

1984

Session Law 84-084

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Year 1984	Session Law No. 84-84	LOF Cite	#pp
Prime Bill# SR 91	Sponsor	Comp./Sim. Bills HC 455	
JLMC Hist. Leq. Cites	Senate pp.#s	House pp.#s	#pp
Committee of Ref.	Senate ECLA	Previous versions?	
	House		

Committee Records

H/S	Committee	Year	Record Series: Folder Title, etc.	Location Cite	#pp
H			Handwritten	12/20/84	
"	"	"	Handwritten	12/20/84	
S	ECLA	1984	Handwritten SR 91	12/20/84	
			Handwritten SR 91	12/20/84	

Senate/House Journals

Page	?	Date	#pp	Page	?	Date	#pp

Tape Recordings

H/S	Floor	Committee/subcommittee	Date	# Tapes	Location Cite

Other Documentation

Record series title, folder title, etc.	Location Cite	#pp

COMMITTEE ON REGULATED INDUSTRIES & LICENSING

Proposed CS/HB 435

SPONSOR(S): Committee on Reg. Indus. & Lic. & Rep. Messersmith

RELATING TO: Water and Sewer Systems

OTHER COMMITTEES OF REFERENCE: None

COMPANION/SIMILAR: CS/SB 91

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May 1, 1984

I. SUMMARY

A. Present Situation

Private, investor-owned water and sewer utilities are regulated by either the Florida Public Service Commission or the governing body of the county being served. Section 367.011, F.S., grants the PSC exclusive jurisdiction over matters involving such a utility's authority, service and rates, but s. 367.171, F.S., provides that PSC jurisdiction is not effective in a county until such time as the board of county commissioners adopts a resolution declaring the county subject to the terms of chapter 367. Thirty-one counties have opted for PSC regulation of the water and sewer utilities serving their counties.

Section 367.071, F.S., requires PSC approval when a utility transfers or sells its certificate, facilities or ownership to another. However, this section provides that such a sale or transfer to a governmental agency shall be approved as a matter of right once the governmental agency has obtained certain financial data from the PSC. Utilities in counties which have not opted for PSC regulation under chapter 367 are not required to obtain such approval.

B. Effect on Present Situation

The bill would require any city, county, community, development district, or special district which intends to purchase or sell a water or sewer utility to first hold a public hearing on the purchase or sale and determine that the purchase or sale is in the public interest.

The bill lists nine criteria which the governing body must consider when determining whether the purchase or sale is in the public interest. Such criteria relate to the economic condition of the utility, the terms of the sales transaction, the impact of the sale on the utility's customers, and the ability of the purchaser to maintain high quality and cost effective utility service. The local government entity is required to prepare a statement showing that the purchase or sale is in the public interest.

II. PRIVATE SECTOR/STATE/LOCAL FISCAL IMPACT

A. Private Sector Impact

Any cost related to the mandated public hearing would probably be passed on to the taxpayers. Likewise, any savings on the purchase of a utility which may result from a more judicious consideration of the sales transaction would be passed on to the taxpayers and ratepayers.

B. State Fiscal Impact

None

C. Local Fiscal Impact

The bill may increase a governmental agency's administrative costs of purchasing a water or sewer utility. The costs of the mandated public hearing have been estimated at anywhere from \$600 to \$2100, depending upon the size of the governmental agency. Smaller governmental agencies, which do not have the staff expertise required to make the determination that the sale meets the public interest test, may need to hire outside consultants to assist in this analysis.

Governmental agencies may save money on the purchase of a utility as a result of the more judicious consideration of the sales transaction.

III. COMMENTS

The PSC reports the following purchases of water or sewer utilities by governmental agencies in the counties governed by chapter 367: 1980, 13; 1981, 29; 1982, 6; 1983, 13; 1984, none.

IV. AMENDMENTS

None. The Senate companion bill (SB 91) was substantially amended and reported as a committee substitute.

Prepared by: Vicki L. Weber

Staff Director: Bill Ryan

COMMITTEE ON REGULATED INDUSTRIES & LICENSING

CS/HB 435

SPONSOR(S): Committee on Reg. Indus. & Lic. & Rep. Messersmith

RELATING TO: Water and Sewer Systems

OTHER COMMITTEES OF REFERENCE: None

COMPANION/SIMILAR: CS/SB 91

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May 9, 1984

I. SUMMARY

A. Present Situation

Private, investor-owned water and sewer utilities are regulated by either the Florida Public Service Commission or the governing body of the county being served. Section 367.011, F.S., grants the PSC exclusive jurisdiction over matters involving such a utility's authority, service and rates, but s. 367.171, F.S., provides that PSC jurisdiction is not effective in a county until such time as the board of county commissioners adopts a resolution declaring the county subject to the terms of chapter 367. Thirty-one counties have opted for PSC regulation of the water and sewer utilities serving their counties.

Section 367.071, F.S., requires PSC approval when a utility transfers or sells its certificate, facilities or ownership to another. However, this section provides that such a sale or transfer to a governmental agency shall be approved as a matter of right once the governmental agency has obtained certain financial data from the PSC. Utilities in counties which have not opted for PSC regulation under chapter 367 are not required to obtain such approval.

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The bill would require any city, county, community, development district, or special district which intends to purchase or sell a water or sewer utility to first hold a public hearing on the purchase or sale and determine that the purchase or sale is in the public interest.

The bill lists nine criteria which the governing body must consider when determining whether the purchase or sale is in the public interest. Such criteria relate to the economic condition of the utility, the terms of the sales transaction, the impact of the sale on the utility's customers, and the ability of the purchaser to maintain high quality and cost effective utility service. The local government entity is required to prepare a statement showing that the purchase or sale is in the public interest.

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Any cost related to the mandated public hearing would probably be passed on to the taxpayers. Likewise, any savings on the purchase of a utility which may result from a more judicious consideration of the sales transaction would be passed on to the taxpayers and ratepayers.

B. State Fiscal Impact

None

C. Local Fiscal Impact

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Governmental agencies may save money on the purchase of a utility as a result of the more judicious consideration of the sales transaction.

III. COMMENTS

The PSC reports the following purchases of water or sewer utilities by governmental agencies in the counties governed by chapter 367: 1980, 13; 1981, 29; 1982, 6; 1983, 13; 1984, none.

IV. AMENDMENTS

None. The Senate companion bill (SB 91) was substantially amended and reported as a committee substitute.

Prepared by: Vicki L. Weber

Staff Director: Bill Ryan

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A bill to be entitled

An act relating to water and sewer utilities;
creating ss. 125.0108, 166.045, 190.0215, F S ,
requiring a public hearing and evaluation
according to certain criteria before purchase
or sale of a water or sewer utility by a
county, municipality, special district, or
community development district, providing an
effective date.

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

Section 1 Section 125.0108, Florida Statutes, is
created to read.

125.0108 Purchase or sale of water or sewer utility --

No county shall purchase or sell a water or sewer utility
which provides service to the public for compensation, until
the governing body of the county has held a public hearing on
the purchase or sale and made a determination that the
purchase or sale is in the public interest The county shall
consider, at a minimum, the following in determining if the
purchase or sale is in the public interest

(1) The utility's most recent available income and
expense statement;

(2) The utility's most recent available balance sheet
listing assets and liabilities and clearly showing the amount
of contributions-in-aid-of-construction and the accumulated
depreciation thereon,

(3) A statement of the utility's existing rate base
for regulatory purposes;

1 (4) The physical condition of the utility facilities
2 being purchased or sold,

3 (5) The reasonableness of the purchase or sales price
4 and terms,

5 (6) The impacts of the purchase or sale on utility
6 customers, both positive and negative;

7 (7) Any required additional investment and the ability
8 and willingness of the purchaser to make that investment,
9 whether the purchaser is the county or the entity purchasing
10 the utility from the county;

11 (8) Alternatives to the purchase or sale and potential
12 impact on utility customers if the purchase or sale is not
13 made; and

14 (9) The ability of the purchaser to provide and
15 maintain high quality and cost effective utility service,
16 whether the purchaser is the county or the entity purchasing
17 the utility from the county.

18

19 The county shall prepare a statement showing that the purchase
20 or sale is in the public interest, including a summary of the
21 purchaser's experience in water and sewer utility operation
22 and a showing of financial ability to provide the service,
23 whether the purchaser is the county or the entity purchasing
24 the utility from the county.

25 Section 2. Section 166.045, Florida Statutes, is
26 created to read:

27 166.045 Purchase or sale of water or sewer utility.--
28 No municipality shall purchase or sell a water or sewer
29 utility which provides service to the public for compensation,
30 until the governing body of the municipality has held a public
31 hearing on the purchase or sale and made a determination that

1 the purchase or sale is in the public interest. The
2 municipality shall consider, at a minimum, the following in
3 determining if the purchase or sale is in the public interest:

4 (1) The utility's most recent available income and
5 expense statement;

6 (2) The utility's most recent available balance sheet
7 listing assets and liabilities and clearly showing the amount
8 of contributions-in-aid-of-construction and the accumulated
9 depreciation thereon;

10 (3) A statement of the utility's existing rate base
11 for regulatory purposes;

12 (4) The physical condition of the utility facilities
13 being purchased or sold;

14 (5) The reasonableness of the purchase or sales price
15 and terms;

16 (6) The impacts of the purchase or sale on utility
17 customers, both positive and negative,

18 (7) Any required additional investment and the ability
19 and willingness of the purchaser to make that investment,
20 whether the purchaser is the municipality or the entity
21 purchasing the utility from the municipality,

22 (8) Alternatives to the purchase or sale and potential
23 impact on utility customers if the purchase or sale is not
24 made; and

25 (9) The ability of the purchaser to provide and
26 maintain high quality and cost effective utility service,
27 whether the purchaser is the municipality or the entity
28 purchasing the utility from the municipality.

29
30 The municipality shall prepare a statement showing that the
31 purchase or sale is in the public interest, including a

1 summary of the purchaser's experience in water and sewer
 2 utility operation and a showing of financial ability to
 3 provide the service, whether the purchaser is the municipality
 4 or the entity purchasing the utility from the municipality.

5 Section 3. Section 190.0215, Florida Statutes, is
 6 created to read:

7 190.0215 Purchase or sale of water or sewer utility.--
 8 No community development district shall purchase or sell a
 9 water or sewer utility which provides service to the public
 10 for compensation, until the governing body of the community
 11 development district has held a public hearing on the purchase
 12 or sale and made a determination that the purchase or sale is
 13 in the public interest. The community development district
 14 shall consider, at a minimum, the following in determining if
 15 the purchase or sale is in the public interest.

16 (1) The utility's most recent available income and
 17 expense statement,

18 (2) The utility's most recent available balance sheet
 19 listing assets and liabilities and clearly showing the amount
 20 of contributions-in-aid-of-construction and the accumulated
 21 depreciation thereon,

22 (3) A statement of the utility's existing rate base
 23 for regulatory purposes;

24 (4) The physical condition of the utility facilities
 25 being purchased or sold,

26 (5) The reasonableness of the purchase or sales price
 27 and terms;

28 (6) The impacts of the purchase or sale on utility
 29 customers, both positive and negative;

30 (7) Any required additional investment and the ability
 31 and willingness of the purchaser to make that investment,

1 whether the purchaser is the community development district or
2 the entity purchasing the utility from the community
3 development district,

4 (8) Alternatives to the purchase or sale and potential
5 impact on utility customers if the purchase or sale is not
6 made; and

7 (9) The ability of the purchaser to provide and
8 maintain high quality and cost-effective utility service,
9 whether the purchaser is the community development district or
10 the entity purchasing the utility from the community
11 development district.

12
13 The community development district shall prepare a statement
14 showing that the purchase or sale is in the public interest,
15 including a summary of the purchaser's experience in water and
16 sewer utility operation and a showing of financial ability to
17 provide the service, whether the purchaser is the community
18 development district or the entity purchasing the utility from
19 the community development district.

20 Section 4. Purchase or sale of a water or sewer
21 utility --No dependent or independent special district, as
22 defined by s 200 C01(8)(d) or (e), Florida Statutes, shall
23 purchase or sell a water or sewer utility which provides
24 service to the public for compensation, until the governing
25 body of the district has held a public hearing on the purchase
26 or sale and made a determination that the purchase or sale is
27 in the public interest. The district shall consider, at a
28 minimum, the following in determining if the purchase or sale
29 is in the public interest:

30 (1) The utility's most recent available income and
31 expense statement;

1 (2) The utility's most recent available balance sheet
2 listing assets and liabilities and clearly showing the amount
3 of contributions-in-aid-of-construction and the accumulated
4 depreciation thereon;

5 (3) A statement of the utility's existing rate base
6 for regulatory purposes,

7 (4) The physical condition of the utility facilities
8 being purchased or sold;

9 (5) The reasonableness of the purchase or sales price
10 and terms;

11 (6) The impacts of the purchase or sale on utility
12 customers, both positive and negative;

13 (7) Any required additional investment and the ability
14 and willingness of the purchaser to make that investment,
15 whether the purchaser is the special district or the entity
16 purchasing the utility from the special district;

17 (8) Alternatives to the purchase or sale and potential
18 impact on utility customers if the purchase or sale is not
19 made; and

20 (9) The ability of the purchaser to provide and
21 maintain high quality and cost effective utility service,
22 whether the purchaser is the special district or the entity
23 purchasing the utility from the special district

24
25 The special district shall prepare a statement showing that
26 the purchase or sale is in the public interest, including a
27 summary of the purchaser's experience in water and sewer
28 utility operation and a showing of financial ability to
29 provide the service, whether the purchaser is the special
30 district or the entity purchasing the utility from the special
31 district.

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Section 5. This act shall take effect October 1, 1984.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR SENATE BILL 91

Series LS Carton 39

All municipalities, counties, dependent and independent special districts, and community development districts are required to conduct a public hearing before purchasing or selling a water or sewer utility.

- The unit of government or district purchasing or selling a water or sewer utility is required to make a determination that the purchase or sale is in the public interest by considering specified criteria.

Committee on Economic, Community, & Consumer
Affairs



Staff Director

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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Burnside AL

REFERENCE ACTION
1. ECCA FAV/CS
2. _____
3. _____

Water and Sewer Systems

BILL NO. AND SPONSOR:
CS/SB 91 by Economic, Community,
and Consumer Affairs Committee
and Senator Myers

I. SUMMARY:

A. Present Situation:

The Water and Sewer System Regulatory Law (ch. 367, F.S.) provides the Florida Public Service Commission (PSC) exclusive regulatory jurisdiction over water and sewer utilities with respect to authority, service, and rates. Systems owned, operated, managed, or controlled by governmental agencies are exempt from regulation by the commission as utilities and are not subject to the provisions of chapter 367, Florida Statutes, except as expressly provided (s. 367.022, F.S.).

The commission's authority regarding the sale or transfer of a utility to a governmental agency is contained in section 367.071(3) (a), Florida Statutes:

"The sale or transfer of a certificate or facilities to a governmental agency shall be approved as a matter of right; however, the governmental agency shall, prior to taking any official action, obtain from the commission with respect to the authority or facilities to be sold or transferred the most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions-in-aid-of-construction."

The provisions of chapter 367, Florida Statutes, become effective in a county upon adoption of a resolution by the board of county commissioners declaring that the county is subject to the provisions of the chapter (s. 367.171(1), F.S.). According to the PSC, 31 counties are currently regulated under this chapter.

B. Effect of Proposed Changes:

All counties, municipalities, special districts, and community development districts are required to hold a public hearing and evaluate a proposed purchase or sale of a water or sewer utility according to certain minimum criteria to determine if the purchase or sale is in the public interest. These criteria include: information on the utility's most recent income and expense statements, balance sheet, rate base, and physical condition; reasonableness of purchase or sales price; positive and negative impacts of the purchase or sale on utility customers; required additional investment; alternatives to the purchase or sale; and the ability of the governmental unit to provide and maintain high quality, cost effective service. The governmental unit making the purchase or sale must prepare a statement showing that the purchase or sale is in the public interest, including a summary of the purchaser's experience in water or sewer utility operation and a showing of financial ability to provide the service, whether the purchaser is the governmental unit or the entity making the purchase from the governmental unit.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

It is assumed that any increase in cost to government for a governmental unit to hold a public hearing and determine if required conditions are met for a utility purchase or sale would be ultimately passed on to taxpayers (see B. Government).

B. Government:

A governmental unit involved in the purchase or sale of a water or sewer utility would incur the costs of holding a public hearing and carrying out the review and analysis of the purchase or sale. The costs of carrying out these activities could vary significantly in different circumstances, depending upon the size of the utility to be purchased or sold and the resources and expertise of the governmental unit making the purchase or sale.

To develop approximate cost estimates for conducting a hearing and carrying out the necessary analyses of a utility, the directors of several local government utility departments which have purchased private utility systems were consulted. Although public hearings had not been held on the utility acquisitions in which these directors had been involved, estimates of what such a hearing could cost ranged from \$600 to a \$2,100 estimate for Dade County. Costs of conducting a hearing would include advertising, space rental, staff time, and incidental expenses.

The public hearing on a utility purchase or sale by a governmental unit would be conducted after the fiscal condition of the utility had been evaluated by a qualified accountant or auditor and the physical condition assessed by a licensed engineer. These analyses would culminate in presentations at the public hearing, and the costs for the analyses and presentations would be incurred by the governmental unit making the purchase. According to the utility department administrators in Palm Beach and Pasco counties, expertise is not typically available on local government staffs to carry out detailed analyses. Should the governmental unit have to hire outside consultants, the costs of such analyses could range from \$10,000 in the case of a small utility to \$70,000 where a large facility is involved.

III. COMMENTS:

The PSC reports the following purchases of water or sewer utilities by governmental agencies in the counties regulated by the commission: 1980, 13; 1981, 29; 1982, 6; 1983, 13; and none thus far in 1984.

Section 367.071(1), Florida Statutes, provides that utilities regulated under chapter 367, Florida Statutes, shall not be sold or transferred without determination and approval of the PSC that the proposed sale or transfer is in the public interest. The PSC has not adopted by rule nor been directed by statute to use specific criteria to determine that the sale, assignment, or transfer of a water or sewer utility to a private company in counties regulated under chapter 367, Florida Statutes, is in the public interest. Commission Rule 25-10.07, Florida Administrative Code, specifies the contents of an application for the sale or transfer of a utility under PSC jurisdiction and requires information about the buyer's financial integrity and expertise in operating a utility. The criteria contained in CS/SB 91 are similar to the information required in the PSC applications.

IV. AMENDMENTS:

None.

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
Series <u>18</u> Carton <u>1</u>	<u>Ekholm LE</u>	<u>Burnside JB</u>	1. <u>ECCA</u>	<u>FAV/CS</u>
<u>1307</u>	<u> </u>	<u> </u>	2. <u> </u>	<u> </u>
	<u> </u>	<u> </u>	3. <u> </u>	<u> </u>

SUBJECT:

Water and Sewer Systems

BILL NO. AND SPONSOR:

CS/SB 91 by Economic, Community,
and Consumer Affairs Committee
and Senator Myers

I. SUMMARY:

A. Present Situation:

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The commission's authority regarding the sale or transfer of a utility to a governmental agency is contained in section 367.071(3)(a), Florida Statutes:

"The sale or transfer of a certificate or facilities to a governmental agency shall be approved as a matter of right; however, the governmental agency shall, prior to taking any official action, obtain from the commission with respect to the authority or facilities to be sold or transferred the most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions-in-aid-of-construction."

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B. Effect of Proposed Changes:

All counties, municipalities, special districts, and community development districts are required to hold a public hearing and evaluate a proposed purchase or sale of a water or sewer utility according to certain minimum criteria to determine if the purchase or sale is in the public interest. These criteria include: information on the utility's most recent income and expense statements, balance sheet, rate base, and physical condition; reasonableness of purchase or sales price; positive and negative impacts of the purchase or sale on utility customers; required additional investment; alternatives to the purchase or sale; and the ability of the governmental unit to provide and maintain high quality, cost effective service. The governmental unit making the purchase or sale must prepare a statement showing that the purchase or sale is in the public interest, including a summary of the purchaser's experience in water or sewer utility operation and a showing of financial ability to provide the service, whether the purchaser is the governmental unit or the entity making the purchase from the governmental unit.

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This bill was ordered enrolled on May 24, 1984.

IV. AMENDMENTS:

None.

COMMITTEE ON REGULATED INDUSTRIES & LICENSING

HB 435

SPONSOR(S): Rep. Messersmith

RELATING TO: Water and Sewer Systems

OTHER COMMITTEES OF REFERENCE: None

COMPANION/SIMILAR: CS/SB 91

April 30, 1984

I. SUMMARY

A. Present Situation

Private, investor-owned water and sewer utilities are regulated by either the Florida Public Service Commission or the governing body of the county being served. Section 367.011, F.S., grants the PSC exclusive jurisdiction over matters involving such a utility's authority, service and rates, but s. 367.171, F.S., provides that PSC jurisdiction is not effective in a county until such time as the board of county commissioners adopts a resolution declaring the county subject to the terms of chapter 367. Thirty-one counties have opted for PSC regulation of the water and sewer utilities serving their counties.

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B. Effect on Present Situation

The bill would require any governmental agency which intends to purchase a water or sewer utility which is subject to PSC regulation to first hold a public hearing on the purchase and determine that the purchase has met the conditions set by the PSC for sale of a utility between private companies. The PSC has not established specific criteria for such a sale but generally requires information about the purchaser's financial situation and experience in utility operations. The bill would not give the PSC the power to disapprove the sale.

II. PRIVATE SECTOR/STATE/LOCAL FISCAL IMPACT

A. Private Sector Impact

Any cost related to the mandated public hearing would probably be passed on to the taxpayers. Likewise, any savings on the purchase of a utility which may result from a more judicious consideration of the sales transaction would be passed on to the taxpayers and ratepayers.

B. State Fiscal Impact

None

C. Local Fiscal Impact

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Governmental agencies may save money on the purchase of a utility as a result of the more judicious consideration of the sales transaction.

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IV. AMENDMENTS

None. The Senate companion bill (SB 91) was substantially amended and reported as a committee substitute.

Prepared by: Vicki L. Weber

Staff Director: Bill Ryan

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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ANALYST

STAFF DIRECTOR

REFERENCE

ACTION

Tallahassee, FL 32399-0350
Series 15 Carton 357
3.

Burnside SB

- 1. ECCA
- 2. _____
- 3. _____

SUBJECT:

Water and Sewer Systems

BILL NO. AND SPONSOR:

SB 91 by Senator Myers

I. SUMMARY:

A. Present Situation:

The Water and Sewer System Regulatory Law (ch. 367, F.S.) provides the Florida Public Service Commission (PSC) exclusive regulatory jurisdiction over water and sewer utilities with respect to authority, service, and rates. Systems owned, operated, managed, or controlled by governmental agencies are exempt from regulation by the commission as utilities and are not subject to the provisions of chapter 367, Florida Statutes, except as expressly provided (s. 367.022, F.S.).

The commission's authority regarding the sale or transfer of a utility to a governmental agency is contained in section 367.071(3) (a), Florida Statutes:

"The sale or transfer of a certificate or facilities to a governmental agency shall be approved as a matter of right; however, the governmental agency shall, prior to taking any official action, obtain from the commission with respect to the authority or facilities to be sold or transferred the most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions-in-aid-of-construction."

The provisions of chapter 367, Florida Statutes, become effective in a county upon adoption of a resolution by the board of county commissioners declaring that the county is subject to the provisions of the chapter (s. 367.171(1), F.S.). According to the PSC, 31 counties are currently regulated under this chapter.

B. Effect of Proposed Changes:

Paragraph (c) is added to subsection (3) of section 367.071, Florida Statutes, requiring that no governmental agency shall purchase a utility until the agency has held a public hearing on the purchase and such purchase has met the conditions required by the PSC for the sale of a utility between private companies. However, this does not give the PSC the power to enforce these conditions with respect to a municipal or county government.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

It is assumed that any increase in cost to government for a governmental agency to hold a public hearing and determine if required conditions are met for a utility purchase would be ultimately passed on to taxpayers (see B. Government).

B. Government:

A governmental agency involved in the purchase of a water or sewer utility would incur the costs of holding a public hearing, the expenses of developing criteria with which to review the purchase, and the costs of carrying out the review and analysis of the purchase. The costs of carrying out these activities could vary significantly in different circumstances, depending upon the size of the utility to be purchased and the resources and expertise of the governmental agency making the purchase.

To develop approximate cost estimates for conducting a hearing and carrying out the necessary analyses of a utility, the directors of several local government utility departments which have purchased private utility systems were consulted. Although public hearings had not been held on the utility acquisitions in which these directors had been involved, estimates of what such a hearing could cost ranged from \$600 to a \$2,100 estimate for Dade County. Costs of conducting a hearing would include advertising, space rental, staff time, and incidental expenses.

The public hearing on a utility purchase by a governmental agency would be conducted after the fiscal condition of the utility had been evaluated by a qualified accountant or auditor and the physical condition assessed by a licensed engineer. These analyses would culminate in presentations at the public hearing, and the costs for the analyses and presentations would be incurred by the governmental agency making the purchase. According to the utility department administrators in Palm Beach and Pasco counties, expertise is not typically available on local government staffs to carry out detailed analyses. Should the governmental agency have to hire outside consultants, the costs of such analyses could range from \$10,000 in the case of a small utility to \$70,000 where a large facility is involved.

III. COMMENTS:

The PSC reports the following purchases of water or sewer utilities by governmental agencies in the counties regulated by the commission: 1980, 13; 1981, 29; 1982, 6; 1983, 13; and none thus far in 1984.

The bill requires a public hearing and review of the sale or transfer of a water or sewer utility to a governmental agency only within those counties regulated by the PSC under the provisions of section 367.171(1), Florida Statutes. These conditions for the sale or transfer of a water or sewer utility to a governmental agency would not be applicable to governmental agencies in unregulated counties.

Section 367.071(1), Florida Statutes, provides that utilities regulated under chapter 367, Florida Statutes, shall not be sold or transferred without determination and approval of the PSC that the proposed sale or transfer is in the public interest. The PSC has not adopted by rule nor been directed by statute to use specific criteria to determine that the sale, assignment, or transfer of a water or sewer utility to a private company in counties regulated under chapter 367, Florida Statutes, is in the public interest. Commission Rule 25-10.07, Florida Administrative Code, specifies the contents of an application for the sale or transfer of a utility under PSC jurisdiction and requires information about the buyer's financial integrity and expertise in operating a utility.

IV. AMENDMENTS:

None.

By Representative Messersmith

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A bill to be entitled
An act relating to water and sewer systems;
adding s. 367.071, F.S.; limiting conditions
under which a governmental agency may conclude
the purchase of such utility; providing an
effective date.

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

Section 1. Paragraph (c) is added to subsection (3) of
section 367.071, Florida Statutes, to read:

367.071 Transfer.--

(3) An application shall be disposed of as provided in
s. 367.051, except that:

(c) No governmental agency shall purchase a utility
until the agency has held a public hearing on the purchase and
such purchase has met the conditions required by the Public
Service Commission for the sale of a utility between private
companies. This paragraph does not, however, give the Public
Service Commission the power to enforce such conditions with
respect to a municipal or county government.

Section 2. This act shall take effect upon becoming a
law.

SENATE SUMMARY

Provides that before a governmental agency concludes the
purchase of a water or sewer utility, the agency must
hold a public hearing and such purchase must meet the
conditions required by the Public Service Commission for
sale of a private utility.

This publication was promulgated at an average cost of 16 cents per page for the information of members of the Legislature and the public

By Committee on Regulated Industries & Licensing and
Representative Messersmith

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A bill to be entitled
An act relating to water and sewer utilities;
creating ss. 125.0108, 166.045, 190.0215, F.S.;
requiring a public hearing and evaluation
according to certain criteria before purchase
or sale of a water or sewer utility by a
county, municipality, special district, or
community development district; providing an
effective date.

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

Section 1. Section 125.0108, Florida Statutes, is
created to read:

125.0108 Purchase or sale of water or sewer utility.--

No county shall purchase or sell a water or sewer utility
which provides service to the public for compensation, until
the governing body of the county has held a public hearing on
the purchase or sale and made a determination that the
purchase or sale is in the public interest. The county shall
consider, at a minimum, the following in determining if the
purchase or sale is in the public interest:

(1) The utility's most recent available income and
expense statement;

(2) The utility's most recent available balance sheet
listing assets and liabilities and clearly showing the amount
of contributions-in-aid-of-construction and the accumulated
depreciation thereon;

(3) A statement of the utility's existing rate base
for regulatory purposes;

This public document was promulgated at an average cost of 1.6 cents per single page for the information of members of the Legislature and the public.

1	(4) The physical condition of the utility facilities	1.20
2	being purchased or sold;	
3	(5) The reasonableness of the purchase or sales price	1.21
4	and terms;	
5	(6) The impacts of the purchase or sale on utility	1.22
6	customers, both positive and negative;	
7	(7) Any required additional investment and the ability	1.23
8	and willingness of the purchaser to make that investment,	1.24
9	whether the purchaser is the county or the entity purchasing	
10	the utility from the county;	1.25
11	(8) Alternatives to the purchase or sale and potential	1.26
12	impact on utility customers if the purchase or sale is not	1.28
13	made; and	
14	(9) The ability of the purchaser to provide and	1.29
15	maintain high quality and cost effective utility service,	1.30
16	whether the purchaser is the county or the entity purchasing	
17	the utility from the county.	1.31
18		
19	The county shall prepare a statement showing that the purchase	1.32
20	or sale is in the public interest, including a summary of the	1.36
21	purchaser's experience in water and sewer utility operation	
22	and a showing of financial ability to provide the service,	1.37
23	whether the purchaser is the county or the entity purchasing	
24	the utility from the county.	1.38
25	Section 2. Section 166.045, Florida Statutes, is	1.39
26	created to read:	
27	166.045 Purchase or sale of water or sewer utility.--	1.40
28	No municipality shall purchase or sell a water or sewer	1.42
29	utility which provides service to the public for compensation,	1.43
30	until the governing body of the municipality has held a public	1.44
31	hearing on the purchase or sale and made a determination that	

1	the purchase or sale is in the public interest. The	1.47
2	municipality shall consider, at a minimum, the following in	
3	determining if the purchase or sale is in the public interest:	1.48
4	(1) The utility's most recent available income and	1.49
5	expense statement;	
6	(2) The utility's most recent available balance sheet	1.50
7	listing assets and liabilities and clearly showing the amount	1.51
8	of contributions-in-aid-of-construction and the accumulated	1.52
9	depreciation thereon;	
10	(3) A statement of the utility's existing rate base	1.53
11	for regulatory purposes;	
12	(4) The physical condition of the utility facilities	1.54
13	being purchased or sold;	
14	(5) The reasonableness of the purchase or sales price	1.55
15	and terms;	
16	(6) The impacts of the purchase or sale on utility	1.56
17	customers, both positive and negative;	
18	(7) Any required additional investment and the ability	1.57
19	and willingness of the purchaser to make that investment,	1.58
20	whether the purchaser is the municipality or the entity	
21	purchasing the utility from the municipality;	1.59
22	(8) Alternatives to the purchase or sale and potential	1.60
23	impact on utility customers if the purchase or sale is not	1.62
24	made; and	
25	(9) The ability of the purchaser to provide and	1.63
26	maintain high quality and cost effective utility service,	1.65
27	whether the purchaser is the municipality or the entity	
28	purchasing the utility from the municipality.	1.66
29		
30	The municipality shall prepare a statement showing that the	1.67
31	purchase or sale is in the public interest, including a	1.68

1	summary of the purchaser's experience in water and sewer	1.70
2	utility operation and a showing of financial ability to	1.71
3	provide the service, whether the purchaser is the municipality	
4	or the entity purchasing the utility from the municipality.	1.72
5	Section 3. Section 190.0215, Florida Statutes, is	1.73
6	created to read:	
7	190.0215 Purchase or sale of water or sewer utility.--	1.74
8	No community development district shall purchase or sell a	1.76
9	water or sewer utility which provides service to the public	
10	for compensation, until the governing body of the community	1.78
11	development district has held a public hearing on the purchase	
12	or sale and made a determination that the purchase or sale is	1.81
13	in the public interest. The community development district	1.82
14	shall consider, at a minimum, the following in determining if	
15	the purchase or sale is in the public interest:	2.1
16	(1) The utility's most recent available income and	2.2
17	expense statement;	
18	(2) The utility's most recent available balance sheet	2.3
19	listing assets and liabilities and clearly showing the amount	2.4
20	of contributions-in-aid-of-construction and the accumulated	2.5
21	depreciation thereon;	
22	(3) A statement of the utility's existing rate base	2.6
23	for regulatory purposes;	
24	(4) The physical condition of the utility facilities	2.7
25	being purchased or sold;	
26	(5) The reasonableness of the purchase or sales price	2.8
27	and terms;	
28	(6) The impacts of the purchase or sale on utility	2.9
29	customers, both positive and negative;	
30	(7) Any required additional investment and the ability	2.10
31	and willingness of the purchaser to make that investment,	2.11

1 whether the purchaser is the community development district or
2 the entity purchasing the utility from the community 2.1
3 development district;

4 (8) Alternatives to the purchase or sale and potential 2.1
5 impact on utility customers if the purchase or sale is not 2.1
6 made; and

7 (9) The ability of the purchaser to provide and 2.1
8 maintain high quality and cost-effective utility service, 2.1
9 whether the purchaser is the community development district or
10 the entity purchasing the utility from the community 2.1
11 development district.

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13 The community development district shall prepare a statement 2.2
14 showing that the purchase or sale is in the public interest, 2.2
15 including a summary of the purchaser's experience in water and 2.2
16 sewer utility operation and a showing of financial ability to 2.2
17 provide the service, whether the purchaser is the community
18 development district or the entity purchasing the utility from 2.2
19 the community development district.

20 Section 4. Purchase or sale of a water or sewer 2.2
21 utility.--No dependent or independent special district, as 2.2
22 defined by s. 200.001(8)(d) or (e), Florida Statutes, shall
23 purchase or sell a water or sewer utility which provides 2.3
24 service to the public for compensation, until the governing 2.3
25 body of the district has held a public hearing on the purchase
26 or sale and made a determination that the purchase or sale is 2.3
27 in the public interest. The district shall consider, at a 2.3
28 minimum, the following in determining if the purchase or sale
29 is in the public interest: 2.3
30 (1) The utility's most recent available income and 2.4
31 expense statement;

1	(2) The utility's most recent available balance sheet	2.41
2	listing assets and liabilities and clearly showing the amount	2.42
3	of contributions-in-aid-of-construction and the accumulated	2.43
4	depreciation thereon;	
5	(3) A statement of the utility's existing rate base	2.44
6	for regulatory purposes;	
7	(4) The physical condition of the utility facilities	2.45
8	being purchased or sold;	
9	(5) The reasonableness of the purchase or sales price	2.46
10	and terms;	
11	(6) The impacts of the purchase or sale on utility	2.47
12	customers, both positive and negative;	
13	(7) Any required additional investment and the ability	2.48
14	and willingness of the purchaser to make that investment,	2.49
15	whether the purchaser is the special district or the entity	
16	purchasing the utility from the special district;	2.50
17	(8) Alternatives to the purchase or sale and potential	2.51
18	impact on utility customers if the purchase or sale is not	2.54
19	made; and	
20	(9) The ability of the purchaser to provide and	2.55
21	maintain high quality and cost effective utility service,	2.56
22	whether the purchaser is the special district or the entity	
23	purchasing the utility from the special district.	2.57
24		
25	The special district shall prepare a statement showing that	2.58
26	the purchase or sale is in the public interest, including a	2.60
27	summary of the purchaser's experience in water and sewer	2.61
28	utility operation and a showing of financial ability to	2.63
29	provide the service, whether the purchaser is the special	
30	district or the entity purchasing the utility from the special	2.64
31	district.	

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Section 5. This act shall take effect October 1, 1984. 2.6

By Senator Myers

27-173B-84

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