

By the Committee on Finance and Tax; and Senators Legg and Simpson

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1                   A bill to be entitled  
2           An act relating to utility projects; providing a short  
3           title; defining terms; authorizing certain local  
4           governmental entities to finance the costs of a  
5           utility project by issuing utility cost containment  
6           bonds upon application by a local agency; specifying  
7           application requirements; requiring a successor entity  
8           of a local agency to assume and perform the  
9           obligations of the local agency with respect to the  
10          financing of a utility project; providing procedures  
11          for local agencies to use when applying to finance a  
12          utility project using utility cost containment bonds;  
13          authorizing an authority to issue utility cost  
14          containment bonds for specified purposes related to  
15          utility projects; authorizing an authority to form  
16          alternate entities to finance utility projects;  
17          requiring the governing body of the authority to adopt  
18          a financing resolution and impose a utility project  
19          charge on customers of a publicly owned utility as a  
20          condition of utility project financing; specifying  
21          required and optional provisions of the financing  
22          resolution; specifying powers of the authority;  
23          requiring the local agency or its publicly owned  
24          utility to assist the authority in the establishment  
25          or adjustment of the utility project charge; requiring  
26          that customers of the public utility specified in the  
27          financing resolution pay the utility project charge;  
28          providing for adjustment of the utility project  
29          charge; establishing ownership of the revenues of the  
30          utility project charge; requiring the local agency or  
31          its publicly owned utility to collect the utility

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32 project charge; conditioning a customer's receipt of  
33 public utility services on payment of the utility  
34 project charge; authorizing a local agency or its  
35 publicly owned utility to use available remedies to  
36 enforce collection of the utility project charge;  
37 providing that the pledge of the utility project  
38 charge to secure payment of bonds issued to finance  
39 the utility project is irrevocable and cannot be  
40 reduced or impaired except under certain conditions;  
41 providing that a utility project charge constitutes  
42 utility project property; providing that utility  
43 project property is subject to a lien to secure  
44 payment of costs relating to utility cost containment  
45 bonds; establishing payment priorities for the use of  
46 revenues of the utility project property; providing  
47 for the issuance and validation of utility cost  
48 containment bonds; securing the payment of utility  
49 cost containment bonds and related costs; providing  
50 that utility cost containment bonds do not obligate  
51 the state or any political subdivision and are not  
52 backed by their full faith and credit and taxing  
53 power; requiring that certain disclosures be printed  
54 on utility cost containment bonds; providing that  
55 financing costs related to utility cost containment  
56 bonds are an obligation of the authority only;  
57 providing limitations on the state's ability to alter  
58 financing costs or utility project property under  
59 certain circumstances; prohibiting an authority with  
60 outstanding payment obligations on utility cost

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61 containment bonds from becoming a debtor under certain  
62 federal or state laws; providing for construction;  
63 endowing public entities with certain powers; amending  
64 s. 153.03, F.S.; clarifying that counties may initiate  
65 eminent domain over water utilities under certain  
66 circumstances; amending s. 367.072, F.S.; revising  
67 legislative findings; authorizing counties to initiate  
68 condemnation proceedings under certain circumstances;  
69 requiring the Florida Public Service Commission to  
70 notify counties of petitions to revoke a certificate  
71 of authorization; revising how the commission must  
72 respond to such petitions; requiring dismissal of  
73 condemnation proceedings under certain circumstances;  
74 providing an effective date.

75  
76 Be It Enacted by the Legislature of the State of Florida:

77  
78 Section 1. Utility Cost Containment Bond Act.—

79 (1) SHORT TITLE.—This section may be cited as the "Utility  
80 Cost Containment Bond Act."

81 (2) DEFINITIONS.—As used in this section, the term:

82 (a) "Authority" means an entity created under s.  
83 163.01(7)(g), Florida Statutes, or a separate legal entity  
84 created by one or more local agencies. The term includes any  
85 successor to the powers and functions of such an entity.

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

88 1. Any part of the expense of constructing, renovating, or  
89 acquiring lands, structures, real or personal property, rights,

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90 rights-of-way, franchises, easements, and interests acquired or  
91 used for a utility project;

92 2. The expense of demolishing or removing any buildings or  
93 structures on acquired land, including the expense of acquiring  
94 any lands to which the buildings or structures may be moved, and  
95 the cost of all machinery and equipment used for the demolition  
96 or removal;

97 3. Finance charges;

98 4. Interest, as determined by the authority;

99 5. Provisions for working capital and debt service  
100 reserves;

101 6. Expenses for extensions, enlargements, additions,  
102 replacements, renovations, and improvements;

103 7. Expenses for architectural, engineering, financial,  
104 accounting, and legal services, plans, specifications,  
105 estimates, and administration; or

106 8. Any other expenses necessary or incidental to  
107 determining the feasibility of constructing a utility project or  
108 incidental to the construction, acquisition, or financing of a  
109 utility project.

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

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

113 (e) "Financing cost" means:

114 1. Interest and redemption premiums that are payable on  
115 utility cost containment bonds;

116 2. The cost of retiring the principal of utility cost  
117 containment bonds, whether at maturity, including acceleration  
118 of maturity upon an event of default, or upon redemption,

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119 including sinking fund redemption;

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

123 4. A payment or expense associated with a bond insurance  
124 policy; financial guaranty; contract, agreement, or other credit  
125 or liquidity enhancement for bonds; or contract, agreement, or  
126 other financial agreement entered into in connection with  
127 utility cost containment bonds;

128 5. Any coverage charges; or

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

131 (f) "Financing resolution" means a resolution adopted by  
132 the governing body of an authority that provides for the  
133 financing or refinancing of a utility project with utility cost  
134 containment bonds and that imposes a utility project charge in  
135 connection with the utility cost containment bonds in accordance  
136 with subsection (4). A financing resolution may be separate from  
137 a resolution authorizing the issuance of the bonds.

138 (g) "Governing body" means the body that governs a local  
139 agency.

140 (h) "Local agency" means a member of the authority, or an  
141 agency or subdivision of that member, which is sponsoring or  
142 refinancing a utility project, or any municipality, county,  
143 authority, special district, public corporation, regional water  
144 authority, or other governmental entity of the state that is  
145 sponsoring or refinancing a utility project.

146 (i) "Public utility services" means water or wastewater  
147 services provided by a publicly owned utility. The term does not

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148 include communications services, as defined in s. 202.11,  
149 Florida Statutes, Internet access services, or information  
150 services.

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

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

158 1. Bond purchase agreements;

159 2. Bonds acquired by the authority;

160 3. Installment sales agreements and other revenue-producing  
161 agreements entered into by the authority;

162 4. Utility projects financed or refinanced by the  
163 authority;

164 5. Grants and other sources of income;

165 6. Moneys paid by a local agency;

166 7. Interlocal agreements with a local agency, including all  
167 service agreements; or

168 8. Interest or other income from any investment of money in  
169 any fund or account established for the payment of principal,  
170 interest, or premiums on utility cost containment bonds, or the  
171 deposit of proceeds of utility cost containment bonds.

172 (l) "Utility cost containment bonds" means bonds, notes,  
173 commercial paper, variable rate securities, and any other  
174 evidence of indebtedness issued by an authority the proceeds of  
175 which are used directly or indirectly to pay or reimburse a  
176 local agency or its publicly owned utility for the costs of a

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177 utility project and which are secured by a pledge of, and are  
178 payable from, utility project property.

179 (m) "Utility project" means the acquisition, construction,  
180 installation, retrofitting, rebuilding, or other addition to or  
181 improvement of any equipment, device, structure, process,  
182 facility, technology, rights, or property located within or  
183 outside this state which is used in connection with the  
184 operations of a publicly owned utility.

185 (n) "Utility project charge" means a charge levied on  
186 customers of a publicly owned utility to pay the financing costs  
187 of utility cost containment bonds issued under subsection (4).  
188 The term includes any adjustments to the utility project charge  
189 made under subsection (5).

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

195 1. The financing resolution, the utility project charge,  
196 and any adjustment to the utility project charge established in  
197 accordance with subsection (5);

198 2. The financing costs of the utility cost containment  
199 bonds and all revenues, and all collections, claims, payments,  
200 moneys, or proceeds for, or arising from, the utility project  
201 charge; or

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

204 (3) UTILITY PROJECTS.—

205 (a) A local agency that owns and operates a publicly owned

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206 utility may apply to an authority to finance the costs of a  
207 utility project using the proceeds of utility cost containment  
208 bonds. In its application to the authority, the local agency  
209 shall specify the utility project to be financed by the utility  
210 cost containment bonds and the maximum principal amount, the  
211 maximum interest rate, and the maximum stated terms of the  
212 utility cost containment bonds.

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

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

218 2. The local agency will finance costs of the utility  
219 project, and the costs associated with the financing will be  
220 paid from utility project property, including the utility  
221 project charge for the utility cost containment bonds.

222 3. Based on the best information available to the governing  
223 body, the rates charged to the local agency's retail customers  
224 by the publicly owned utility, including the utility project  
225 charge resulting from the financing of the utility project with  
226 utility cost containment bonds, are expected to be lower than  
227 the rates that would be charged if the project were financed  
228 with bonds payable from revenues of the publicly owned utility.

229 (c) A determination by the governing body that a project to  
230 be financed with utility cost containment bonds is a utility  
231 project is final and conclusive, and the utility cost  
232 containment bonds issued to finance the utility project and the  
233 utility project charge are valid and enforceable as set forth in  
234 the financing resolution and the documents relating to the



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235 utility cost containment bonds.

236 (d) If a local agency that has outstanding utility cost  
237 containment bonds ceases to operate a water or wastewater  
238 utility, directly or through its publicly owned utility,  
239 references in this section to the local agency or to its  
240 publicly owned utility must be to the successor entity. The  
241 successor entity shall assume and perform all obligations of the  
242 local agency and its publicly owned utility required by this  
243 section and shall assume the servicing agreement required under  
244 subsection (4) while the utility cost containment bonds remain  
245 outstanding.

246 (4) FINANCING UTILITY PROJECTS.—

247 (a) An authority may issue utility cost containment bonds  
248 to finance or refinance utility projects; refinance debt of a  
249 local agency incurred in financing or refinancing utility  
250 projects, provided such refinancing results in present value  
251 savings to the local agency; or, with the approval of the local  
252 agency, refinance previously issued utility cost containment  
253 bonds.

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

255 a. Form a single-purpose limited liability company and  
256 authorize the company to adopt the financing resolution of such  
257 utility project; or

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

262 2. A single-purpose limited liability company or a single-  
263 purpose entity may be created by the authority solely for the

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264 purpose of performing the duties and responsibilities of the  
265 authority specified in this section and constitutes an authority  
266 for all purposes of this section. Reference to the authority  
267 includes a company or entity created under this paragraph.

268 (b) The governing body of an authority that is financing  
269 the costs of a utility project shall adopt a financing  
270 resolution and shall impose a utility project charge as  
271 described in subsection (5). All provisions of a financing  
272 resolution adopted pursuant to this section are binding on the  
273 authority.

274 1. The financing resolution must:

275 a. Provide a brief description of the financial calculation  
276 method the authority will use in determining the utility project  
277 charge. The calculation method must include a periodic  
278 adjustment methodology to be applied at least annually to the  
279 utility project charge. The authority shall establish the  
280 allocation of the utility project charge among classes of  
281 customers of the publicly owned utility. The decision of the  
282 authority is final and conclusive, and the method of calculating  
283 the utility project charge and the periodic adjustment may not  
284 be changed;

285 b. Require each customer in the class or classes of  
286 customers specified in the financing resolution who receives  
287 water or wastewater service through the publicly owned utility  
288 to pay the utility project charge regardless of whether the  
289 customer has an agreement to receive water or wastewater service  
290 from a person other than the publicly owned utility;

291 c. Require that the utility project charge be charged  
292 separately from other charges on the bill of customers of the

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293 publicly owned utility in the class or classes of customers  
294 specified in the financing resolution; and

295 d. Require that the authority enter into a servicing  
296 agreement with the local agency or its publicly owned utility to  
297 collect the utility project charge.

298 2. The authority may require in the financing resolution  
299 that, in the event of a default by the local agency or its  
300 publicly owned utility with respect to revenues from the utility  
301 project property, the authority, upon application by the  
302 beneficiaries of the statutory lien as set forth in subsection  
303 (6), shall order the sequestration and payment to the  
304 beneficiaries of revenues arising from utility project property.  
305 This subparagraph does not limit any other remedies available to  
306 the beneficiaries by reason of default.

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

309 (d) Each authority shall work with local agencies that  
310 request assistance to determine the most cost-effective manner  
311 of financing regional water projects. If the entities determine  
312 that the issuance of utility cost containment bonds will result  
313 in lower financing costs for a project, the authority shall  
314 cooperate with such local agencies and, if requested by the  
315 local agencies, issue utility cost containment bonds as provided  
316 in this section.

317 (5) UTILITY PROJECT CHARGE.-

318 (a) The authority shall impose a sufficient utility project  
319 charge, based on estimates of water or wastewater service usage,  
320 to ensure timely payment of all financing costs with respect to  
321 utility cost containment bonds. The local agency or its publicly

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322 owned utility shall provide the authority with information  
323 concerning the publicly owned utility which may be required by  
324 the authority in establishing the utility project charge.

325 (b) The utility project charge is a nonbypassable charge to  
326 all present and future customers of the publicly owned utility  
327 in the class or classes of customers specified in the financing  
328 resolution upon its adoption. If the regulatory structure for  
329 the water or wastewater industry changes in a manner that  
330 authorizes a customer to choose to take service from an  
331 alternative supplier and the customer chooses an alternative  
332 supplier, the customer remains liable for paying the utility  
333 project charge if the customer continues to receive any service  
334 from the publicly owned utility for the transmission,  
335 distribution, processing, delivery, or metering of the  
336 underlying water or wastewater service.

337 (c) The authority shall determine at least annually and at  
338 such additional intervals as provided in the financing  
339 resolution and documents related to the applicable utility cost  
340 containment bonds whether adjustments to the utility project  
341 charge are required. The authority shall use the adjustment to  
342 correct for any overcollection or undercollection of financing  
343 costs from the utility project charge or to make any other  
344 adjustment necessary to ensure the timely payment of the  
345 financing costs of the utility cost containment bonds, including  
346 adjustment of the utility project charge to pay any debt service  
347 coverage requirement for the utility cost containment bonds. The  
348 local agency or its publicly owned utility shall provide the  
349 authority with information concerning the publicly owned utility  
350 which may be required by the authority in adjusting the utility

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351 project charge.

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

355 2. The adjustment may not impose the utility project charge  
356 on a class of customers which was not subject to the utility  
357 project charge pursuant to the financing resolution imposing the  
358 utility project charge.

359 (d) Revenues from a utility project charge are special  
360 revenues of the authority and do not constitute revenue of the  
361 local agency or its publicly owned utility for any purpose,  
362 including any dedication, commitment, or pledge of revenue,  
363 receipts, or other income that the local agency or its publicly  
364 owned utility has made or will make for the security of any of  
365 its obligations.

366 (e) The local agency or its publicly owned utility shall  
367 act as a servicing agent for collecting the utility project  
368 charge throughout the duration of the servicing agreement  
369 required by the financing resolution. The local agency or its  
370 publicly owned utility shall hold the money collected in trust  
371 for the exclusive benefit of the persons entitled to have the  
372 financing costs paid from the utility project charge, and the  
373 money does not lose its designation as revenues of the authority  
374 by virtue of possession by the local agency or its publicly  
375 owned utility.

376 (f) The customer must make timely and complete payment of  
377 all utility project charges as a condition of receiving water or  
378 wastewater service from the publicly owned utility. The local  
379 agency or its publicly owned utility may use its established

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380 collection policies and remedies provided under law to enforce  
381 collection of the utility project charge. A customer liable for  
382 a utility project charge may not withhold payment, in whole or  
383 in part, thereof.

384 (g) The pledge of a utility project charge to secure  
385 payment of utility cost containment bonds is irrevocable, and  
386 the state, or any other entity, may not reduce, impair, or  
387 otherwise adjust the utility project charge, except that the  
388 authority shall implement the periodic adjustments to the  
389 utility project charge as provided under this subsection.

390 (6) UTILITY PROJECT PROPERTY.—

391 (a) A utility project charge constitutes utility project  
392 property on the effective date of the financing resolution  
393 authorizing such utility project charge. Utility project  
394 property constitutes property, including contracts for securing  
395 utility cost containment bonds, regardless of whether the  
396 revenues and proceeds arising with respect to the utility  
397 project property have accrued. Utility project property shall  
398 continuously exist as property for all purposes with all of the  
399 rights and privileges of this section through the end of the  
400 period provided in the financing resolution or until all  
401 financing costs with respect to the related utility cost  
402 containment bonds are paid in full, whichever occurs first.

403 (b) Upon the effective date of the financing resolution,  
404 the utility project property is subject to a first-priority  
405 statutory lien to secure the payment of the utility cost  
406 containment bonds.

407 1. The lien secures the payment of all financing costs then  
408 existing or subsequently arising to the holders of the utility

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409 cost containment bonds, the trustees or representatives of the  
410 holders of the utility cost containment bonds, and any other  
411 entity specified in the financing resolution or the documents  
412 relating to the utility cost containment bonds.

413 2. The lien attaches to the utility project property  
414 regardless of the current ownership of the utility project  
415 property, including any local agency or its publicly owned  
416 utility, the authority, or any other person.

417 3. Upon the effective date of the financing resolution, the  
418 lien is valid and enforceable against the owner of the utility  
419 project property and all third parties, and additional public  
420 notice is not required.

421 4. The lien is a continuously perfected lien on all  
422 revenues and proceeds generated from the utility project  
423 property regardless of whether the revenues or proceeds have  
424 accrued.

425 (c) All revenues with respect to utility project property  
426 related to utility cost containment bonds, including payments of  
427 the utility project charge, shall be applied first to the  
428 payment of the financing costs of the utility cost containment  
429 bonds then due, including the funding of reserves for the  
430 utility cost containment bonds. Any excess revenues shall be  
431 applied as determined by the authority for the benefit of the  
432 utility for which the utility cost containment bonds were  
433 issued.

434 (7) UTILITY COST CONTAINMENT BONDS.—

435 (a) Utility cost containment bonds shall be issued within  
436 the parameters of the financing provided by the authority  
437 pursuant to this section. The proceeds of the utility cost

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438 containment bonds made available to the local agency or its  
439 publicly owned utility shall be used for the utility project  
440 identified in the application for financing of the utility  
441 project or used to refinance indebtedness of the local agency  
442 which financed or refinanced utility projects.

443 (b) Utility cost containment bonds shall be issued as set  
444 forth in this section and s. 163.01(7)(g)8., Florida Statutes,  
445 and may be validated pursuant to s. 163.01(7)(g)9., Florida  
446 Statutes.

447 (c) The authority shall pledge the utility project property  
448 as security for the payment of the utility cost containment  
449 bonds. All rights of an authority with respect to utility  
450 project property pledged as security for the payment of utility  
451 cost containment bonds shall be for the benefit of, and  
452 enforceable by, the beneficiaries of the pledge to the extent  
453 provided in the financing documents relating to the utility cost  
454 containment bonds.

455 1. If utility project property is pledged as security for  
456 the payment of utility cost containment bonds, the local agency  
457 or its publicly owned utility shall enter into a contract with  
458 the authority which requires, at a minimum, that the publicly  
459 owned utility:

460 a. Continue to operate its publicly owned utility,  
461 including the utility project that is being financed or  
462 refinanced;

463 b. Collect the utility project charge from customers for  
464 the benefit and account of the authority and the beneficiaries  
465 of the pledge of the utility project charge; and

466 c. Separately account for and remit revenue from the



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467 utility project charge to, or for the account of, the authority.

468 2. The pledge of a utility project charge to secure payment  
469 of utility cost containment bonds is irrevocable, and the state  
470 or any other entity may not reduce, impair, or otherwise adjust  
471 the utility project charge, except that the authority shall  
472 implement periodic adjustments to the utility project charge as  
473 provided under subsection (5).

474 (d) Utility cost containment bonds shall be nonrecourse to  
475 the credit or any assets of the local agency or the publicly  
476 owned utility but are payable from, and secured by a pledge of  
477 the utility project property relating to the utility cost  
478 containment bonds and any additional security or credit  
479 enhancement specified in the documents relating to the utility  
480 cost containment bonds. If, pursuant to subsection (4), the  
481 authority is financing the project through a single-purpose  
482 limited liability company, the utility cost containment bonds  
483 shall be payable from, and secured by, a pledge of amounts paid  
484 by the company to the authority from the applicable utility  
485 project property. This paragraph is the exclusive method of  
486 perfecting a pledge of utility project property by the company  
487 securing the payment of financing costs under any agreement of  
488 the company in connection with the issuance of utility cost  
489 containment bonds.

490 (e) The issuance of utility cost containment bonds does not  
491 obligate the state or any political subdivision thereof to levy  
492 or to pledge any form of taxation to pay the utility cost  
493 containment bonds or to make any appropriation for their  
494 payment. Each utility cost containment bond must contain on its  
495 face a statement in substantially the following form:

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496  
497 “Neither the full faith and credit nor the taxing power of the  
498 State of Florida or any political subdivision thereof is pledged  
499 to the payment of the principal of, or interest on, this bond.”  
500

501 (f) Notwithstanding any other law or this section, a  
502 financing resolution or other resolution of the authority, or  
503 documents relating to utility cost containment bonds, the  
504 authority may not rescind, alter, or amend any resolution or  
505 document that pledges utility cost charges for payment of  
506 utility cost containment bonds.

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

513 (h) Financing costs in connection with utility cost  
514 containment bonds are a special obligation of the authority and  
515 do not constitute a liability of the state or any political  
516 subdivision thereof. Financing costs are not a pledge of the  
517 full faith and credit of the state or any political subdivision  
518 thereof, including the authority, but are payable solely from  
519 the funds identified in the documents relating to the utility  
520 cost containment bonds. This paragraph does not preclude  
521 guarantees or credit enhancements in connection with utility  
522 cost containment bonds.

523 (i) Except as otherwise provided in this section with  
524 respect to adjustments to a utility project charge, the recovery

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525 of the financing costs for the utility cost containment bonds  
526 from the utility project charge is irrevocable, and the  
527 authority does not have the power, by rescinding, altering, or  
528 amending the applicable financing resolution, to revalue or  
529 revise for ratemaking purposes the financing costs of utility  
530 cost containment bonds; to determine that the financing costs  
531 for the related utility cost containment bonds or the utility  
532 project charge is unjust or unreasonable; or to in any way,  
533 either directly or indirectly, reduce or impair the value of  
534 utility project property that includes the utility project  
535 charge. The amount of revenues arising with respect to the  
536 financing costs for the related utility cost containment bonds  
537 or the utility project charge is not subject to reduction,  
538 impairment, postponement, or termination for any reason until  
539 all financing costs to be paid from the utility project charge  
540 are fully met and discharged.

541 (j) Except as provided in subsection (5) with respect to  
542 adjustments to a utility project charge, the state pledges and  
543 agrees with the owners of utility cost containment bonds that  
544 the state may not limit or alter the financing costs or the  
545 utility project property, including the utility project charge,  
546 relating to the utility cost containment bonds, or any rights  
547 related to the utility project property, until all financing  
548 costs with respect to the utility cost containment bonds are  
549 fully met and discharged. This paragraph does not preclude  
550 limitation or alteration if adequate provision is made by law to  
551 protect the owners. The authority may include the state's pledge  
552 in the governing documents for utility cost containment bonds.

553 (8) LIMITATION ON DEBT RELIEF.—Notwithstanding any other

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554 law, an authority that issued utility cost containment bonds may  
555 not, and a governmental officer or organization may not  
556 authorize the authority to, become a debtor under the United  
557 States Bankruptcy Code or become the subject of any similar case  
558 or proceeding under any other state or federal law if any  
559 payment obligation from utility project property remains with  
560 respect to the utility cost containment bonds.

561 (9) CONSTRUCTION.—This section and all grants of power and  
562 authority in this section shall be liberally construed to  
563 effectuate their purposes. All incidental powers necessary to  
564 carry this section into effect are expressly granted to, and  
565 conferred upon, public entities.

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

568 153.03 General grant of power.—Any of the several counties  
569 of the state which may hereafter come under the provisions of  
570 this chapter as hereinafter provided is hereby authorized and  
571 empowered:

572 (5) To acquire in the name of the county by gift, purchase  
573 as hereinafter provided, or by the exercise of the right of  
574 eminent domain, such lands and rights and interests therein,  
575 including lands under water and riparian rights, and to acquire  
576 such personal property as it may deem necessary for the  
577 efficient operation or for the extension of or the improvement  
578 of any facility purchased or constructed under the provisions of  
579 this chapter and to hold and dispose of all real and personal  
580 property under its control. Counties may also exercise such  
581 eminent domain rights pursuant to an action initiated under s.  
582 367.072. ~~provided,~~ However, ~~that~~ no county shall have the right

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583 to exercise the right of eminent domain over any such lands or  
584 rights or interests therein or any personal property owned by  
585 any municipality within the state nor to exercise such right  
586 with respect to any privately owned water supply system or  
587 sewage disposal system including without limitation ponds,  
588 streams and surface waters constituting a part thereof, provided  
589 any such system is primarily used, owned or operated by an  
590 industrial or manufacturing plant for its own use as a water  
591 supply system or in disposing of its industrial wastes.

592 Section 3. Section 367.072, Florida Statutes, is amended to  
593 read:

594 367.072 Petition to revoke certificate of authorization;  
595 condemnation.—The Legislature finds that it is in the public  
596 interest that water service be of good quality, be priced at a  
597 rate that is commensurate with the market and the quality of  
598 service provided, and be consistent with the standards set forth  
599 in this chapter. Furthermore, the Legislature declares that the  
600 residents of the state have a right to participate in the  
601 selection of their water service provider. Therefore, a  
602 utility's certificate of authorization to provide water service  
603 may be revoked ~~if,~~ after its customers file a petition to revoke  
604 a certificate of authorization with the commission, ~~the~~  
605 ~~commission finds that revocation is in the best interest of the~~  
606 ~~customers in accordance with this section.~~ Upon the filing of  
607 such petition, and owing to the demonstrated dissatisfaction  
608 with the water service received by such customers, the county  
609 where the customers are located also may deem it a public  
610 necessity that the utility be brought under county ownership,  
611 and may, upon its own election, begin condemnation by eminent

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612 domain proceedings against the utility. As used in this section,  
613 the term "customer" means an individual whose property is  
614 serviced by a single meter or a person whose name appears on the  
615 bill for a master meter.

616 (1) (a) If the commission receives a letter from the  
617 customers of a utility stating their intent to file a petition  
618 pursuant to this section, the commission staff, within 10 days  
619 after receipt of the letter, shall notify the utility of the  
620 customers' intent to file a petition.

621 (b) Commission staff shall send to the customers  
622 instructions regarding the information required on the petition  
623 and the subsequent process the commission will follow. The  
624 petition must be filed within 90 days after the receipt of the  
625 instructions. Commission staff shall review the petition and  
626 notify the customers within 10 days after receipt of the  
627 petition that the petition is sufficient for the commission to  
628 act or that additional information is necessary. The customers  
629 must file a cured petition within 30 days after receipt of the  
630 notice to cure and provide a copy of the petition to the  
631 utility. If the customers fail to file or refile a petition  
632 within the allotted time, the commission shall dismiss the  
633 petition with prejudice, and the customers may not file another  
634 petition for 1 year after the dismissal.

635 (c) Upon receipt of a properly filed petition, the  
636 commission shall send to the county where the customers are  
637 located a copy of the petition and notify such county of its  
638 right to initiate condemnation by eminent domain proceedings  
639 pursuant to this section and s. 153.03.

640 (2) A petition must:

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641 (a) State with specificity each issue that customers have  
642 with the quality of water service, each time the issue was  
643 reported to the utility, and how long each issue has existed;  
644 and

645 (b) Be signed by at least 65 percent of the customers of  
646 the service area covered under the certificate of authorization.  
647 A person whose name appears on the bill for a master meter may  
648 sign a petition if at least 65 percent of the customers,  
649 tenants, or unit owners served by the master meter support the  
650 petition, in which case documentation of such support must be  
651 included with the petition.

652 (3) If the petition is in compliance with this section and  
653 the issues identified within the petition support a reasonable  
654 likelihood that the utility is failing to provide quality of  
655 water service, the utility shall thereafter be prohibited from  
656 filing a rate case until the commission has issued a final order  
657 addressing the issues identified in the petition. The utility  
658 shall use the following criteria in preparing a response to the  
659 commission, addressing the issues identified within the petition  
660 and defending the quality of its water service:

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

663 (b) The relationship between the utility and its customers,  
664 including each complaint received regarding the quality of water  
665 service, the length of time each customer has been complaining  
666 about the service, the resolution of each complaint, and the  
667 time it has taken to address such complaints.

668 (4) The commission shall evaluate the issues identified in  
669 the petition, the utility's response as to whether it is

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670 providing quality of water service, and any other factor the  
671 commission deems relevant.

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

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

676 ~~(b) Require the utility to take the necessary steps to  
677 correct the quality of water service issues identified in the  
678 petition. The commission shall set benchmarks within a  
679 timeframe, not to exceed 3 years, and may require the utility to  
680 provide interim reports describing its progress in meeting such  
681 benchmarks. The commission may extend the term 3 years for  
682 circumstances that delay the project which are not in the  
683 control of the utility, such as natural disasters and obtaining  
684 permits necessary for meeting such benchmarks; or~~

685 (b)(e) Notwithstanding s. 367.045, revoke the utility's  
686 certificate of authorization, in which case, any condemnation  
687 proceedings initiated pursuant to this section must be dismissed  
688 and a receiver must be appointed pursuant to s. 367.165 until a  
689 sale of the utility system has been approved pursuant to s.  
690 367.071.

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

694 Section 4. This act shall take effect July 1, 2016.