

STORAGE NAME: h0367s1a.ca

DATE: April 12, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: CS/HB 367

RELATING TO: Water and Wastewater Systems

SPONSOR(S): Committee on Utilities & Communications and Representative Argenziano

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) UTILITIES & COMMUNICATIONS (CAC) YEAS 10 NAYS 0
 - (2) COMMUNITY AFFAIRS (PRC) YEAS 8 NAYS 0
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS (FRC)
 - (4)
 - (5)
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I. SUMMARY:

This bill provides for notice and public hearings for municipal water and sewer utility rate changes.

This bill expands the Public Counsel's jurisdiction to furnish legal representation in county proceedings relating to water and wastewater regulation.

The bill does not appear to have a fiscal impact on state government.

The bill appears to have an indeterminate fiscal impact on local government.

The Committee on Community Affairs adopted two amendments that are traveling with the bill. As indicated in the "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES" section, Amendment 1 significantly streamlines the requirements placed on municipalities that promulgate ordinances to change rates, charges, or fees of municipal water or sewer utilities. Amendment 1A corrects a scrivener's error.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill provides additional responsibility for the Office of the Public Counsel.

B. PRESENT SITUATION:

Section 166.041, F.S., describes procedures relating to the adoption of municipal ordinances and resolutions, to include the following:

- (3) (a) ...a proposed ordinance may be read by title, or in full, on at least 2 separate days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the municipality where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

Section 166.041, F.S., as written, does not contain any language specifically addressing ordinances which impact the rates, charges, or fees of water or sewer utilities.

Under s. 367.171, Florida Statutes, a local county government may provide its own economic regulation of the privately owned water and wastewater utilities operating in its county, or, alternatively, may opt to relinquish jurisdiction of water and wastewater utility jurisdiction over to the Public Service Commission (PSC). Of Florida's 67 counties, thirty-six counties have elected to transfer jurisdiction of water and wastewater utilities to the PSC.

Pursuant to s. 350.0611, Florida Statutes, it is the duty of the Public Counsel to provide legal representation for the people of the state in proceedings before the PSC. For example, in water and wastewater issues, the Public Counsel represents the "citizens" or the general body of utility customers in cases before the PSC.

C. EFFECT OF PROPOSED CHANGES:

This bill amends s. 166.041, F.S., to provide for a specific procedure for notifying citizens of ordinance hearings relating to changes in rates, charges, or fees of any municipal water or sewer utility.

The bill amends s. 350.0611, Florida Statutes, to provide that the Public Counsel's duties are expanded to include citizen representation in water and wastewater issues before local county governments.

This bill also amends s. 367.171, F.S., to provide in instances where counties or agencies regulate privately owned utilities, their proceedings regarding same are subject to the provisions of s.120.569 and 120.57, F.S., the Florida Administrative Procedures Act.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 -- Adds paragraph (d) to subsection (3) to Section 166.041, F.S.; provides description of procedures for ordinances sought by the municipality to change rates, charges or fees of any municipal water or sewer utility, to include the following requirements:

1. Each municipality must maintain a master list of persons who request in writing that they receive a copy of all notices; list is available to the public; clerk of governing body must contact by mail all persons who have requested notice, all customers of the municipal utility, and all affected real property owners, as obtained through ad valorem tax records; notice must contain specified language; thirty day notice required prior to hearing.
2. Additionally provide advertisement of hearing in the following manner: two advertised hearings; after second hearing, may adopt ordinance; specific times and days for hearings; advertisements have certain size restrictions and must be placed in a newspaper of general circulation; must appear in certain format.

Section 2 -- Amends section 350.0611, F.S.; extends Public Counsel duty to provide legal representation to include proceedings before counties at the local level.

Section 3 -- Amends subsection (8), Section 367.171, F.S.; provides that all self-regulating counties' proceedings relating to water and wastewater must comply with the Administrative Procedures Act.

Section 4 -- Provides for an effective date upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There is no impact on state government revenues.

2. Expenditures:

According to the PSC, there is no impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There is no impact on local government revenues.

2. Expenditures:

An indeterminate amount of expenditures may be incurred by local government as the Office of Public Counsel represents customers.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

According to Office of the Public Counsel, any costs incurred could be absorbed by the office's budget.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

There are no constitutional issues.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The Public Counsel indicates that they do not oppose this bill and he does not anticipate a significant fiscal impact.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 14, 2000, the Committee on Utilities and Communication unanimously voted to incorporate amendment 1 into the bill, and approve the bill as a committee substitute. The committee substitute deletes the issue relating to recovery of rate case expense. The bill maintained its provisions relating to consumer representation by the Public Counsel in proceedings before counties pursuant to s. 367.171(8), Florida Statutes. The CS also added a provision amending s. 166.041(3), F.S., relating to specific procedures for public hearings involving rates, charges or fees.

The Committee on Community Affairs met on April 12, 2000, and adopted two amendments. Amendment one significantly streamlines the requirements placed on municipalities that promulgate ordinances to change rates, charges, or fees of municipal water or sewer utilities. This amendment deletes the following requirements on municipalities, as contained in the bill as introduced: maintain a list of those who request notices, hold two advertised public hearings, and publish advertisements of a certain size and in a certain location. Alternatively, this amendment requires notice of the proposed increase to each customer, as notified through the utility's billing process. The notice shall contain the date, time and place of the meeting. General law provides additional, controlling authority regarding notice. The Florida League of Cities supports this amendment.

Amendment 1A corrects a scrivener's error.

VII. SIGNATURES:

COMMITTEE ON UTILITIES AND COMMUNICATIONS:

Prepared by:

Staff Director:

Wendy G. Holt

Patrick L. "Booter" Imhof

AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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Joan Highsmith-Smith