 rates; specifying expense items that may be
321 automatically increased or decreased; authorizing the
322 commission to establish, by rule, additional expense
323 items for which utilities may automatically increase
324 or decrease their rates; specifying that a utility may
325 not recover more than 50 percent of certain rate case
326 expenses; amending s. 367.0814, F.S.; prohibiting the
327 commission from awarding rate case expense to recover

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328 attorney fees or fees of other outside consultants in
329 certain circumstances; requiring the commission to
330 adopt rules; amending s. 367.0816, F.S.; prohibiting a
331 utility from recovering certain rate case expenses for
332 more than one rate case at a time; amending s.
333 367.111, F.S.; authorizing the commission, on its own
334 motion or based on customer complaints, to review
335 water quality and wastewater service; amending s.
336 403.8532, F.S.; expanding the list of utilities to
337 include for-profit, privately owned, or investor-owned
338 utilities that are eligible, under certain
339 circumstances, to receive loan, grants, or deposits
340 from the Water Pollution Control Financing
341 Corporation; amending ss. 367.084 and 367.171, F.S.;
342 conforming cross-references; making technical changes;
343 providing an effective date.