

# 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 344  
 SPONSOR: Senators Brown-Waite & Cowin  
 SUBJECT: Water and Wastewater Systems  
 DATE: February 23, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Caldwell	Caldwell	RI	Favorable
2.	_____	_____	RC	_____
3.	_____	_____	AED	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

Prior to the 2000 Regular Session, the duty of Public Counsel was to provide Florida citizens with legal representation in proceedings before the Public Service Commission (PSC). In PSC water and wastewater cases, the Public Counsel represents the affected citizens or the general body of utility customers.

The law was amended in the 2000 Regular Session to expand the Public Counsel’s duties to include representing state citizens in county proceedings relating to water and wastewater regulation.

This bill reenacts the provision regarding the Public Counsel’s representation in water and wastewater proceedings at the county level.

The bill does not appear to have a new fiscal impact on state or local governments. The bill shall take effect upon becoming a law.

This bill reenacts s. 350.0611 of the Florida Statutes.

## II. Present Situation:

Under section 367.171, F.S., county government may regulate the rates, charges, services, and territorial authorization of the privately owned water and wastewater utilities operating within the county, or the government may opt to cede jurisdiction of these utilities over to the PSC.

Thirty-six of the sixty-seven counties have turned over regulation of their water and wastewater utilities to the PSC. In these PSC cases, the Public Counsel, pursuant to its general duties and

powers statute, section 350.0611, F.S., represents the affected citizens or the general body of utility customers.

Section 350.0611, F.S., was amended by 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), F.S. Chapter 2000-350, Laws of Florida, has been challenged as a violation of the single subject requirement in Article III, section 6, Florida Constitution, that "(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 reenacting the provision separately. See Salters v. State, 758 So.2d 667 (Fla. 2000). Amendments enacted in the 2000 Regular Session will be adopted in 2002.

### **III. Effect of Proposed Changes:**

The bill reenacts the amendment to section 350.0611, F.S., to provide that the Public Counsel's duties are expanded to include citizen representation in water and wastewater issues before county government.

### **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:**

None.

#### **C. Government Sector Impact:**

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.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The 2000 legislation also created section 180.136, F.S., to require that a local government water or sewer utility give additional notice before increasing any rate, charge, or fee, and amended section 367.171(8), F.S., to apply the hearing requirements of chapter 120 to county water and wastewater proceedings. These provisions are not a part of this bill. As such, they remain subject to constitutional challenge until and unless they are adopted for codification in the Florida Statutes, at which time the window for a single subject challenge closes and they become valid and enforceable as to this provision of the constitution. Salters v. State, 758 So.2d 667 (Fla. 2000).

**VIII. Amendments:**

None.

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

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