

1 A bill to be entitled
2 An act relating to municipal utilities; creating s.
3 166.281, F.S.; authorizing a municipality to impose
4 and collect a surcharge on certain utility customers;
5 requiring that such surcharges be based on the
6 percentage of utility customers located outside the
7 municipal boundaries; prohibiting such surcharges from
8 exceeding a specified amount and from being used in an
9 manner substantially similar to the levy of a public
10 service tax; amending s. 366.02, F.S.; revising the
11 definition of the term "public utility" to include a
12 municipality supplying electricity or gas to any
13 retail customer receiving service at a physical
14 address located outside its corporate boundaries;
15 amending s. 366.04, F.S.; requiring certain
16 municipalities to be treated as public utilities;
17 requiring the Florida Public Service Commission to
18 adopt rules; amending s. 366.11, F.S.; conforming
19 provisions to changes made by the act; creating s.
20 366.16, F.S.; authorizing a municipality to transfer a
21 portion of its public utility earnings to its general
22 fund for specified purposes; setting forth the
23 percentages of such transfers based on whether the
24 public utilities are supplied to customers located
25 within or outside the municipality; requiring that

26 | such percentages be established or reestablished by
27 | local referendum, subject to majority vote;
28 | prohibiting a municipality from transferring a portion
29 | of its public utility earnings in certain instances;
30 | prohibiting the ability of a municipality to receive
31 | certain state funds if such a prohibited transfer is
32 | effected; amending s. 367.022, F.S.; subjecting water
33 | and wastewater utilities owned, operated, managed,
34 | controlled, or provided by municipalities to
35 | regulation by the commission; creating s. 367.192,
36 | F.S.; authorizing a municipality that owns, operates,
37 | manages, controls, or provides water or wastewater
38 | utilities to transfer a portion of its earnings to its
39 | general fund for specified purposes; setting forth the
40 | percentages of such transfers based on whether the
41 | public utilities are supplied to customers located
42 | within or outside the municipality; requiring that
43 | such percentages be established or reestablished by
44 | local referendum, subject to majority vote;
45 | prohibiting a municipality from transferring a portion
46 | of its water or wastewater utility earnings in certain
47 | instances; prohibiting the ability of a municipality
48 | to receive certain state funds if such a prohibited
49 | transfer is effected; providing an effective date.
50 |

51 Be It Enacted by the Legislature of the State of Florida:

52

53 Section 1. Section 166.281, Florida Statutes, is created
54 to read:

55 166.281 Surcharge on municipal utility customers located
56 outside municipal boundaries.-

57 (1) The governing authority of a municipality may impose
58 and collect a surcharge of up to 10 percent on municipal utility
59 customers located outside the municipal boundaries.

60 (2) A surcharge imposed and collected under this section
61 must be based on the percentage of municipal utility customers
62 located outside the municipal boundaries and may not exceed 10
63 percent.

64 (3) A municipal utility that imposes a surcharge
65 authorized by this section may not use the proceeds of such
66 surcharge in a manner that is substantially similar to the levy
67 of a public service tax by a municipality under s. 166.231.

68 Section 2. Subsection (8) of section 366.02, Florida
69 Statutes, is amended to read:

70 366.02 Definitions.—As used in this chapter:

71 (8) "Public utility" means every person, corporation,
72 partnership, association, or other legal entity and their
73 lessees, trustees, or receivers supplying electricity or gas
74 (natural, manufactured, or similar gaseous substance) to or for
75 the public within this state; but the term "public utility" does

76 | not include either a cooperative now or hereafter organized and
 77 | existing under the Rural Electric Cooperative Law of the state;
 78 | a municipality or any agency thereof, except for a municipality
 79 | or any agency thereof supplying electricity or gas (natural,
 80 | manufactured, or similar gaseous substance) to any retail
 81 | customer receiving service at a physical address located outside
 82 | its corporate boundaries; any dependent or independent special
 83 | natural gas district; any natural gas transmission pipeline
 84 | company making only sales or transportation delivery of natural
 85 | gas at wholesale and to direct industrial consumers; any entity
 86 | selling or arranging for sales of natural gas which neither owns
 87 | nor operates natural gas transmission or distribution facilities
 88 | within the state; or a person supplying liquefied petroleum gas,
 89 | in either liquid or gaseous form, irrespective of the method of
 90 | distribution or delivery, or owning or operating facilities
 91 | beyond the outlet of a meter through which natural gas is
 92 | supplied for compression and delivery into motor vehicle fuel
 93 | tanks or other transportation containers, unless such person
 94 | also supplies electricity or manufactured or natural gas.

95 | Section 3. Subsection (10) is added to section 366.04,
 96 | Florida Statutes, to read:

97 | 366.04 Jurisdiction of commission.—

98 | (10) A municipality or an agency thereof supplying
 99 | electricity or natural or manufactured gas, or similar gaseous
 100 | substance, to any retail customer receiving service at a

101 physical address located outside its corporate boundaries
 102 qualifies as a public utility and shall be regulated under this
 103 chapter. The commission shall adopt rules to implement this
 104 subsection.

105 Section 4. Subsection (1) of section 366.11, Florida
 106 Statutes, is amended to read:

107 366.11 Certain exemptions.—

108 (1) ~~No provision of~~ This chapter does not shall apply in
 109 any manner, other than as specified in ss. 366.04, 366.05(7) and
 110 (8), 366.051, 366.055, 366.093, 366.095, 366.14, 366.80-366.83,
 111 and 366.91, to utilities owned and operated by municipalities,
 112 except those defined as public utilities in s. 366.02 ~~whether~~
 113 ~~within or without any municipality,~~ or by cooperatives organized
 114 and existing under the Rural Electric Cooperative Law of the
 115 state, or to the sale of electricity, manufactured gas, or
 116 natural gas at wholesale by any public utility to, and the
 117 purchase by, any municipality or cooperative under and pursuant
 118 to any contracts now in effect or which may be entered into in
 119 the future, when such municipality or cooperative is engaged in
 120 the sale and distribution of electricity or manufactured or
 121 natural gas, or to the rates provided for in such contracts.

122 Section 5. Section 366.16, Florida Statutes, is created to
 123 read:

124 366.16 Public utility earnings transfers by a
 125 municipality; percentage of transfers; prohibition.—

126 (1) A municipality or an agency thereof that is regulated
127 by this chapter pursuant to s. 366.04 may transfer a portion of
128 its public utility earnings to the general fund of the
129 municipality for public utility purposes.

130 (2) If the public utilities are supplied to customers
131 located within the municipality, the percentage of transfers
132 authorized by subsection (1) shall be in a fixed amount. The
133 amount shall be:

134 (a) Stated as a percentage of the municipality's or
135 agency's general fund that may be supported by transfers; or

136 (b) Stated as a percentage of public utility revenues that
137 may be transferred.

138 (3) If the public utilities are supplied to customers
139 located outside the municipality, the percentage of transfers
140 authorized by subsection (1) shall be in a variable amount. The
141 amount shall be based on the percentage of customers located
142 outside the municipal boundaries and shall decrease as the
143 percentage of customers located outside the municipal boundaries
144 increases.

145 (4) The amount of percentage of transfers authorized by
146 subsection (1) shall be established or reestablished by local
147 referendum, subject to majority vote of customers located within
148 and outside a municipality voting in the referendum.

149 (5) A municipality or an agency thereof that is regulated
150 by this chapter pursuant to s. 366.04 may not transfer a portion

151 of its public utility earnings to the general fund of the
 152 municipality or agency thereof for nonpublic utility purposes. A
 153 municipality that transfers a portion of its public utility
 154 earnings to the general fund of the municipality for nonpublic
 155 utility purposes may not receive state funds for infrastructure
 156 projects under chapter 216.

157 Section 6. Subsection (2) of section 367.022, Florida
 158 Statutes, is amended to read:

159 367.022 Exemptions.—The following are not subject to
 160 regulation by the commission as a utility nor are they subject
 161 to the provisions of this chapter, except as expressly provided:

162 (2) Systems owned, operated, managed, or controlled by
 163 governmental authorities, including water or wastewater
 164 facilities operated by private firms under water or wastewater
 165 facility privatization contracts as defined in s. 153.91, and
 166 nonprofit corporations formed for the purpose of acting on
 167 behalf of a political subdivision with respect to a water or
 168 wastewater facility, except for municipalities that own,
 169 operate, manage, control, or provide water or wastewater
 170 utilities.

171 Section 7. Section 367.192, Florida Statutes, is created
 172 to read:

173 367.192 Water or wastewater utility earnings transfers by
 174 a municipality; percentage of transfers; prohibition.—

175 (1) A municipality that owns, operates, manages, controls,

176 or provides water or wastewater utilities may transfer a portion
177 of its water or wastewater utility earnings to the general fund
178 of the municipality for water or wastewater utility purposes.

179 (2) If the water or wastewater utilities are supplied to
180 customers located within the municipality, the percentage of
181 transfers authorized by subsection (1) shall be in a fixed
182 amount. The amount shall be:

183 (a) Stated as a percentage of the municipality's general
184 fund that may be supported by transfers; or

185 (b) Stated as a percentage of public utility revenues that
186 may be transferred.

187 (3) If the water or wastewater utilities are supplied to
188 customers located outside the municipality, the percentage of
189 transfers authorized by subsection (1) shall be in a variable
190 amount. The amount shall be based on the percentage of customers
191 located outside the municipal boundaries and shall decrease as
192 the percentage of customers located outside the municipal
193 boundaries increases.

194 (4) The amount of percentage of transfers authorized by
195 subsection (1) shall be established or reestablished by local
196 referendum, subject to majority vote of customers located within
197 and outside the municipality voting in the referendum.

198 (5) A municipality that owns, operates, manages, controls,
199 or provides water or wastewater utilities may not transfer a
200 portion of its public utility earnings to the general fund of

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201 such municipality for purposes not related to water or
202 wastewater utilities. A municipality that transfers a portion of
203 the public utility earnings to the general fund of the
204 municipality for purposes not related to water or wastewater
205 utilities may not receive state funds for water-related projects
206 under chapter 373 or chapter 403.

207 Section 8. This act shall take effect July 1, 2023.