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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2023	.	
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The Committee on Regulated Industries (Hooper) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 367.0811, Florida Statutes, is created
to read:

367.0811 Rates; alternative procedure for establishing rate
base value of acquired utility system.—

(1) The Legislature finds that it is in the public interest
to promote consolidation efforts with water and wastewater



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11 utility systems in order to encourage economies of scale, better
12 access to lower material and supply costs, better access to
13 capital, improvement in utility infrastructure, and improvement
14 in the quality of service overall.

15 (2) As used in this section, the term "rate stabilization
16 plan" means an acquiring utility's plan to implement rate
17 changes incrementally over a period of time to mitigate rate
18 increases and to predictably achieve consolidated pricing over
19 time.

20 (3) (a) If a utility acquires an existing utility system,
21 including a system described in s. 367.022(2), the utility may
22 petition the commission to establish a rate base value for the
23 utility system being acquired using the valuation process in
24 this section instead of the cost method pursuant to s. 367.081.

25 (b) The rate base value established by the commission under
26 this section shall be used for ratemaking purposes in the
27 acquiring utility's next general rate case. The rate base value
28 may not exceed the lesser of the purchase price negotiated
29 between the parties to the acquisition transaction or the
30 average of the three appraisals conducted under subsection (4)
31 and may not be adjusted for contribution-in-aid-of-construction
32 or used and useful in serving the public. However, the rate base
33 value may include reasonable transaction and closing costs
34 incurred by the acquiring utility and reasonable fees paid to
35 the appraisers.

36 (4) (a) For purposes of this section, the utility system
37 being acquired shall be appraised by three licensed appraisers
38 chosen from a list established by the commission. Appraisals
39 shall be paid for by the buyer. Each appraiser shall provide an



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40 appraisal of the value of the utility system being acquired that
41 is consistent with the Uniform Standards of Professional
42 Appraisal Practice.

43 (b) The acquiring utility and the utility system being
44 acquired shall jointly retain a licensed engineer to conduct an
45 assessment of the tangible assets of the utility system being
46 acquired, and the assessment shall be provided to the three
47 appraisers for use in determining the value of the utility
48 system being acquired.

49 (5) A petition filed under this section to establish the
50 rate base value for a utility system being acquired must contain
51 all of the following:

52 (a) The requested rate base value for the utility system
53 being acquired.

54 (b) Copies of the appraisals required by this section,
55 including the average of the valuations produced by each
56 appraisal.

57 (c) A copy of the assessment of tangible assets required by
58 this section.

59 (d) A 3-year plan to address each deficiency identified by
60 the assessment of tangible assets required by this section. The
61 plan must address impact on quality of service and any planned
62 improvements to water quality.

63 (e) The 5-year projected rate impact on the customers of
64 the utility system being acquired, including, but not limited
65 to, the rate impact of all of the following:

66 1. Any cost efficiencies expected to result from the
67 acquisition transaction.

68 2. Use of this section, instead of the cost method pursuant



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69 to s. 367.081, to establish the rate base value.

70 (f) The contract of sale.

71 (g) The estimated value of fees and transaction and closing
72 costs to be incurred by the acquiring utility.

73 (h) A tariff, including rates equal to the rates of the
74 utility system being acquired, and a rate stabilization plan, if
75 applicable to the acquisition. A rate stabilization plan must be
76 filed if the acquisition would result in a significant
77 individual increase in rates during the period identified in
78 paragraph (e).

79 (6) (a) If the petition meets the filing requirements of
80 subsection (5), the commission, no later than 8 months after the
81 date the complete petition is filed, shall issue a final order
82 on the petition.

83 (b) The commission may, in the public interest, grant the
84 petition, in whole or in part, or with modifications or may deny
85 the petition.

86 (c) The commission may not approve a rate base value higher
87 than that requested in the petition.

88 (7) Notwithstanding any provision in this section, the
89 commission may, pursuant to this chapter, set rates for the
90 acquired utility system in future rate cases and may classify
91 the acquired utility system as a separate entity for ratemaking
92 purposes if it is deemed to be in the public interest.

93 (8) This section applies to acquiring utilities that are
94 engaged in an arms-length acquisition of a water or wastewater
95 system, or both, and:

96 (a) Provide water or wastewater service, or both, to more
97 than 10,000 customers; or



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98 (b) Are permitted to produce at least 3 million gallons per
99 day of drinking water.

100 (9) At minimum, in considering a rate base value petition
101 pursuant to this section, the commission must consider all of
102 the following in serving the public interest and pursuant to the
103 goals of this section:

104 (a) Improvements in quality of service.

105 (b) Improvements in compliance with regulatory
106 requirements.

107 (c) Rate reductions or rate stability over a long-term
108 period.

109 (d) Cost efficiencies.

110 (e) A demonstration that the purchase is being made as part
111 of an arms-length transaction.

112 (f) Economies of scale to be generated by the transaction.

113 (g) A comparison of the acquiring utility's net book value,
114 to the extent available, and the proposed rate base value of the
115 utility being acquired.

116 (h) A demonstration that the acquiring utility has greater
117 access to capital than the utility being acquired.

118 (10) The commission may set reasonable performance goals
119 based on the standards specified in subsection (9) and review
120 utility performance regarding these standards in a rate
121 proceeding.

122 (11) The commission shall adopt rules to implement this
123 section.

124 Section 2. This act shall take effect July 1, 2023.

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126 ===== T I T L E A M E N D M E N T =====



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127 And the title is amended as follows:

128 Delete everything before the enacting clause
129 and insert:

130 A bill to be entitled

131 An act relating to utility system rate base values;
132 creating s. 367.0811, F.S.; providing legislative
133 findings; defining the term "rate stabilization plan";
134 establishing an alternative procedure by which the
135 Florida Public Service Commission may establish a rate
136 base value for certain acquired utility systems;
137 requiring that the approved rate base value be
138 reflected in the acquiring utility's next general rate
139 case for ratemaking purposes; establishing a procedure
140 for appraisal of the acquired utility system;
141 providing the contents required for a petition to the
142 commission for approval of the rate base value of the
143 acquired utility system; providing duties of the
144 commission regarding petitions; authorizing the
145 commission to set rates for and classify certain
146 acquired utility systems; providing applicability;
147 requiring the commission to take certain factors into
148 consideration for certain rate base value petitions;
149 requiring the commission to adopt rules; providing an
150 effective date.