

**STORAGE NAME:** h0041s1.lgva.doc  
**DATE:** March 21, 2001

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
LOCAL GOVERNMENT & VETERANS AFFAIRS  
ANALYSIS**

**BILL #:** CS/HB 41

**RELATING TO:** Water and Wastewater Systems

**SPONSOR(S):** Committee on Local Government & Veterans Affairs and Representative Argenziano

**TIED BILL(S):** None

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

- (1) UTILITIES & TELECOMMUNICATIONS (RIC) YEAS 17 NAYS 0
  - (2) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
  - (3) COUNCIL FOR READY INFRASTRUCTURE
  - (4)
  - (5)
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I. SUMMARY:

This bill reenacts an existing statutory provision, which expands the Public Counsel's duties to include legal representation of citizens in water and wastewater issues before county government. This bill removes the requirement that certain provisions of the Florida Administrative Procedures Act must apply to proceedings regarding water and wastewater conducted by counties that regulate privately owned utilities.

The bill does not appear to have a new fiscal impact on state or local governments.

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:

The bill reenacts section 12 of chapter 2000-350, Laws of Florida, establishing an additional responsibility for the Office of Public Counsel.

B. PRESENT SITUATION:

Under section 367.171, Florida Statutes, county government may regulate the rates, charges, services, and territorial authorization of privately owned water and wastewater utilities operating within the county, or the local government may opt to cede jurisdiction of these utilities over to the Public Service Commission (PSC). Privately owned water and wastewater utilities in thirty-six out of 67 counties in Florida are regulated by the PSC.

Prior to the 2000 Regular Legislative Session, section 350.0611, Florida Statutes, provided that the Public Counsel's duties include providing legal representation for the people of the state in proceedings before the PSC. For water and wastewater issues, the Public Counsel represents the affected citizens or the general body of utility customers in PSC cases.

Section 367.171(8), Florida Statutes, was amended by section 13 of chapter 2000-350, Laws of Florida, to provide that sections 120.569 and 120.57, Florida Statutes, must apply to proceedings regarding water and wastewater conducted by counties that regulate privately owned utilities. Section 350.0611, Florida Statutes, was amended by section 12 of chapter 2000-350, Laws of Florida, to provide that the Public Counsel's duties include representing the public in proceedings before counties pursuant to section 367.171(8), Florida Statutes. Chapter 2000-350, Laws of Florida, has been challenged as a violation of the single subject requirement in Article III, section 6, Florida Constitution, which states "(e)very law shall embrace but one subject and matter properly connected therewith, . . . ." A single subject violation is cured by either the biennial adoption of the statutes or by the reenactment of a provision separately. See *Salter v. State*, 758 So.2d 667 (Fla. 2000). Amendments enacted in the 2000 Regular Session will be adopted in 2002.

C. EFFECT OF PROPOSED CHANGES:

The bill reenacts section 12 of chapter 2000-350, Laws of Florida, which amended section 350.0611, Florida Statutes, extending the Public Counsel's duties to include citizen representation in water and wastewater issues before county government.

This bill repeals section 13 of chapter 2000-350, Laws of Florida, which has the effect of deleting the requirement that proceedings regarding water and wastewater conducted by counties that

regulate privately owned utilities must be subject to the provisions of the Florida Administrative Procedures Act found in sections 120.569 and 120.57, Florida Statutes.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Repeals section 13 of chapter 2000-350, Laws of Florida, which provides that the provisions of the Florida Administrative Procedures Act found in sections 120.569 and 120.57, Florida Statutes, apply to proceedings regarding water and wastewater conducted by counties that regulate privately owned utilities.

**Section 2.** Reenacts section 12 of chapter 2000-350, Laws of Florida, which expands the Public Counsel's duties to include legal representation of citizens in water and wastewater issues before county government.

**Section 3.** Provides an effective date of upon becoming a law.

II. 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:

Local government may incur an indeterminate amount of expenditures as the Office of the Public Counsel represents customers.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to the Office of Public Counsel, any costs incurred could be absorbed by the existing office budget. The reenactment of this provision does not have a new fiscal impact on local government.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This 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.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 15, 2001, the Committee on Local Government & Veterans Affairs unanimously voted to incorporate two amendments into the bill, and approve the bill as a committee substitute. The committee substitute differs from HB 41 as follows:

- The committee substitute repeals section 13 of chapter 2000-350, Laws of Florida, which required that counties that self-regulate water and wastewater rates or charges use the hearing and appellate procedures in chapter 120, Florida Statutes, the Administrative Procedures Act.
- The committee substitute corrects a grammatical error by inserting an "and" after the penultimate item in the list of powers found in section 350.0611, Florida Statutes.

VI. SIGNATURES:

COMMITTEE ON UTILITIES & TELECOMMUNICATIONS:

Prepared by:

Staff Director:

Wendy G. Holt

Patrick "Booter" Imhof

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AS REVISED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

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Christopher J. Shipley

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Joan Highsmith-Smith