

27 | circumstances; amending s. 403.8532, F.S.; authorizing
28 | the Department of Environmental Protection to require
29 | or request that the Florida Water Pollution Control
30 | Financing Corporation make loans, grants, and deposits
31 | to for-profit, privately owned, or investor-owned
32 | water systems; removing current restrictions on such
33 | activities; amending s. 367.171, F.S.; making
34 | technical changes; providing an effective date.

35 |
36 | Be It Enacted by the Legislature of the State of Florida:

37 |
38 | Section 1. Section 159.8105, Florida Statutes, is created
39 | to read:

40 | 159.8105 Allocation of bonds for water and wastewater
41 | infrastructure projects.—The division shall review the
42 | allocation of private activity bonds to determine the
43 | availability of additional allocation and reallocation of bonds
44 | for water and wastewater infrastructure projects.

45 | Section 2. Subsections (9) through (12) of section
46 | 367.022, Florida Statutes, are renumbered as subsections (10)
47 | through (13), respectively, and a new subsection (9) is added to
48 | that section to read:

49 | 367.022 Exemptions.—The following are not subject to
50 | regulation by the commission as a utility nor are they subject
51 | to the provisions of this chapter, except as expressly provided:

52 | (9) Any person who resells water service to his or her

53 tenants or to individually metered residents for a fee that does
 54 not exceed the actual purchase price of the water plus the
 55 actual cost of meter reading and billing, not to exceed 9
 56 percent of the actual cost of service.

57 Section 3. Paragraph (c) is added to subsection (2) of
 58 section 367.081, Florida Statutes, and paragraph (b) of
 59 subsection (4) of that section is amended, to read:

60 367.081 Rates; procedure for fixing and changing.—

61 (2)

62 (c) In establishing rates for a utility, the commission,
 63 upon petition by the utility, shall create a utility reserve
 64 fund for infrastructure repair and replacement for a utility for
 65 existing distribution and collection infrastructure that is
 66 nearing the end of its useful life or is detrimental to water
 67 quality or reliability of service, to be funded by a portion of
 68 the rates charged by the utility, by a secured escrow account,
 69 or through a letter of credit. The commission shall adopt rules
 70 to govern the implementation, management, and use of the fund,
 71 including, but not limited to, rules related to expenses for
 72 which the fund may be used, segregation of reserve account
 73 funds, requirements for a capital improvement plan, and
 74 requirements for commission authorization before disbursements
 75 are made from the fund.

76 (4)

77 (b) The approved rates of any utility ~~which receives all~~
 78 ~~or any portion of its utility service from a governmental~~

79 ~~authority or from a water or wastewater utility regulated by the~~
80 ~~commission and which redistributes that service to its utility~~
81 ~~customers shall be automatically increased or decreased without~~
82 ~~hearing, upon verified notice to the commission 45 days prior to~~
83 ~~its implementation of the increase or decrease that the~~
84 utility's costs for any specified expense item ~~rates charged by~~
85 ~~the governmental authority or other utility have changed. The~~
86 ~~approved rates of any utility which is subject to an increase or~~
87 ~~decrease in the rates or fees that it is charged for electric~~
88 ~~power, the amount of ad valorem taxes assessed against its used~~
89 ~~and useful property, the fees charged by the Department of~~
90 ~~Environmental Protection in connection with the National~~
91 ~~Pollutant Discharge Elimination System Program, or the~~
92 ~~regulatory assessment fees imposed upon it by the commission~~
93 ~~shall be increased or decreased by the utility, without action~~
94 ~~by the commission, upon verified notice to the commission 45~~
95 ~~days prior to its implementation of the increase or decrease~~
96 ~~that the rates charged by the supplier of the electric power or~~
97 ~~the taxes imposed by the governmental authority, or the~~
98 ~~regulatory assessment fees imposed upon it by the commission~~
99 ~~have changed. The new rates authorized shall reflect the amount~~
100 ~~of the change of the ad valorem taxes or rates imposed upon the~~
101 ~~utility by the governmental authority, other utility, or~~
102 ~~supplier of electric power, or the regulatory assessment fees~~
103 ~~imposed upon it by the commission. The approved rates of any~~
104 ~~utility shall be automatically increased, without hearing, upon~~

105 ~~verified notice to the commission 45 days prior to~~
106 ~~implementation of the increase that costs have been incurred for~~
107 ~~water quality or wastewater quality testing required by the~~
108 ~~Department of Environmental Protection.~~

109 1. The new rates authorized shall reflect, on an amortized
110 or annual basis, as appropriate, the cost of~~7~~ or the amount of
111 change in the cost of~~7~~ the specified expense item ~~required water~~
112 ~~quality or wastewater quality testing performed by laboratories~~
113 ~~approved by the Department of Environmental Protection for that~~
114 ~~purpose.~~ The new rates, however, shall not reflect the costs of
115 any specified expense item ~~required water quality or wastewater~~
116 ~~quality testing~~ already included in a utility's rates. Specified
117 expense items that are eligible for automatic increase or
118 decrease of a utility's rates include, but are not limited to:

119 a. The rates charged by a governmental authority or other
120 water or wastewater utility regulated by the commission which
121 provides utility service to the utility.

122 b. The rates or fees that the utility is charged for
123 electric power.

124 c. The amount of ad valorem taxes assessed against the
125 utility's used and useful property.

126 d. The fees charged by the Department of Environmental
127 Protection in connection with the National Pollutant Discharge
128 Elimination System Program.

129 e. The regulatory assessment fees imposed upon the utility
130 by the commission.

131 f. Costs incurred for water quality or wastewater quality
132 testing required by the Department of Environmental Protection.

133 g. The fees charged for wastewater biosolids disposal.

134 h. Costs incurred for any tank inspection required by the
135 Department of Environmental Protection or a local governmental
136 authority.

137 i. Treatment plant operator and water distribution system
138 operator license fees required by the Department of
139 Environmental Protection or a local governmental authority.

140 j. Water or wastewater operating permit fees charged by
141 the Department of Environmental Protection or a local
142 governmental authority.

143 k. Consumptive or water use permit fees charged by a water
144 management district.

145 2. A utility may not use this procedure to increase its
146 rates as a result of an increase in a specific expense item
147 which occurred ~~water quality or wastewater quality testing or an~~
148 ~~increase in the cost of purchased water services, sewer~~
149 ~~services, or electric power or in assessed ad valorem taxes,~~
150 ~~which increase was initiated~~ more than 12 months before the
151 filing by the utility.

152 3. The commission may establish by rule additional
153 specific expense items that are outside the control of the
154 utility and have been imposed upon the utility by a federal,
155 state, or local law, rule, order, or notice. If the commission
156 establishes such a rule, the commission shall review the rule at

157 least once every 5 years and determine if each expense item
 158 should continue to be cause for an automatic increase or
 159 decrease and whether additional items should be included.

160 4. The provisions of This subsection does ~~de~~ not prevent a
 161 utility from seeking a change in rates pursuant to ~~the~~
 162 ~~provisions of~~ subsection (2).

163 Section 4. Subsection (3) of section 367.0814, Florida
 164 Statutes, is amended to read:

165 367.0814 Staff assistance in changing rates and charges;
 166 interim rates.—

167 (3) The provisions of s. 367.081(1), (2)(a), and (3) shall
 168 apply in determining the utility's rates and charges. However,
 169 the commission may not award rate case expenses to recover
 170 attorney fees or fees of other outside consultants who are
 171 engaged for the purpose of preparing or filing the case if a
 172 utility receives staff assistance in changing rates and charges
 173 pursuant to this section, unless the Office of Public Counsel or
 174 interested parties have intervened. The commission may award
 175 rate case expenses for attorney fees or fees of other outside
 176 consultants if such fees are incurred for the purpose of
 177 providing consulting or legal services to the utility after the
 178 initial staff report is made available to customers and the
 179 utility. If there is a protest or appeal by a party other than
 180 the utility, the commission shall award rate case expenses to
 181 the utility for attorney fees or fees of other outside
 182 consultants for costs incurred after the protest or appeal. By

183 December 31, 2016, the commission must adopt rules to administer
 184 this subsection.

185 Section 5. Subsection (3) is added to section 367.111,
 186 Florida Statutes, to read:

187 367.111 Service.—

188 (3) The commission may, on its own motion or based on
 189 complaints of customers of a water utility subject to its
 190 jurisdiction, review water quality as it pertains to secondary
 191 drinking water standards established by the Department of
 192 Environmental Protection. The commission may, on its own motion
 193 or based on complaints of customers of a wastewater utility
 194 subject to its jurisdiction, review wastewater service as it
 195 pertains to odor, noise, aerosol drift, or lighting.

196 Section 6. Subsection (3) of section 403.8532, Florida
 197 Statutes, is amended to read:

198 403.8532 Drinking water state revolving loan fund; use;
 199 rules.—

200 (3) The department may make, or request that the
 201 corporation make, loans, grants, and deposits to community water
 202 systems; for-profit, privately owned, or investor-owned water
 203 systems; nonprofit, transient, noncommunity water systems;~~7~~ and
 204 nonprofit, nontransient, noncommunity water systems to assist
 205 them in planning, designing, and constructing public water
 206 systems, ~~unless such public water systems are for-profit~~
 207 ~~privately owned or investor-owned systems that regularly serve~~
 208 ~~1,500 service connections or more within a single certified or~~

209 ~~franchised area. However, a for-profit privately owned or~~
 210 ~~investor-owned public water system that regularly serves 1,500~~
 211 ~~service connections or more within a single certified or~~
 212 ~~franchised area may qualify for a loan only if the proposed~~
 213 ~~project will result in the consolidation of two or more public~~
 214 ~~water systems.~~ The department may provide loan guarantees,
 215 purchase loan insurance, and refinance local debt through the
 216 issue of new loans for projects approved by the department.
 217 Public water systems may borrow funds made available pursuant to
 218 this section and may pledge any revenues or other adequate
 219 security available to them to repay any funds borrowed.

220 (a) The department shall administer loans so that amounts
 221 credited to the Drinking Water Revolving Loan Trust Fund in any
 222 fiscal year are reserved for the following purposes:

223 1. At least 15 percent for qualifying small public water
 224 systems.

225 2. Up to 15 percent for qualifying financially
 226 disadvantaged communities.

227 (b) If an insufficient number of the projects for which
 228 funds are reserved under this subsection have been submitted to
 229 the department at the time the funding priority list authorized
 230 under this section is adopted, the reservation of these funds no
 231 longer applies. The department may award the unreserved funds as
 232 otherwise provided in this section.

233 Section 7. Subsection (8) of section 367.171, Florida
 234 Statutes, is amended to read:

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235 367.171 Effectiveness of this chapter.—

236 (8) Each county that ~~which~~ is not subject to ~~excluded from~~
237 ~~the provisions of~~ this chapter shall regulate the rates of all
238 utilities in that county which would otherwise be subject to
239 regulation by the commission pursuant to ss. s. 367.081(1), (2),
240 (3), and (6) and 367.165. The county shall not regulate the
241 rates or charges of any system or facility that ~~which~~ would
242 otherwise be exempt from commission regulation pursuant to s.
243 367.022(2). For this purpose, the county or its agency shall
244 proceed as though the county or agency is the commission.

245 Section 8. This act shall take effect July 1, 2016.