

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2368

SPONSOR: Senator Fasano

SUBJECT: Water Utilities

DATE: April 2, 2003                      REVISED: 04/07/03 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Herrin</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/2 amendments</u>
2.	_____	_____	<u>NR</u>	_____
3.	_____	_____	<u>CU</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill allows a county to require a monopoly water utility certified under s. 367.045(5)(a), F.S., to meet the same standards as a county-owned and operated utility. The bill also authorizes a county to establish a certification process for determining the monopoly water utility is operating to the county’s standards and provides for audits of the utility at periodic intervals.

In addition, the bill creates an ad hoc committee to oversee certification and recertification procedures, consisting of representatives of the water utility, customers, and the scientific community, and the county health officer, with a member of the county commission serving as chair. This committee may require an interim audit of a monopoly water utility if it receives a significant number of complaints regarding water quality and require additional audits if necessary to resolve the complaints. However, the cost of those additional audits may not be considered in establishing the utility’s rates if the audit reveals the monopoly water utility did not take appropriate action.

This bill creates section 367.172 of the Florida Statutes.

**II. Present Situation:**

Chapter 367, F.S., governs water and wastewater systems. These systems are operated as either a government-owned utility or investor-owned utility. With regard to rates and terms of service, a government-owned utility is self-regulating and investor-owned utilities, which comprise approximately 20 percent of water utilities statewide, are subject to regulation by the county or the Public Service Commission under ch. 367, F.S. However, water quality standards are set by the U.S. Environmental Protection Agency and the Florida Department of Environmental

Protection (DEP).<sup>1</sup> These water quality standards are applicable to government-owned and investor-owned utilities.

Florida's Safe Drinking Water Act, contained in ch. 403, F.S., prescribes the powers and duties of the Department of Environmental Protection and these include the authority to:

- Administer and enforce the provision of the act and all rules and orders adopted, issued, or made effective hereunder;
- Issue permits for constructing or operating a public water supply system, based upon the size, type of treatment, or population served by the system;
- Require a fee in an amount sufficient to cover the costs of viewing and acting upon an application for the construction and operation of a public water supply system;
- Adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement the provisions of the act;
- Require suppliers of water to collect samples of water as required by state primary drinking water regulations, to submit such samples to an appropriate laboratory for analysis, and to keep sampling records as required under the federal act and make such records available to the department upon request; and
- Require suppliers of water to submit periodic operating reports and testing data which the department determines are reasonably necessary to ascertain the adequacy of water supply systems.<sup>2</sup>

Florida's law is substantively very similar to the federal Safe Drinking Water Act.

### III. Effect of Proposed Changes:

**Section 1** provides legislative findings and allows a county to require a monopoly water utility certified under s. 367.045(5)(a), F.S., to meet the same standards as a county-owned and operated utility. The bill also allows a county to establish a certification process for determining the monopoly water utility is operating to the county's standards. It provides for audits of the utility at periodic intervals to be performed by an independent entity chosen by the county. Results of the periodic audits must be filed with a regulatory agency such as the Department of Environmental Protection or the Florida Public Service Commission and made available to the customers 30 days after the audit.

In addition, the bill creates an ad hoc committee to oversee certification and recertification procedures. This committee will consist of two representatives of the water utility, two customers of the utility, two independent observers from the scientific community, and the county health officer. A member of the county commission will chair the ad hoc committee.

This bill allows the ad hoc committee to require an interim audit of a monopoly water utility if it receives a significant number of complaints regarding water quality that have not been addressed by the utility. The committee is authorized to require additional audits if necessary to resolve the

---

<sup>1</sup> Ch. 403, Fla. Stat. (2002) (Florida's Safe Drinking Water Act); 42 U.S.C. 300f. et seq. (federal "Safe Drinking Water Act").

<sup>2</sup> S. 403.861, Fla. Stat. (2002).

complaints, but the cost of those additional audits may not be considered in establishing the utility's rates should the audit reveal deficiencies that result from the incompetence, neglect, or indifference of the monopoly water utility.

**Section 2** provides the act shall take effect on July 1, 2003.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A monopoly water utility that is required by a county to meet the same standards as a county-owned and operated utility may raise rates, subject Public Service Commission review, as the result of increased costs to meet county-imposed standards. Presently, consumer complaints regarding the water quality for a monopoly water utility may not require the utility to take any corrective action because the water provided by the utility meets federal and state standards.

C. Government Sector Impact:

If a county opts to require a monopoly water utility that is required to meet the standards of a county-owned and operated utility, the establishment of procedures for certification and recertification that a utility is meeting those standards may have a fiscal impact on the county.

**VI. Technical Deficiencies:**

The bill does not specify who appoints members to the ad hoc committee.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Comprehensive Planning:

This is a clarifying amendment inserting the words “water quality” before standards.

#2 by Comprehensive Planning:

The amendment provides for appointment of members of the ad hoc committee by the chair of the board of county commissioners to serve a 1-year term. Also, provides the committee shall meet at the call of the chair or request of a majority of the membership for specific purposes.

This amendment provides that a majority of the committee constitutes a quorum and is required for the committee to take action.

---

This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.

---