Committee on Communications, Energy, And Public Utilities

CS/HB 347 — Utility Projects

by Finance and Tax Committee; and Rep. Sprowls and others (CS/CS/SB 324 by Communications, Energy, and Public Utilities Committee; Finance and Tax Committee; and Senators Legg and Simpson)

The bill establishes a new mechanism - utility cost containment bonds - available to a utility authority to finance projects related to water or wastewater service on behalf of a local agency. The bonds are secured by a utility project charge levied on the local agency's utility customers. This separate charge is designed to satisfy rating agency criteria to achieve a higher bond rating and, therefore, a lower interest rate and more favorable terms for bonds issued to fund eligible projects.

More specifically, the bill designates the following entities as those permitted to act as an "authority":

- a legal entity created under s. 163.01(7)(g), F.S.; or
- a legal entity created under s. 163.01, F.S., composed of at least two of the following:
  - A public agency that provides retail water or wastewater services in two or more counties;
  - A municipality; or
  - A county.

The authority or at least one member of the authority must provide retail water or wastewater services to at least 75,000 customers.

The bill authorizes an authority to work with local agencies that request assistance to determine the most cost-effective manner of financing regional water projects, and, if the entities determine that the issuance of utility cost containment bonds will result in lower financing costs for a project, to cooperate with such local agencies and, if requested by them, to issue utility cost containment bonds. For these purposes, the bill designates the following entities as those permitted to seek issuance of utility cost containment bonds as a "local agency": a member of the authority, or an agency or subdivision of that member, which is sponsoring or refinancing a utility project, or any municipality, county, authority, special district, public corporation, regional water authority, or other governmental entity of the state that is sponsoring or refinancing a utility project.

The process of issuance of utility cost containment bonds is initiated by the governing body of the local agency holding a public meeting to determine:

- The project to be financed is a utility project;
- Based on the best information available, the utility rates charged to the local agency's retail customers, including the utility project charge resulting from the utility cost containment bonds, are expected to be lower than the rates that would be charged if the project was financed with bonds payable from revenues of the publicly owned utility.

After making these determinations, the local agency may apply to the utility authority to issue the utility cost containment bonds. The application must specify the utility project to be financed, the maximum principal amount, the maximum interest rate, and the maximum stated terms of the utility cost containment bonds.

The governing body of an authority that is financing the costs of an eligible utility project must adopt a financing resolution which includes:

- A description of the financial calculation method the authority will use to determine the utility project charge, including a periodic adjustment methodology to be applied at least annually to the utility project charge. The authority must establish the allocation of the utility project charge among classes of customers of the publicly owned utility. The decisions of the authority are final and conclusive.
- A requirement that each customer in the class or classes of customers specified in the financing resolution who receives water or wastewater service through the publicly owned utility pay the utility project charge.
- A requirement that the utility project charge be charged separately from other charges on the bill of each customer.
- A requirement that the authority enter into a servicing agreement with the local agency or its publicly owned utility to collect the utility project charge.

In the financing resolution, the authority must impose a utility project charge sufficient to ensure timely payment of all financing costs with respect to utility cost containment bonds. The charge must be based on estimates of water or wastewater service usage. The utility project charge is a nonbypassable charge on all present and future customers of the publicly owned utility in the class or classes of customers specified in the financing resolution at the time of its adoption. The timely and complete payment of all utility project charges by the customer is a condition of receiving water or wastewater service from the publicly owned utility.

Revenues from a utility project charge are deemed special revenues of the authority, not revenue of the local agency or its publicly owned utility for any purpose. The local agency or its publicly owned utility must act as a servicing agent for collecting the charge pursuant to a servicing agreement to be required by the financing resolution. The money collected must be held in trust for the exclusive benefit of the persons entitled to have the financing costs paid from the utility project charge.

If approved by the Governor, these provisions take effect July 1, 2016.
Vote: Senate 39-0; House 116-0