



737306

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
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The Committee on Finance and Tax (Simpson) recommended the following:

1 **Senate Substitute for Amendment (806856) (with title**
2 **amendment)**

3
4 Delete lines 73 - 556
5 and insert:

6 163.01(7)(g), Florida Statutes, or a separate legal entity
7 created by one or more local agencies. The term includes any
8 successor to the powers and functions of such an entity.

9 (b) "Cost," as applied to a utility project or a portion of
10 a utility project financed under this section, means:



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- 11 1. Any part of the expense of constructing, renovating, or
12 acquiring lands, structures, real or personal property, rights,
13 rights-of-way, franchises, easements, and interests acquired or
14 used for a utility project;
- 15 2. The expense of demolishing or removing any buildings or
16 structures on acquired land, including the expense of acquiring
17 any lands to which the buildings or structures may be moved, and
18 the cost of all machinery and equipment used for the demolition
19 or removal;
- 20 3. Finance charges;
- 21 4. Interest, as determined by the authority;
- 22 5. Provisions for working capital and debt service
23 reserves;
- 24 6. Expenses for extensions, enlargements, additions,
25 replacements, renovations, and improvements;
- 26 7. Expenses for architectural, engineering, financial,
27 accounting, and legal services, plans, specifications,
28 estimates, and administration; or
- 29 8. Any other expenses necessary or incidental to
30 determining the feasibility of constructing a utility project or
31 incidental to the construction, acquisition, or financing of a
32 utility project.
- 33 (c) "Customer" means a person receiving water or wastewater
34 service from a publicly owned utility.
- 35 (d) "Finance" or "financing" includes refinancing.
- 36 (e) "Financing cost" means:
- 37 1. Interest and redemption premiums that are payable on
38 utility cost containment bonds;
- 39 2. The cost of retiring the principal of utility cost



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40 containment bonds, whether at maturity, including acceleration
41 of maturity upon an event of default, or upon redemption,
42 including sinking fund redemption;

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

46 4. A payment or expense associated with a bond insurance
47 policy; financial guaranty; contract, agreement, or other credit
48 or liquidity enhancement for bonds; or contract, agreement, or
49 other financial agreement entered into in connection with
50 utility cost containment bonds;

51 5. Any coverage charges; or

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

54 (f) "Financing resolution" means a resolution adopted by
55 the governing body of an authority that provides for the
56 financing or refinancing of a utility project with utility cost
57 containment bonds and that imposes a utility project charge in
58 connection with the utility cost containment bonds in accordance
59 with subsection (4). A financing resolution may be separate from
60 a resolution authorizing the issuance of the bonds.

61 (g) "Governing body" means the body that governs a local
62 agency.

63 (h) "Local agency" means a member of the authority, or an
64 agency or subdivision of that member, which is sponsoring or
65 refinancing a utility project, or any municipality, county,
66 authority, special district, public corporation, regional water
67 authority, or other governmental entity of the state that is
68 sponsoring or refinancing a utility project.



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69 (i) "Public utility services" means water or wastewater
70 services provided by a publicly owned utility. The term does not
71 include communications services, as defined in s. 202.11,
72 Florida Statutes, Internet access services, or information
73 services.

74 (j) "Publicly owned utility" means a utility providing
75 retail or wholesale water or wastewater services which is owned
76 and operated by a local agency. The term includes any successor
77 to the powers and functions of such a utility.

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

- 81 1. Bond purchase agreements;
- 82 2. Bonds acquired by the authority;
- 83 3. Installment sales agreements and other revenue-producing
84 agreements entered into by the authority;
- 85 4. Utility projects financed or refinanced by the
86 authority;
- 87 5. Grants and other sources of income;
- 88 6. Moneys paid by a local agency;
- 89 7. Interlocal agreements with a local agency, including all
90 service agreements; or
- 91 8. Interest or other income from any investment of money in
92 any fund or account established for the payment of principal,
93 interest, or premiums on utility cost containment bonds, or the
94 deposit of proceeds of utility cost containment bonds.

95 (l) "Utility cost containment bonds" means bonds, notes,
96 commercial paper, variable rate securities, and any other
97 evidence of indebtedness issued by an authority the proceeds of



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98 which are used directly or indirectly to pay or reimburse a
99 local agency or its publicly owned utility for the costs of a
100 utility project and which are secured by a pledge of, and are
101 payable from, utility project property.

102 (m) "Utility project" means the acquisition, construction,
103 installation, retrofitting, rebuilding, or other addition to or
104 improvement of any equipment, device, structure, process,
105 facility, technology, rights, or property located within or
106 outside this state which is used in connection with the
107 operations of a publicly owned utility.

108 (n) "Utility project charge" means a charge levied on
109 customers of a publicly owned utility to pay the financing costs
110 of utility cost containment bonds issued under subsection (4).
111 The term includes any adjustments to the utility project charge
112 made under subsection (5).

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

118 1. The financing resolution, the utility project charge,
119 and any adjustment to the utility project charge established in
120 accordance with subsection (5);

121 2. The financing costs of the utility cost containment
122 bonds and all revenues, and all collections, claims, payments,
123 moneys, or proceeds for, or arising from, the utility project
124 charge; or

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



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127 (3) UTILITY PROJECTS.-

128 (a) A local agency that owns and operates a publicly owned
129 utility may apply to an authority to finance the costs of a
130 utility project using the proceeds of utility cost containment
131 bonds. In its application to the authority, the local agency
132 shall specify the utility project to be financed by the utility
133 cost containment bonds and the maximum principal amount, the
134 maximum interest rate, and the maximum stated terms of the
135 utility cost containment bonds.

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

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

141 2. The local agency will finance costs of the utility
142 project, and the costs associated with the financing will be
143 paid from utility project property, including the utility
144 project charge for the utility cost containment bonds.

145 3. Based on the best information available to the governing
146 body, the rates charged to the local agency's retail customers
147 by the publicly owned utility, including the utility project
148 charge resulting from the financing of the utility project with
149 utility cost containment bonds, are expected to be lower than
150 the rates that would be charged if the project were financed
151 with bonds payable from revenues of the publicly owned utility.

152 (c) A determination by the governing body that a project to
153 be financed with utility cost containment bonds is a utility
154 project is final and conclusive, and the utility cost
155 containment bonds issued to finance the utility project and the



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156 utility project charge are valid and enforceable as set forth in
157 the financing resolution and the documents relating to the
158 utility cost containment bonds.

159 (d) If a local agency that has outstanding utility cost
160 containment bonds ceases to operate a water or wastewater
161 utility, directly or through its publicly owned utility,
162 references in this section to the local agency or to its
163 publicly owned utility must be to the successor entity. The
164 successor entity shall assume and perform all obligations of the
165 local agency and its publicly owned utility required by this
166 section and shall assume the servicing agreement required under
167 subsection (4) while the utility cost containment bonds remain
168 outstanding.

169 (4) FINANCING UTILITY PROJECTS.—

170 (a) An authority may issue utility cost containment bonds
171 to finance or refinance utility projects; refinance debt of a
172 local agency incurred in financing or refinancing utility
173 projects, provided such refinancing results in present value
174 savings to the local agency; or, with the approval of the local
175 agency, refinance previously issued utility cost containment
176 bonds.

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

178 a. Form a single-purpose limited liability company and
179 authorize the company to adopt the financing resolution of such
180 utility project; or

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



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185 2. A single-purpose limited liability company or a single-
186 purpose entity may be created by the authority solely for the
187 purpose of performing the duties and responsibilities of the
188 authority specified in this section and constitutes an authority
189 for all purposes of this section. Reference to the authority
190 includes a company or entity created under this paragraph.

191 (b) The governing body of an authority that is financing
192 the costs of a utility project shall adopt a financing
193 resolution and shall impose a utility project charge as
194 described in subsection (5). All provisions of a financing
195 resolution adopted pursuant to this section are binding on the
196 authority.

197 1. The financing resolution must:

198 a. Provide a brief description of the financial calculation
199 method the authority will use in determining the utility project
200 charge. The calculation method must include a periodic
201 adjustment methodology to be applied at least annually to the
202 utility project charge. The authority shall establish the
203 allocation of the utility project charge among classes of
204 customers of the publicly owned utility. The decision of the
205 authority is final and conclusive, and the method of calculating
206 the utility project charge and the periodic adjustment may not
207 be changed;

208 b. Require each customer in the class or classes of
209 customers specified in the financing resolution who receives
210 water or wastewater service through the publicly owned utility
211 to pay the utility project charge regardless of whether the
212 customer has an agreement to receive water or wastewater service
213 from a person other than the publicly owned utility;



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214 c. Require that the utility project charge be charged
215 separately from other charges on the bill of customers of the
216 publicly owned utility in the class or classes of customers
217 specified in the financing resolution; and

218 d. Require that the authority enter into a servicing
219 agreement with the local agency or its publicly owned utility to
220 collect the utility project charge.

221 2. The authority may require in the financing resolution
222 that, in the event of a default by the local agency or its
223 publicly owned utility with respect to revenues from the utility
224 project property, the authority, upon application by the
225 beneficiaries of the statutory lien as set forth in subsection
226 (6), shall order the sequestration and payment to the
227 beneficiaries of revenues arising from utility project property.
228 This subparagraph does not limit any other remedies available to
229 the beneficiaries by reason of default.

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

232 (d) Each authority shall work with local agencies that
233 request assistance to determine the most cost-effective manner
234 of financing regional water projects. If the entities determine
235 that the issuance of utility cost containment bonds will result
236 in lower financing costs for a project, the authority shall
237 cooperate with such local agencies and, if requested by the
238 local agencies, issue utility cost containment bonds as provided
239 in this section.

240 (5) UTILITY PROJECT CHARGE.—

241 (a) The authority shall impose a sufficient utility project
242 charge, based on estimates of water or wastewater service usage,



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243 to ensure timely payment of all financing costs with respect to
244 utility cost containment bonds. The local agency or its publicly
245 owned utility shall provide the authority with information
246 concerning the publicly owned utility which may be required by
247 the authority in establishing the utility project charge.

248 (b) The utility project charge is a nonbypassable charge to
249 all present and future customers of the publicly owned utility
250 in the class or classes of customers specified in the financing
251 resolution upon its adoption. If the regulatory structure for
252 the water or wastewater industry changes in a manner that
253 authorizes a customer to choose to take service from an
254 alternative supplier and the customer chooses an alternative
255 supplier, the customer remains liable for paying the utility
256 project charge if the customer continues to receive any service
257 from the publicly owned utility for the transmission,
258 distribution, processing, delivery, or metering of the
259 underlying water or wastewater service.

260 (c) The authority shall determine at least annually and at
261 such additional intervals as provided in the financing
262 resolution and documents related to the applicable utility cost
263 containment bonds whether adjustments to the utility project
264 charge are required. The authority shall use the adjustment to
265 correct for any overcollection or undercollection of financing
266 costs from the utility project charge or to make any other
267 adjustment necessary to ensure the timely payment of the
268 financing costs of the utility cost containment bonds, including
269 adjustment of the utility project charge to pay any debt service
270 coverage requirement for the utility cost containment bonds. The
271 local agency or its publicly owned utility shall provide the



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272 authority with information concerning the publicly owned utility
273 which may be required by the authority in adjusting the utility
274 project charge.

275 1. If the authority determines that an adjustment to the
276 utility project charge is required, the adjustment must be made
277 using the methodology specified in the financing resolution.

278 2. The adjustment may not impose the utility project charge
279 on a class of customers which was not subject to the utility
280 project charge pursuant to the financing resolution imposing the
281 utility project charge.

282 (d) Revenues from a utility project charge are special
283 revenues of the authority and do not constitute revenue of the
284 local agency or its publicly owned utility for any purpose,
285 including any dedication, commitment, or pledge of revenue,
286 receipts, or other income that the local agency or its publicly
287 owned utility has made or will make for the security of any of
288 its obligations.

289 (e) The local agency or its publicly owned utility shall
290 act as a servicing agent for collecting the utility project
291 charge throughout the duration of the servicing agreement
292 required by the financing resolution. The local agency or its
293 publicly owned utility shall hold the money collected in trust
294 for the exclusive benefit of the persons entitled to have the
295 financing costs paid from the utility project charge, and the
296 money does not lose its designation as revenues of the authority
297 by virtue of possession by the local agency or its publicly
298 owned utility.

299 (f) The customer must make timely and complete payment of
300 all utility project charges as a condition of receiving water or



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301 wastewater service from the publicly owned utility. The local
302 agency or its publicly owned utility may use its established
303 collection policies and remedies provided under law to enforce
304 collection of the utility project charge. A customer liable for
305 a utility project charge may not withhold payment, in whole or
306 in part, thereof.

307 (g) The pledge of a utility project charge to secure
308 payment of utility cost containment bonds is irrevocable, and
309 the state, or any other entity, may not reduce, impair, or
310 otherwise adjust the utility project charge, except that the
311 authority shall implement the periodic adjustments to the
312 utility project charge as provided under this subsection.

313 (6) UTILITY PROJECT PROPERTY.—

314 (a) A utility project charge constitutes utility project
315 property on the effective date of the financing resolution
316 authorizing such utility project charge. Utility project
317 property constitutes property, including contracts for securing
318 utility cost containment bonds, regardless of whether the
319 revenues and proceeds arising with respect to the utility
320 project property have accrued. Utility project property shall
321 continuously exist as property for all purposes with all of the
322 rights and privileges of this section through the end of the
323 period provided in the financing resolution or until all
324 financing costs with respect to the related utility cost
325 containment bonds are paid in full, whichever occurs first.

326 (b) Upon the effective date of the financing resolution,
327 the utility project property is subject to a first-priority
328 statutory lien to secure the payment of the utility cost
329 containment bonds.



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330 1. The lien secures the payment of all financing costs then
331 existing or subsequently arising to the holders of the utility
332 cost containment bonds, the trustees or representatives of the
333 holders of the utility cost containment bonds, and any other
334 entity specified in the financing resolution or the documents
335 relating to the utility cost containment bonds.

336 2. The lien attaches to the utility project property
337 regardless of the current ownership of the utility project
338 property, including any local agency or its publicly owned
339 utility, the authority, or any other person.

340 3. Upon the effective date of the financing resolution, the
341 lien is valid and enforceable against the owner of the utility
342 project property and all third parties, and additional public
343 notice is not required.

344 4. The lien is a continuously perfected lien on all
345 revenues and proceeds generated from the utility project
346 property regardless of whether the revenues or proceeds have
347 accrued.

348 (c) All revenues with respect to utility project property
349 related to utility cost containment bonds, including payments of
350 the utility project charge, shall be applied first to the
351 payment of the financing costs of the utility cost containment
352 bonds then due, including the funding of reserves for the
353 utility cost containment bonds. Any excess revenues shall be
354 applied as determined by the authority for the benefit of the
355 utility for which the utility cost containment bonds were
356 issued.

357 (7) UTILITY COST CONTAINMENT BONDS.—

358 (a) Utility cost containment bonds shall be issued within



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359 the parameters of the financing provided by the authority
360 pursuant to this section. The proceeds of the utility cost
361 containment bonds made available to the local agency or its
362 publicly owned utility shall be used for the utility project
363 identified in the application for financing of the utility
364 project or used to refinance indebtedness of the local agency
365 which financed or refinanced utility projects.

366 (b) Utility cost containment bonds shall be issued as set
367 forth in this section and s. 163.01(7)(g)8., Florida Statutes,
368 and may be validated pursuant to s. 163.01(7)(g)9., Florida
369 Statutes.

370 (c) The authority shall pledge the utility project property
371 as security for the payment of the utility cost containment
372 bonds. All rights of an authority with respect to utility
373 project property pledged as security for the payment of utility
374 cost containment bonds shall be for the benefit of, and
375 enforceable by, the beneficiaries of the pledge to the extent
376 provided in the financing documents relating to the utility cost
377 containment bonds.

378 1. If utility project property is pledged as security for
379 the payment of utility cost containment bonds, the local agency
380 or its publicly owned utility shall enter into a contract with
381 the authority which requires, at a minimum, that the publicly
382 owned utility:

383 a. Continue to operate its publicly owned utility,
384 including the utility project that is being financed or
385 refinanced;

386 b. Collect the utility project charge from customers for
387 the benefit and account of the authority and the beneficiaries



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388 of the pledge of the utility project charge; and

389 c. Separately account for and remit revenue from the
390 utility project charge to, or for the account of, the authority.

391 2. The pledge of a utility project charge to secure payment
392 of utility cost containment bonds is irrevocable, and the state
393 or any other entity may not reduce, impair, or otherwise adjust
394 the utility project charge, except that the authority shall
395 implement periodic adjustments to the utility project charge as
396 provided under subsection (5).

397 (d) Utility cost containment bonds shall be nonrecourse to
398 the credit or any assets of the local agency or the publicly
399 owned utility but are payable from, and secured by a pledge of
400 the utility project property relating to the utility cost
401 containment bonds and any additional security or credit
402 enhancement specified in the documents relating to the utility
403 cost containment bonds. If, pursuant to subsection (4), the
404 authority is financing the project through a single-purpose
405 limited liability company, the utility cost containment bonds
406 shall be payable from, and secured by, a pledge of amounts paid
407 by the company to the authority from the applicable utility
408 project property. This paragraph is the exclusive method of
409 perfecting a pledge of utility project property by the company
410 securing the payment of financing costs under any agreement of
411 the company in connection with the issuance of utility cost
412 containment bonds.

413 (e) The issuance of utility cost containment bonds does not
414 obligate the state or any political subdivision thereof to levy
415 or to pledge any form of taxation to pay the utility cost
416 containment bonds or to make any appropriation for their



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417 payment. Each utility cost containment bond must contain on its
418 face a statement in substantially the following form:

419
420 "Neither the full faith and credit nor the taxing power of the
421 State of Florida or any political subdivision thereof is pledged
422 to the payment of the principal of, or interest on, this bond."
423

424 (f) Notwithstanding any other law or this section, a
425 financing resolution or other resolution of the authority, or
426 documents relating to utility cost containment bonds, the
427 authority may not rescind, alter, or amend any resolution or
428 document that pledges utility cost charges for payment of
429 utility cost containment bonds.

430 (g) Subject to the terms of any pledge document created
431 under this section, the validity and relative priority of a
432 pledge is not defeated or adversely affected by the commingling
433 of revenues generated by the utility project property with other
434 funds of the local agency or the publicly owned utility
435 collecting a utility project charge on behalf of an authority.

436 (h) Financing costs in connection with utility cost
437 containment bonds are a special obligation of the authority and
438 do not constitute a liability of the state or any political
439 subdivision thereof. Financing costs are not a pledge of the
440 full faith and credit of the state or any political subdivision
441 thereof, including the authority, but are payable solely from
442 the funds identified in the documents relating to the utility
443 cost containment bonds. This paragraph does not preclude
444 guarantees or credit enhancements in connection with utility
445 cost containment bonds.



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446 (i) Except as otherwise provided in this section with
447 respect to adjustments to a utility project charge, the recovery
448 of the financing costs for the utility cost containment bonds
449 from the utility project charge is irrevocable, and the
450 authority does not have the power, by rescinding, altering, or
451 amending the applicable financing resolution, to revalue or
452 revise for ratemaking purposes the financing costs of utility
453 cost containment bonds; to determine that the financing costs
454 for the related utility cost containment bonds or the utility
455 project charge is unjust or unreasonable; or to in any way,
456 either directly or indirectly, reduce or impair the value of
457 utility project property that includes the utility project
458 charge. The amount of revenues arising with respect to the
459 financing costs for the related utility cost containment bonds
460 or the utility project charge is not subject to reduction,
461 impairment, postponement, or termination for any reason until
462 all financing costs to be paid from the utility project charge
463 are fully met and discharged.

464 (j) Except as provided in subsection (5) with respect to
465 adjustments to a utility project charge, the state pledges and
466 agrees with the owners of utility cost containment bonds that
467 the state may not limit or alter the financing costs or the
468 utility project property, including the utility project charge,
469 relating to the utility cost containment bonds, or any rights
470 related to the utility project property, until all financing
471 costs with respect to the utility cost containment bonds are
472 fully met and discharged. This paragraph does not preclude
473 limitation or alteration if adequate provision is made by law to
474 protect the owners. The authority may include the state's pledge



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475 in the governing documents for utility cost containment bonds.

476 (8) LIMITATION ON DEBT RELIEF.—Notwithstanding any other
477 law, an authority that issued utility cost containment bonds may
478 not, and a governmental officer or organization may not
479 authorize the authority to, become a debtor under the United
480 States Bankruptcy Code or become the subject of any similar case
481 or proceeding under any other state or federal law if any
482 payment obligation from utility project property remains with
483 respect to the utility cost containment bonds.

484 (9) CONSTRUCTION.—This section and all grants of power and
485 authority in this section shall be liberally construed to
486 effectuate their purposes. All incidental powers necessary to
487 carry this section into effect are expressly granted to, and
488 conferred upon, public entities.

489 Section 2. Subsection (5) of section 153.03, Florida
490 Statutes, is amended to read:

491 153.03 General grant of power.—Any of the several counties
492 of the state which may hereafter come under the provisions of
493 this chapter as hereinafter provided is hereby authorized and
494 empowered:

495 (5) To acquire in the name of the county by gift, purchase
496 as hereinafter provided, or by the exercise of the right of
497 eminent domain, such lands and rights and interests therein,
498 including lands under water and riparian rights, and to acquire
499 such personal property as it may deem necessary for the
500 efficient operation or for the extension of or the improvement
501 of any facility purchased or constructed under the provisions of
502 this chapter and to hold and dispose of all real and personal
503 property under its control. Counties may also exercise such



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504 eminent domain rights pursuant to an action initiated under s.
505 367.072. provided, However, ~~that~~ no county shall have the right
506 to exercise the right of eminent domain over any such lands or
507 rights or interests therein or any personal property owned by
508 any municipality within the state nor to exercise such right
509 with respect to any privately owned water supply system or
510 sewage disposal system including without limitation ponds,
511 streams and surface waters constituting a part thereof, provided
512 any such system is primarily used, owned or operated by an
513 industrial or manufacturing plant for its own use as a water
514 supply system or in disposing of its industrial wastes.

515 Section 3. Section 367.072, Florida Statutes, is amended to
516 read:

517 367.072 Petition to revoke certificate of authorization;
518 condemnation.—The Legislature finds that it is in the public
519 interest that water service be of good quality, be priced at a
520 rate that is commensurate with the market and the quality of
521 service provided, and be consistent with the standards set forth
522 in this chapter. Furthermore, the Legislature declares that the
523 residents of the state have a right to participate in the
524 selection of their water service provider. Therefore, a
525 utility's certificate of authorization to provide water service
526 may be revoked ~~if,~~ after its customers file a petition to revoke
527 a certificate of authorization with the commission, ~~the~~
528 ~~commission finds that revocation is in the best interest of the~~
529 ~~customers in accordance with this section.~~ Upon the filing of
530 such petition, and owing to the demonstrated dissatisfaction
531 with the water service received by such customers, the county
532 where the customers are located also may deem it a public



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533 necessity that the utility be brought under county ownership,
534 and may, upon its own election, begin condemnation by eminent
535 domain proceedings against the utility. As used in this section,
536 the term "customer" means an individual whose property is
537 serviced by a single meter or a person whose name appears on the
538 bill for a master meter.

539 (1) (a) If the commission receives a letter from the
540 customers of a utility stating their intent to file a petition
541 pursuant to this section, the commission staff, within 10 days
542 after receipt of the letter, shall notify the utility of the
543 customers' intent to file a petition.

544 (b) Commission staff shall send to the customers
545 instructions regarding the information required on the petition
546 and the subsequent process the commission will follow. The
547 petition must be filed within 90 days after the receipt of the
548 instructions. Commission staff shall review the petition and
549 notify the customers within 10 days after receipt of the
550 petition that the petition is sufficient for the commission to
551 act or that additional information is necessary. The customers
552 must file a cured petition within 30 days after receipt of the
553 notice to cure and provide a copy of the petition to the
554 utility. If the customers fail to file or refile a petition
555 within the allotted time, the commission shall dismiss the
556 petition with prejudice, and the customers may not file another
557 petition for 1 year after the dismissal.

558 (c) Upon receipt of a properly filed petition, the
559 commission shall send to the county where the customers are
560 located a copy of the petition and notify such county of its
561 right to initiate condemnation by eminent domain proceedings



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562 pursuant to this section and s. 153.03.

563 (2) A petition must:

564 (a) State with specificity each issue that customers have
565 with the quality of water service, each time the issue was
566 reported to the utility, and how long each issue has existed;
567 and

568 (b) Be signed by at least 65 percent of the customers of
569 the service area covered under the certificate of authorization.
570 A person whose name appears on the bill for a master meter may
571 sign a petition if at least 65 percent of the customers,
572 tenants, or unit owners served by the master meter support the
573 petition, in which case documentation of such support must be
574 included with the petition.

575 (3) If the petition is in compliance with this section and
576 the issues identified within the petition support a reasonable
577 likelihood that the utility is failing to provide quality of
578 water service, the utility shall thereafter be prohibited from
579 filing a rate case until the commission has issued a final order
580 addressing the issues identified in the petition. The utility
581 shall use the following criteria in preparing a response to the
582 commission, addressing the issues identified within the petition
583 and defending the quality of its water service:

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

586 (b) The relationship between the utility and its customers,
587 including each complaint received regarding the quality of water
588 service, the length of time each customer has been complaining
589 about the service, the resolution of each complaint, and the
590 time it has taken to address such complaints.



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

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

596 (a) Dismiss the petition, in which case the decision must
597 be supported by clear and convincing evidence and is subject to
598 ss. 120.569 and 120.57; or

599 ~~(b) Require the utility to take the necessary steps to~~
600 ~~correct the quality of water service issues identified in the~~
601 ~~petition. The commission shall set benchmarks within a~~
602 ~~timeframe, not to exceed 3 years, and may require the utility to~~
603 ~~provide interim reports describing its progress in meeting such~~
604 ~~benchmarks. The commission may extend the term 3 years for~~
605 ~~circumstances that delay the project which are not in the~~
606 ~~control of the utility, such as natural disasters and obtaining~~
607 ~~permits necessary for meeting such benchmarks; or~~

608 (b)(e) Notwithstanding s. 367.045, revoke the utility's
609 certificate of authorization, in which case, any condemnation
610 proceedings initiated pursuant to this section must be dismissed
611 and a receiver must be appointed pursuant to s. 367.165 until a
612 sale of the utility system has been approved pursuant to s.
613 367.071.

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

617
618 ===== T I T L E A M E N D M E N T =====

619 And the title is amended as follows:



737306

620 Between lines 63 and 64
621 insert:
622 amending s. 153.03, F.S.; clarifying that counties may
623 initiate eminent domain over water utilities under
624 certain circumstances; amending s. 367.072, F.S.;
625 revising legislative findings; authorizing counties to
626 initiate condemnation proceedings under certain
627 circumstances; requiring the Florida Public Service
628 Commission to notify counties of petitions to revoke a
629 certificate of authorization; revising how the
630 commission must respond to such petitions; requiring
631 dismissal of condemnation proceedings under certain
632 circumstances;