

1                   A bill to be entitled  
2           An act relating to water and wastewater; creating s.  
3           159.8105, F.S.; requiring the Division of Bond Finance  
4           of the State Board of Administration to review the  
5           allocation of private activity bonds to determine the  
6           availability of additional allocation and reallocation  
7           of bonds for water and wastewater infrastructure  
8           projects; amending s. 367.022, F.S.; exempting from  
9           regulation by the Florida Public Service Commission a  
10          person who resells water service to certain tenants or  
11          residents up to a specified percentage or cost;  
12          amending s. 367.081, F.S.; requiring the commission to  
13          create a utility reserve fund; requiring the  
14          commission to adopt rules to govern the  
15          implementation, management, and use of the fund;  
16          establishing criteria for adjusted rates; specifying  
17          expense items that may be the basis for an automatic  
18          increase or decrease of a utility's rates; authorizing  
19          the commission to establish by rule additional  
20          specified expense items; amending s. 367.0814, F.S.;  
21          requiring the commission to award rate case expenses  
22          to recover attorney fees or fees of other outside  
23          consultants in certain circumstances; requiring the  
24          commission to adopt rules by a certain date; amending  
25          s. 367.111, F.S.; authorizing the commission to review  
26          water quality and wastewater service under certain

27 | circumstances; amending s. 367.165, F.S.; requiring  
 28 | counties to comply with requirements for abandoned  
 29 | water and wastewater systems; amending s. 403.8532,  
 30 | F.S.; authorizing the Department of Environmental  
 31 | Protection to require or request that the Florida  
 32 | Water Pollution Control Financing Corporation make  
 33 | loans, grants, and deposits to for-profit, privately  
 34 | owned, or investor-owned water systems; removing  
 35 | current restrictions on such activities; providing an  
 36 | effective date.

37 |  
 38 | Be It Enacted by the Legislature of the State of Florida:

39 |  
 40 | Section 1. Section 159.8105, Florida Statutes, is created  
 41 | to read:

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

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

51 | 367.022 Exemptions.—The following are not subject to  
 52 | regulation by the commission as a utility nor are they subject

53 to the provisions of this chapter, except as expressly provided:

54 (9) Any person who resells water service to his or her  
 55 tenants or to individually metered residents for a fee that does  
 56 not exceed the actual purchase price of the water plus the  
 57 actual cost of meter reading and billing, not to exceed 9  
 58 percent of the actual cost of service.

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

62 367.081 Rates; procedure for fixing and changing.—

63 (2)

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

78 (4)

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

105 ~~imposed upon it by the commission. The approved rates of any~~  
106 ~~utility shall be automatically increased, without hearing, upon~~  
107 ~~verified notice to the commission 45 days prior to~~  
108 ~~implementation of the increase that costs have been incurred for~~  
109 ~~water quality or wastewater quality testing required by the~~  
110 ~~Department of Environmental Protection.~~

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

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

124 b. The rates or fees that the utility is charged for  
125 electric power.

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

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

131 e. The regulatory assessment fees imposed upon the utility  
132 by the commission.

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

135 g. The fees charged for wastewater biosolids disposal.

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

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

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

145 k. Consumptive or water use permit fees charged by a water  
146 management district.

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

154 3. The commission may establish by rule additional  
155 specific expense items that are outside the control of the  
156 utility and have been imposed upon the utility by a federal,

157 state, or local law, rule, order, or notice. If the commission  
 158 establishes such a rule, the commission shall review the rule at  
 159 least once every 5 years and determine if each expense item  
 160 should continue to be cause for an automatic increase or  
 161 decrease and whether additional items should be included.

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

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

167 367.0814 Staff assistance in changing rates and charges;  
 168 interim rates.—

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

183 the utility for attorney fees or fees of other outside  
 184 consultants for costs incurred after the protest or appeal. By  
 185 December 31, 2016, the commission must adopt rules to administer  
 186 this subsection.

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

189 367.111 Service.—

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

198 Section 6. Section 367.165, Florida Statutes, is amended  
 199 to read:

200 367.165 Abandonment.—It is the intent of the Legislature  
 201 that water or wastewater service to the customers of a utility  
 202 not be interrupted by the abandonment or placement into  
 203 receivership of the utility. Notwithstanding s. 367.171, this  
 204 section applies to each county. To that end:

205 (1) A ~~No~~ person, lessee, trustee, or receiver that owns,  
 206 operates, manages, or controls ~~owning, operating, managing, or~~  
 207 ~~controlling~~ a utility may not shall abandon the utility without  
 208 giving 60 days' notice to the county or counties in which the



209 utility is located and to the commission. A person ~~Anyone~~ who  
210 violates ~~the provisions of~~ this subsection commits ~~is guilty of~~  
211 a misdemeanor of the first degree, punishable as provided in s.  
212 775.082 or s. 775.083. Each day of such abandonment constitutes  
213 a separate offense. In addition, such act is a violation of this  
214 chapter, and the commission may impose upon the utility a  
215 penalty for each such offense of not more than \$5,000 or may  
216 amend, suspend, or revoke its certificate of authorization; each  
217 day of such abandonment without prior notice constitutes a  
218 separate offense.

219 (2) After receiving such notice, the county, or counties  
220 acting jointly if more than one county is affected, shall  
221 petition the circuit court of the judicial circuit in which such  
222 utility is domiciled to appoint a receiver, which may be the  
223 governing body of a political subdivision or any other person  
224 deemed appropriate. The receiver shall operate the utility from  
225 the date of abandonment until such time as the receiver disposes  
226 of the property of the utility in a manner designed to continue  
227 the efficient and effective operation of utility service.

228 (3) The notification to the commission under subsection  
229 (1) is sufficient cause for revocation, suspension, or amendment  
230 of the certificate of authorization of the utility as of the  
231 date of abandonment. The receiver operating such utility shall  
232 be considered to hold a temporary authorization from the  
233 commission, and the approved rates of the utility shall be  
234 deemed to be the interim rates of the receiver until modified by

235 the commission.

236 Section 7. Subsection (3) of section 403.8532, Florida  
237 Statutes, is amended to read:

238 403.8532 Drinking water state revolving loan fund; use;  
239 rules.—

240 (3) The department may make, or request that the  
241 corporation make, loans, grants, and deposits to community water  
242 systems; for-profit, privately owned, or investor-owned water  
243 systems; nonprofit, transient, noncommunity water systems;~~7~~ and  
244 nonprofit, nontransient, noncommunity water systems to assist  
245 them in planning, designing, and constructing public water  
246 systems, ~~unless such public water systems are for-profit~~  
247 ~~privately owned or investor-owned systems that regularly serve~~  
248 ~~1,500 service connections or more within a single certified or~~  
249 ~~franchised area. However, a for-profit privately owned or~~  
250 ~~investor-owned public water system that regularly serves 1,500~~  
251 ~~service connections or more within a single certified or~~  
252 ~~franchised area may qualify for a loan only if the proposed~~  
253 ~~project will result in the consolidation of two or more public~~  
254 ~~water systems.~~ The department may provide loan guarantees,  
255 purchase loan insurance, and refinance local debt through the  
256 issue of new loans for projects approved by the department.  
257 Public water systems may borrow funds made available pursuant to  
258 this section and may pledge any revenues or other adequate  
259 security available to them to repay any funds borrowed.

260 (a) The department shall administer loans so that amounts

261 credited to the Drinking Water Revolving Loan Trust Fund in any  
262 fiscal year are reserved for the following purposes:

263 1. At least 15 percent for qualifying small public water  
264 systems.

265 2. Up to 15 percent for qualifying financially  
266 disadvantaged communities.

267 (b) If an insufficient number of the projects for which  
268 funds are reserved under this subsection have been submitted to  
269 the department at the time the funding priority list authorized  
270 under this section is adopted, the reservation of these funds no  
271 longer applies. The department may award the unreserved funds as  
272 otherwise provided in this section.

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