

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WITHDRAWN	_____	(Y/N)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: Finance & Tax Committee
 2 Representative Sprowls offered the following:

Amendment (with title amendment)

Remove lines 101-368 and insert:

6 (c) "Customer" means a person receiving water or
 7 wastewater service from a publicly owned utility.

8 (d) "Finance" or "financing" includes refinancing.

9 (e) "Financing cost" means:

10 1. Interest and redemption premiums that are payable on
 11 utility cost containment bonds;

12 2. The cost of retiring the principal of utility cost
 13 containment bonds, whether at maturity, including acceleration
 14 of maturity upon an event of default, or upon redemption,
 15 including sinking fund redemption;

Amendment No. 1

16 3. The cost related to issuing or servicing utility cost
17 containment bonds, including any payment under an interest rate
18 swap agreement and any type of fee;

19 4. A payment or expense associated with a bond insurance
20 policy; financial guaranty; contract, agreement, or other credit
21 or liquidity enhancement for bonds; or contract, agreement, or
22 other financial agreement entered into in connection with
23 utility cost containment bonds;

24 5. Any coverage charges; or

25 6. The funding of one or more reserve accounts relating to
26 utility cost containment bonds.

27 (f) "Financing resolution" means a resolution adopted by
28 the governing body of an authority that provides for the
29 financing or refinancing of a utility project with utility cost
30 containment bonds and that imposes a utility project charge in
31 connection with the utility cost containment bonds in accordance
32 with subsection (4). A financing resolution may be separate from
33 a resolution authorizing the issuance of the bonds.

34 (g) "Governing body" means the body that governs a local
35 agency.

36 (h) "Local agency" means a member of the authority, or an
37 agency or subdivision of that member, that is sponsoring or
38 refinancing a utility project, or any municipality, county,
39 authority, special district, public corporation, regional water
40 authority, or other governmental entity of the state that is
41 sponsoring or refinancing a utility project.

Amendment No. 1

42 (i) "Public utility services" means water or wastewater
43 services provided by a publicly owned utility. The term does not
44 include communications services, as defined in s. 202.11,
45 Florida Statutes, Internet access services, or information
46 services.

47 (j) "Publicly owned utility" means a utility providing
48 retail or wholesale water or wastewater services that is owned
49 and operated by a local agency. The term includes any successor
50 to the powers and functions of such a utility.

51 (k) "Revenue" means income and receipts of the authority
52 related to the financing of utility projects and issuance of
53 utility cost containment bonds, including any of the following:

- 54 1. Bond purchase agreements;
- 55 2. Bonds acquired by the authority;
- 56 3. Installment sales agreements and other revenue-
57 producing agreements entered into by the authority;
- 58 4. Utility projects financed or refinanced by the
59 authority;
- 60 5. Grants and other sources of income;
- 61 6. Moneys paid by a local agency;
- 62 7. Interlocal agreements with a local agency, including
63 all service agreements; or
- 64 8. Interest or other income from any investment of money
65 in any fund or account established for the payment of principal,
66 interest, or premiums on utility cost containment bonds, or the
67 deposit of proceeds of utility cost containment bonds.

Amendment No. 1

68 (l) "Utility cost containment bonds" means bonds, notes,
69 commercial paper, variable rate securities, and any other
70 evidence of indebtedness issued by an authority the proceeds of
71 which are used directly or indirectly to pay or reimburse a
72 local agency or its publicly owned utility for the costs of a
73 utility project and which are secured by a pledge of, and are
74 payable from, utility project property.

75 (m) "Utility project" means the acquisition, construction,
76 installation, retrofitting, rebuilding, or other addition to or
77 improvement of any equipment, device, structure, process,
78 facility, technology, rights, or property located within or
79 outside this state which is used in connection with the
80 operations of a publicly owned utility.

81 (n) "Utility project charge" means a charge levied on
82 customers of a publicly owned utility to pay the financing costs
83 of utility cost containment bonds issued under subsection (4).
84 The term includes any adjustments to the utility project charge
85 under subsection (5).

86 (o) "Utility project property" means the property right
87 created pursuant to subsection (6). The term does not include
88 any interest in a customer's real or personal property but
89 includes the right, title, and interest of an authority in any
90 of the following:

91 1. The financing resolution, the utility project charge,
92 and any adjustment to the utility project charge established in
93 accordance with subsection (5);

Amendment No. 1

94 2. The financing costs of the utility cost containment
95 bonds and all revenues, and all collections, claims, payments,
96 moneys, or proceeds for, or arising from, the utility project
97 charge; or

98 3. All rights to obtain adjustments to the utility project
99 charge pursuant to subsection (5).

100 (3) UTILITY PROJECTS.-

101 (a) A local agency that owns and operates a publicly owned
102 utility may apply to an authority to finance the costs of a
103 utility project using the proceeds of utility cost containment
104 bonds. In its application to the authority, the local agency
105 shall specify the utility project to be financed by the utility
106 cost containment bonds and the maximum principal amount, the
107 maximum interest rate, and the maximum stated terms of the
108 utility cost containment bonds.

109 (b) A local agency may not apply to an authority for the
110 financing of a utility project under this section unless the
111 governing body has determined, in a duly noticed public meeting,
112 all of the following:

113 1. The project to be financed is a utility project.

114 2. The local agency will finance costs of the utility
115 project, and the costs associated with the financing will be
116 paid from utility project property, including the utility
117 project charge for the utility cost containment bonds.

118 3. Based on the best information available to the
119 governing body, the rates charged to the local agency's retail

Amendment No. 1

120 customers by the publicly owned utility, including the utility
121 project charge resulting from the financing of the utility
122 project with utility cost containment bonds, are expected to be
123 lower than the rates that would be charged if the project were
124 financed with bonds payable from revenues of the publicly owned
125 utility.

126 (c) A determination by the governing body that a project
127 to be financed with utility cost containment bonds is a utility
128 project is final and conclusive, and the utility cost
129 containment bonds issued to finance the utility project and the
130 utility project charge shall be valid and enforceable as set
131 forth in the financing resolution and the documents relating to
132 the utility cost containment bonds.

133 (d) If a local agency with outstanding utility cost
134 containment bonds ceases to operate a water or wastewater
135 utility, directly or through its publicly owned utility,
136 references in this section to the local agency or to its
137 publicly owned utility shall be to the successor entity. The
138 successor entity shall assume and perform all obligations of the
139 local agency and its publicly owned utility required by this
140 section and shall assume the servicing agreement required under
141 subsection (4) while the utility cost containment bonds remain
142 outstanding.

143 (4) FINANCING UTILITY PROJECTS.-

144 (a) An authority may issue utility cost containment bonds
145 to finance or refinance utility projects; refinance debt of a

Amendment No. 1

146 local agency incurred in financing or refinancing utility
147 projects, provided such refinancing results in present value
148 savings to the local agency; or, with the approval of the local
149 agency, refinance previously issued utility cost containment
150 bonds.

151 1. To finance a utility project, the authority may:

152 a. Form a single-purpose limited liability company and
153 authorize the company to adopt the financing resolution of such
154 utility project; or

155 b. Create a new single-purpose entity by interlocal
156 agreement under s. 163.01, Florida Statutes, the membership of
157 which shall consist of the authority and two or more of its
158 members or other public agencies.

159 2. A single-purpose limited liability company or a single-
160 purpose entity may be created by the authority solely for the
161 purpose of performing the duties and responsibilities of the
162 authority specified in this section and shall constitute an
163 authority for all purposes of this section. Reference to the
164 authority includes a company or entity created under this
165 paragraph.

166 (b) The governing body of an authority that is financing
167 the costs of a utility project shall adopt a financing
168 resolution and shall impose a utility project charge as
169 described in subsection (5). All provisions of a financing
170 resolution adopted pursuant to this section are binding on the
171 authority.

Amendment No. 1

172 1. The financing resolution must:

173 a. Provide a brief description of the financial
174 calculation method the authority will use in determining the
175 utility project charge. The calculation method shall include a
176 periodic adjustment methodology to be applied at least annually
177 to the utility project charge. The authority shall establish the
178 allocation of the utility project charge among classes of
179 customers of the publicly owned utility. The decision of the
180 authority shall be final and conclusive, and the method of
181 calculating the utility project charge and the periodic
182 adjustment may not be changed;

183 b. Require each customer in the class or classes of
184 customers specified in the financing resolution who receives
185 water or wastewater service through the publicly owned utility
186 to pay the utility project charge regardless of whether the
187 customer has an agreement to receive water or wastewater service
188 from a person other than the publicly owned utility;

189 c. Require that the utility project charge be charged
190 separately from other charges on the bill of customers of the
191 publicly owned utility in the class or classes of customers
192 specified in the financing resolution; and

193 d. Require that the authority enter into a servicing
194 agreement with the local agency or its publicly owned utility to
195 collect the utility project charge.

196 2. The authority may require in the financing resolution
197 that, in the event of a default by the local agency or its

Amendment No. 1

198 publicly owned utility with respect to revenues from the utility
199 project property, the authority, upon application by the
200 beneficiaries of the statutory lien as set forth in subsection
201 (6), shall order the sequestration and payment to the
202 beneficiaries of revenues arising from utility project property.
203 This subparagraph does not limit any other remedies available to
204 the beneficiaries by reason of default.

205 (c) An authority has all the powers provided in this
206 section and s. 163.01(7)(g), Florida Statutes.

207 (d) Each authority shall work with local agencies that
208 request assistance to determine the most cost-effective manner
209 of financing regional water projects. If the entities determine
210 that the issuance of utility cost containment bonds will result
211 in lower financing costs for a project, the authority shall
212 cooperate with such local agencies and, if requested by the
213 local agencies, issue utility cost containment bonds as provided
214 in this section.

215 (5) UTILITY PROJECT CHARGE.—

216 (a) The authority shall impose a sufficient utility
217 project charge, based on estimates of water or wastewater
218 service usage, to ensure timely payment of all financing costs
219 with respect to utility cost containment bonds. The local agency
220 or its publicly owned utility shall provide the authority with
221 information concerning the publicly owned utility which may be
222 required by the authority in establishing the utility project
223 charge.

Amendment No. 1

224 (b) The utility project charge is a nonbypassable charge
225 to all present and future customers of the publicly owned
226 utility in the class or classes of customers specified in the
227 financing resolution upon its adoption. If a customer of a
228 publicly owned utility that is subject to a utility project
229 charge enters into an agreement to purchase water or wastewater
230 service from a supplier other than the publicly owned utility,
231 the customer remains liable for the payment of the utility
232 project charge if the customer has received any service or
233 benefit from the publicly owned utility after the date the
234 utility project charge was imposed.

235 (c) The authority shall determine at least annually and at
236 such additional intervals as provided in the financing
237 resolution and documents related to the applicable utility cost
238 containment bonds whether adjustments to the utility project
239 charge are required. The authority shall use the adjustment to
240 correct for any overcollection or undercollection of financing
241 costs from the utility project charge or to make any other
242 adjustment necessary to ensure the timely payment of the
243 financing costs of the utility cost containment bonds, including
244 adjustment of the utility project charge to pay any debt service
245 coverage requirement for the utility cost containment bonds. The
246 local agency or its publicly owned utility shall provide the
247 authority with information concerning the publicly owned utility
248 which may be required by the authority in adjusting the utility
249 project charge.

Amendment No. 1

250 1. If the authority determines that an adjustment to the
251 utility project charge is required, the adjustment shall be made
252 using the methodology specified in the financing resolution.

253 2. The adjustment may not impose the utility project
254 charge on a class of customers that was not subject to the
255 utility project charge pursuant to the financing resolution
256 imposing the utility project charge.

257 (d) Revenues from a utility project charge are special
258 revenues of the authority and do not constitute revenue of the
259 local agency or its publicly owned utility for any purpose,
260 including any dedication, commitment, or pledge of revenue,
261 receipts, or other income that the local agency or its publicly
262 owned utility has made or will make for the security of any of
263 its obligations.

264 (e) The local agency or its publicly owned utility shall
265 act as a servicing agent for collecting the utility project
266 charge throughout the duration of the servicing agreement
267 required by the financing resolution. The local agency or its
268 publicly owned utility shall hold the money collected in trust
269 for the exclusive benefit of the persons entitled to have the
270 financing costs paid from the utility project charge, and the
271 money does not lose its designation as revenues of the authority
272 by virtue of possession by the local agency or its publicly
273 owned utility.

