



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.; providing that the  
13          commission may authorize a utility to create a utility  
14          reserve fund under certain circumstances; requiring  
15          the commission to adopt rules to govern the  
16          implementation, management, and use of the fund;  
17          establishing criteria for adjusted rates; specifying  
18          expense items that may be the basis for an automatic  
19          increase or decrease of a utility's rates; authorizing  
20          the commission to establish by rule additional  
21          specified expense items; specifying the time period  
22          over which rate case expenses may be apportioned if a  
23          public utility is authorized to recover those expenses  
24          through its rates; prohibiting a utility from earning  
25          a return on the unamortized balance of the rate case  
26          expense; amending s. 367.0814, F.S.; authorizing the



27 | commission to award rate case expenses to recover  
28 | attorney fees or fees of other outside consultants in  
29 | certain circumstances; requiring the commission to  
30 | propose rules by a certain date; repealing s.  
31 | 367.0816, F.S., relating to the recovery of rate case  
32 | expenses; amending s. 367.111, F.S.; authorizing the  
33 | commission to review water quality and wastewater  
34 | service under certain circumstances; amending s.  
35 | 367.165, F.S.; requiring counties to comply with  
36 | requirements for abandoned water and wastewater  
37 | systems; amending s. 403.8532, F.S.; authorizing the  
38 | Department of Environmental Protection to require or  
39 | request that the Florida Water Pollution Control  
40 | Financing Corporation make loans, grants, and deposits  
41 | to for-profit, privately owned, or investor-owned  
42 | water systems; removing current restrictions on such  
43 | activities; providing an effective date.

44 |  
45 | Be It Enacted by the Legislature of the State of Florida:

46 |  
47 | Section 1. Section 159.8105, Florida Statutes, is created  
48 | to read:

49 | 159.8105 Allocation of bonds for water and wastewater  
50 | infrastructure projects.—The division shall review the  
51 | allocation of private activity bonds to determine the  
52 | availability of additional allocation and reallocation of bonds



53 | for water and wastewater infrastructure projects.

54 | Section 2. Subsections (9) through (12) of section  
55 | 367.022, Florida Statutes, are renumbered as subsections (10)  
56 | through (13), respectively, and a new subsection (9) is added to  
57 | that section to read:

58 | 367.022 Exemptions.—The following are not subject to  
59 | regulation by the commission as a utility nor are they subject  
60 | to the provisions of this chapter, except as expressly provided:

61 | (9) Any person who resells water service to his or her  
62 | tenants or to individually metered residents for a fee that does  
63 | not exceed the actual purchase price of the water plus the  
64 | actual cost of meter reading and billing, not to exceed 9  
65 | percent of the actual cost of service.

66 | Section 3. Paragraph (c) is added to subsection (2) of  
67 | section 367.081, Florida Statutes, paragraph (b) of subsection  
68 | (4) is amended, subsection (8) is renumbered as subsection (10),  
69 | and new subsections (8) and (9) are added to that section, to  
70 | read:

71 | 367.081 Rates; procedure for fixing and changing.—

72 | (2)

73 | (c) In establishing rates for a utility, upon its own  
74 | motion or upon the request of a utility, the commission may  
75 | authorize a utility to create a utility reserve fund for  
76 | infrastructure repair and replacement for a utility for existing  
77 | distribution and collection infrastructure that is nearing the  
78 | end of its useful life or is detrimental to water quality or



79 reliability of service, to be funded by a portion of the rates  
80 charged by the utility, by a secured escrow account, or through  
81 a letter of credit. The commission shall adopt rules to govern  
82 the implementation, management, and use of the fund, including,  
83 but not limited to, rules related to expenses for which the fund  
84 may be used, segregation of reserve account funds, requirements  
85 for a capital improvement plan, and requirements for commission  
86 authorization before disbursements are made from the fund.

87 (4)

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



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105 | ~~by the commission, upon verified notice to the commission 45~~  
106 | ~~days prior to its implementation of the increase or decrease~~  
107 | ~~that the rates charged by the supplier of the electric power or~~  
108 | ~~the taxes imposed by the governmental authority, or the~~  
109 | ~~regulatory assessment fees imposed upon it by the commission~~  
110 | ~~have changed. The new rates authorized shall reflect the amount~~  
111 | ~~of the change of the ad valorem taxes or rates imposed upon the~~  
112 | ~~utility by the governmental authority, other utility, or~~  
113 | ~~supplier of electric power, or the regulatory assessment fees~~  
114 | ~~imposed upon it by the commission. The approved rates of any~~  
115 | ~~utility shall be automatically increased, without hearing, upon~~  
116 | ~~verified notice to the commission 45 days prior to~~  
117 | ~~implementation of the increase that costs have been incurred for~~  
118 | ~~water quality or wastewater quality testing required by the~~  
119 | ~~Department of Environmental Protection.~~

120 |       1. The new rates authorized shall reflect, on an amortized  
121 | or annual basis, as appropriate, the cost of, or the amount of  
122 | change in the cost of the specified expense item, ~~required water~~  
123 | ~~quality or wastewater quality testing performed by laboratories~~  
124 | ~~approved by the Department of Environmental Protection for that~~  
125 | ~~purpose.~~ The new rates, however, shall not reflect the costs of  
126 | any specified expense item ~~required water quality or wastewater~~  
127 | ~~quality testing~~ already included in a utility's rates. Specified  
128 | expense items that are eligible for automatic increase or  
129 | decrease of a utility's rates include, but are not limited to:

130 |       a. The rates charged by a governmental authority or other



131 water or wastewater utility regulated by the commission which  
132 provides utility service to the utility.

133 b. The rates or fees that the utility is charged for  
134 electric power.

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

137 d. The fees charged by the Department of Environmental  
138 Protection in connection with the National Pollutant Discharge  
139 Elimination System Program.

140 e. The regulatory assessment fees imposed upon the utility  
141 by the commission.

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

144 g. The fees charged for wastewater biosolids disposal.

145 h. Costs incurred for any tank inspection required by the  
146 Department of Environmental Protection or a local governmental  
147 authority.

148 i. Treatment plant operator and water distribution system  
149 operator license fees required by the Department of  
150 Environmental Protection or a local governmental authority.

151 j. Water or wastewater operating permit fees charged by  
152 the Department of Environmental Protection or a local  
153 governmental authority.

154 k. Consumptive or water use permit fees charged by a water  
155 management district.

156 2. A utility may not use this procedure to increase its



157 rates as a result of an increase in a specific expense item  
158 which occurred ~~water quality or wastewater quality testing or an~~  
159 ~~increase in the cost of purchased water services, sewer~~  
160 ~~services, or electric power or in assessed ad valorem taxes,~~  
161 ~~which increase was initiated~~ more than 12 months before the  
162 filing by the utility.

163 3. The commission may establish by rule additional  
164 specific expense items that are outside the control of the  
165 utility and have been imposed upon the utility by a federal,  
166 state, or local law, rule, order, or notice. If the commission  
167 establishes such a rule, the commission shall review the rule at  
168 least once every 5 years and determine if each expense item  
169 should continue to be cause for an automatic increase or  
170 decrease and whether additional items should be included.

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

174 (8) The amount of rate case expense that the commission  
175 determines a public utility may recover through its rates  
176 pursuant to this chapter shall be apportioned for recovery over  
177 4 years unless a longer period can be justified and is in the  
178 public interest. At the conclusion of the recovery period, the  
179 public utility shall immediately reduce its rates by the amount  
180 of the rate case expense previously included in rates.

181 (9) A utility may not earn a return on the unamortized  
182 balance of the rate case expense. Any unamortized balance of



183 rate case expense shall be excluded in calculating the utility's  
184 rate base.

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

187 367.0814 Staff assistance in changing rates and charges;  
188 interim rates.—

189 (3) The provisions of s. 367.081(1), (2)(a), and (3) shall  
190 apply in determining the utility's rates and charges. However,  
191 the commission may not award rate case expenses to recover  
192 attorney fees or fees of other outside consultants who are  
193 engaged for the purpose of preparing or filing the case if a  
194 utility receives staff assistance in changing rates and charges  
195 pursuant to this section, unless the Office of Public Counsel or  
196 interested parties have intervened. The commission may award  
197 rate case expenses for attorney fees or fees of other outside  
198 consultants if such fees are incurred for the purpose of  
199 providing consulting or legal services to the utility after the  
200 initial staff report is made available to customers and the  
201 utility. If there is a protest or appeal by a party other than  
202 the utility, the commission may award rate case expenses to  
203 the utility for attorney fees or fees of other outside  
204 consultants for costs incurred after the protest or appeal. By  
205 December 31, 2016, the commission must propose rules to  
206 administer this subsection.

207 Section 5. Section 367.0816, Florida Statutes, is  
208 repealed.





209 Section 6. Subsection (3) is added to section 367.111,  
210 Florida Statutes, to read:

211 367.111 Service.—

212 (3) The commission may, on its own motion or based on  
213 complaints of customers of a water utility subject to its  
214 jurisdiction, review water quality as it pertains to secondary  
215 drinking water standards established by the Department of  
216 Environmental Protection. The commission may, on its own motion  
217 or based on complaints of customers of a wastewater utility  
218 subject to its jurisdiction, review wastewater service as it  
219 pertains to odor, noise, aerosol drift, or lighting.

220 Section 7. Section 367.165, Florida Statutes, is amended  
221 to read:

222 367.165 Abandonment.—It is the intent of the Legislature  
223 that water or wastewater service to the customers of a utility  
224 not be interrupted by the abandonment or placement into  
225 receivership of the utility. Notwithstanding s. 367.171, this  
226 section applies to each county. To that end:

227 (1) A ~~No~~ person, lessee, trustee, or receiver that owns,  
228 operates, manages, or controls ~~owning, operating, managing, or~~  
229 ~~controlling~~ a utility may not ~~shall~~ abandon the utility without  
230 giving 60 days' notice to the county or counties in which the  
231 utility is located and to the commission. A person ~~Anyone~~ who  
232 violates ~~the provisions of this subsection~~ commits ~~is guilty of~~  
233 a misdemeanor of the first degree, punishable as provided in s.  
234 775.082 or s. 775.083. Each day of such abandonment constitutes



235 a separate offense. In addition, such act is a violation of this  
236 chapter, and the commission may impose upon the utility a  
237 penalty for each such offense of not more than \$5,000 or may  
238 amend, suspend, or revoke its certificate of authorization; each  
239 day of such abandonment without prior notice constitutes a  
240 separate offense.

241 (2) After receiving such notice, the county, or counties  
242 acting jointly if more than one county is affected, shall  
243 petition the circuit court of the judicial circuit in which such  
244 utility is domiciled to appoint a receiver, which may be the  
245 governing body of a political subdivision or any other person  
246 deemed appropriate. The receiver shall operate the utility from  
247 the date of abandonment until such time as the receiver disposes  
248 of the property of the utility in a manner designed to continue  
249 the efficient and effective operation of utility service.

250 (3) The notification to the commission under subsection  
251 (1) is sufficient cause for revocation, suspension, or amendment  
252 of the certificate of authorization of the utility as of the  
253 date of abandonment. The receiver operating such utility shall  
254 be considered to hold a temporary authorization from the  
255 commission, and the approved rates of the utility shall be  
256 deemed to be the interim rates of the receiver until modified by  
257 the commission.

258 Section 8. Subsection (3) of section 403.8532, Florida  
259 Statutes, is amended to read:

260 403.8532 Drinking water state revolving loan fund; use;



261 rules.—

262 (3) The department may make, or request that the  
263 corporation make, loans, grants, and deposits to community water  
264 systems; for-profit, privately owned, or investor-owned water  
265 systems; nonprofit, transient, noncommunity water systems; ~~and~~  
266 nonprofit, nontransient, noncommunity water systems to assist  
267 them in planning, designing, and constructing public water  
268 systems, ~~unless such public water systems are for-profit~~  
269 ~~privately owned or investor-owned systems that regularly serve~~  
270 ~~1,500 service connections or more within a single certified or~~  
271 ~~franchised area. However, a for-profit privately owned or~~  
272 ~~investor-owned public water system that regularly serves 1,500~~  
273 ~~service connections or more within a single certified or~~  
274 ~~franchised area may qualify for a loan only if the proposed~~  
275 ~~project will result in the consolidation of two or more public~~  
276 ~~water systems.~~ The department may provide loan guarantees,  
277 purchase loan insurance, and refinance local debt through the  
278 issue of new loans for projects approved by the department.  
279 Public water systems may borrow funds made available pursuant to  
280 this section and may pledge any revenues or other adequate  
281 security available to them to repay any funds borrowed.

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

285 1. At least 15 percent for qualifying small public water  
286 systems.



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287           2. Up to 15 percent for qualifying financially  
288   disadvantaged communities.

289           (b) If an insufficient number of the projects for which  
290   funds are reserved under this subsection have been submitted to  
291   the department at the time the funding priority list authorized  
292   under this section is adopted, the reservation of these funds no  
293   longer applies. The department may award the unreserved funds as  
294   otherwise provided in this section.

295           Section 9. This act shall take effect July 1, 2016.