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LEGISLATIVE ACTION

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

Senate Amendment (with title amendment)

Between lines 556 and 557

insert:

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

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



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11 (5) To acquire in the name of the county by gift, purchase
12 as hereinafter provided, or by the exercise of the right of
13 eminent domain, such lands and rights and interests therein,
14 including lands under water and riparian rights, and to acquire
15 such personal property as it may deem necessary for the
16 efficient operation or for the extension of or the improvement
17 of any facility purchased or constructed under the provisions of
18 this chapter and to hold and dispose of all real and personal
19 property under its control. Counties may also exercise such
20 eminent domain rights pursuant to an action initiated under s.
21 367.072. provided, However, ~~that~~ no county shall have the right
22 to exercise the right of eminent domain over any such lands or
23 rights or interests therein or any personal property owned by
24 any municipality within the state nor to exercise such right
25 with respect to any privately owned water supply system or
26 sewage disposal system including without limitation ponds,
27 streams and surface waters constituting a part thereof, provided
28 any such system is primarily used, owned or operated by an
29 industrial or manufacturing plant for its own use as a water
30 supply system or in disposing of its industrial wastes.

31 Section 3. Section 367.072, Florida Statutes, is amended to
32 read:

33 367.072 Petition to revoke certificate of authorization;
34 condemnation.—The Legislature finds that it is in the public
35 interest that water service be of good quality, be priced at a
36 rate that is commensurate with the market and the quality of
37 service provided, and be consistent with the standards set forth
38 in this chapter. Furthermore, the Legislature declares that the
39 residents of the state have a right to participate in the



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40 selection of their water service provider. Therefore, a
41 utility's certificate of authorization to provide water service
42 may be revoked ~~if,~~ after its customers file a petition to revoke
43 a certificate of authorization with the commission, ~~the~~
44 ~~commission finds that revocation is in the best interest of the~~
45 ~~customers in accordance with this section.~~ Upon the filing of
46 such petition, and owing to the demonstrated dissatisfaction
47 with the water service received by such customers, the county
48 where the customers are located also may deem it a public
49 necessity that the utility be brought under county ownership,
50 and may, upon its own election, begin condemnation by eminent
51 domain proceedings against the utility. As used in this section,
52 the term "customer" means an individual whose property is
53 serviced by a single meter or a person whose name appears on the
54 bill for a master meter.

55 (1) (a) If the commission receives a letter from the
56 customers of a utility stating their intent to file a petition
57 pursuant to this section, the commission staff, within 10 days
58 after receipt of the letter, shall notify the utility of the
59 customers' intent to file a petition.

60 (b) Commission staff shall send to the customers
61 instructions regarding the information required on the petition
62 and the subsequent process the commission will follow. The
63 petition must be filed within 90 days after the receipt of the
64 instructions. Commission staff shall review the petition and
65 notify the customers within 10 days after receipt of the
66 petition that the petition is sufficient for the commission to
67 act or that additional information is necessary. The customers
68 must file a cured petition within 30 days after receipt of the



69 notice to cure and provide a copy of the petition to the
70 utility. If the customers fail to file or refile a petition
71 within the allotted time, the commission shall dismiss the
72 petition with prejudice, and the customers may not file another
73 petition for 1 year after the dismissal.

74 (c) Upon receipt of a properly filed petition, the
75 commission shall send to the county where the customers are
76 located a copy of the petition and notify such county of its
77 right to initiate condemnation by eminent domain proceedings
78 pursuant to this section and s. 153.03.

79 (2) A petition must:

80 (a) State with specificity each issue that customers have
81 with the quality of water service, each time the issue was
82 reported to the utility, and how long each issue has existed;
83 and

84 (b) Be signed by at least 65 percent of the customers of
85 the service area covered under the certificate of authorization.
86 A person whose name appears on the bill for a master meter may
87 sign a petition if at least 65 percent of the customers,
88 tenants, or unit owners served by the master meter support the
89 petition, in which case documentation of such support must be
90 included with the petition.

91 (3) If the petition is in compliance with this section and
92 the issues identified within the petition support a reasonable
93 likelihood that the utility is failing to provide quality of
94 water service, the utility shall thereafter be prohibited from
95 filing a rate case until the commission has issued a final order
96 addressing the issues identified in the petition. The utility
97 shall use the following criteria in preparing a response to the



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98 commission, addressing the issues identified within the petition
99 and defending the quality of its water service:

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

102 (b) The relationship between the utility and its customers,
103 including each complaint received regarding the quality of water
104 service, the length of time each customer has been complaining
105 about the service, the resolution of each complaint, and the
106 time it has taken to address such complaints.

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

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

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

115 ~~(b) Require the utility to take the necessary steps to~~
116 ~~correct the quality of water service issues identified in the~~
117 ~~petition. The commission shall set benchmarks within a~~
118 ~~timeframe, not to exceed 3 years, and may require the utility to~~
119 ~~provide interim reports describing its progress in meeting such~~
120 ~~benchmarks. The commission may extend the term 3 years for~~
121 ~~circumstances that delay the project which are not in the~~
122 ~~control of the utility, such as natural disasters and obtaining~~
123 ~~permits necessary for meeting such benchmarks; or~~

124 (b)(e) Notwithstanding s. 367.045, revoke the utility's
125 certificate of authorization, in which case, any condemnation
126 proceedings initiated pursuant to this section must be dismissed



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127 and a receiver must be appointed pursuant to s. 367.165 until a
128 sale of the utility system has been approved pursuant to s.
129 367.071.

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

133

134 ===== T I T L E A M E N D M E N T =====

135 And the title is amended as follows:

136 Between lines 63 and 64

137 insert:

138 amending s. 153.03, F.S.; clarifying that counties may
139 initiate eminent domain over water utilities under
140 certain circumstances; amending s. 367.072, F.S.;
141 revising legislative findings; authorizing counties to
142 initiate condemnation proceedings under certain
143 circumstances; requiring the Florida Public Service
144 Commission to notify counties of certain petitions;
145 requiring dismissal of condemnation proceedings under
146 certain circumstances;