

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 337 Local Government Services

SPONSOR(S): Mayfield

TIED BILLS: **IDEN./SIM. BILLS:** SB 442

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	11 Y, 1 N	Zaborske	Miller
2) Energy & Utilities Subcommittee			
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

HB 337 amends ss. 153.03(1) and 180.02(2), F.S., relating to counties or municipalities providing water and sewage facilities or public works.

Currently, a county must have a municipality's permission to provide water or sewer facilities to a property already being furnished such facilities by a municipality. The bill expands that prohibition to include water or sewer services. The bill also allows a county to furnish such facilities or services outside the municipality's boundary, without the municipality's permission, if a prior consent agreement between the municipality and the county regarding such facilities or services has expired.

Current law allows municipalities to extend and execute their corporate powers to accomplish the purposes of ch. 180, F.S., outside their corporate limits, but not within the corporate limits of another municipality, as desirable or necessary for the promotion of the public health, safety, and welfare. The bill requires the express consent of county's board of county commissioners in order for a municipality to extend and apply such powers.

The bill has an indeterminate fiscal impact on state or local government revenues and expenditures.

The bill is effective on July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Counties

Article VIII, s. 1, of the State Constitution establishes the powers of non-charter counties and charter counties. Non-charter counties have the power of self-government as provided by general law or special law.¹ Charter counties have broader powers; these counties have all powers of local self-government not inconsistent with general law or special law approved by vote of the electors and may enact ordinances not inconsistent with general law.²

General law provides all counties the power to provide and regulate water and sewer utility services.³ However, a county may not construct, own, or operate any water or sewer facilities on property within the corporate limits of a municipality without the consent of the municipality's governing body.⁴ In addition, a county may not furnish such facilities to property already being furnished similar facilities by a municipality without the consent of the municipality's governing body, unless the county owned such facilities on the property before the property was included within the municipality's limits.⁵

Municipalities

Pursuant to Art. VIII, s. 2(b), of the State Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. The legislative body of each municipality has the power to enact legislation on any subject upon which the state Legislature may act, with certain exceptions.⁶

Municipalities are authorized by general law to provide water and sewer utility services.⁷ With respect to public works projects, including water and sewer utility services,⁸ municipalities may extend and execute their corporate powers outside of their corporate limits as "desirable or necessary for the promotion of the public health, safety and welfare" to accomplish the purposes of ch. 180, F.S.⁹

¹ Art. VIII, s. 1(f), Fla. Const.

² Art. VIII, s. 1(g), Fla. Const.

³ S. 125.01(1)(k), F.S. (a county may "provide and regulate waste and sewage collection and disposal, water and alternative water supplies, including, but not limited to, reclaimed water and water from aquifer storage and recovery and desalination systems, and conservation programs"); s. 153.03(1), F.S. (authorizes counties to "purchase and/or construct and to improve, extend, enlarge, and reconstruct a water supply system or systems or sewage disposal system or systems within such county and any adjoining county or counties").

⁴ S. 153.03(1), F.S. An exception exists where such facilities were owned by the county on such property prior to the time such property was included within the corporate limits of such municipality.

⁵ *Id.*

⁶ Pursuant to s. 166.021(3)(a)-(d), F.S., a municipality may not enact legislation on the following: the subjects of annexation, merger, and exercise of extraterritorial power, which require general law or special law; any subject expressly prohibited by the constitution; any subject expressly preempted to state or county government by the constitution or by general law; and any subject preempted to a county pursuant to a county charter adopted under the authority of the State constitution.

⁷ Pursuant to s. 180.06, F.S., a municipality may "provide water and alternative water supplies;" "provide for the collection and disposal of sewage, including wastewater reuse, and other liquid wastes;" and "construct reservoirs, sewerage systems, trunk sewers, intercepting sewers, pumping stations, wells, siphons, intakes, pipelines, distribution systems, purification works, collection systems, treatment and disposal works" to accomplish these purposes).

⁸ S. 180.06, F.S., authorizes other public works projects, including alternative water supplies, maintenance of water flow and bodies of water for sanitary purposes.

⁹ S. 180.02(2), F.S. However, a municipality may permit any other municipality and the owners of lands outside its corporate limits or within the limits of another municipality to connect with its water and sewer utility facilities and use its services upon agreed terms and conditions. S. 180.19, F.S.

Effect of Proposed Changes

Section 1

The bill expands the current prohibition against counties providing, absent the municipality's permission, water or sewer facilities to a property to which a municipality already furnishes such facilities to also include water or sewer services. Additionally, the bill allows a county, without a municipality's permission, to furnish such facilities or services outside the municipality's boundary if a prior consent agreement between the municipality and the county regarding such facilities or services has expired.

Section 2

The bill prohibits municipalities from extending and executing their corporate powers in relation to public works projects to accomplish the purposes of ch. 180, F.S., outside their corporate limits and into the unincorporated area of a county without the express consent of the board of county commissioners, regardless of whether extending or executing such powers would be "desirable or necessary for the promotion of the public health, safety and welfare."¹⁰

B. SECTION DIRECTORY:

Section 1: Amends s. 153.03(1), F.S., related to the powers of counties to provide water and sewer services. Expands the current prohibition against counties, absent the municipality's permission, providing water or sewer facilities to a property to which a municipality already furnishes such facilities to also include water or sewer services. Allows a county, without a municipality's permission, to furnish such facilities or services outside the municipality's boundary if a prior consent agreement between the municipality and the county regarding such facilities or services has expired.

Section 2: Amends s. 180.02(2), F.S., related to the power of municipalities to provide public works in ch. 180, F.S., by prohibiting municipalities from extending and executing their corporate powers in relation to public works projects outside their corporate limits and into the unincorporated area of a county without the express consent of the board of county commissioners.

Section 3: Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

¹⁰ S. 180.02(2), F.S.
STORAGE NAME: h0337b.LGAS
DATE: 2/17/2015

Those municipalities currently providing water and wastewater facilities or services outside their municipal boundaries pursuant to a consent agreement between the municipality and the county may experience a reduction in revenues upon the expiration of a consent agreement.

2. Expenditures:

Municipalities and counties may incur costs associated with the bill's requirement that a county consent to the application or extension of municipal powers to provide public works in unincorporated areas of a county.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES