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****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2001-145, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE
UTILITIES AND TELECOMMUNICATIONS
FINAL 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 YEAS 19 NAYS 0
 - (4)
 - (5)
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I. SUMMARY:

This bill amends section 367.171, Florida Statutes, to remove 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.

This bill also amends section 350.0611, Florida Statutes, to expand the duties of the Public Counsel to include legal representation for citizens in water and wastewater issues before county government.

The bill further amends section 367.0816, Florida Statutes, to provide that a utility must immediately reduce its rates at the conclusion of a rate case by the amount of rate case expense previously included in its rates.

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

This act shall take effect upon becoming law.

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 creates additional responsibility for the Office of Public Counsel.

B. PRESENT SITUATION:

Under section 367.171, Florida Statutes, a county government may regulate the rates, charges, services, and territorial authorization of privately owned water and wastewater utilities operating within the county, or the county 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 duties of the Public Counsel 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 duties of the Public Counsel 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.

Prior to the 1999 Regular Session, section 367.0816, Florida Statutes, required that the expenses for a rate case, as determined by the PSC, could be recovered through the utilities rates and the amount was required to be apportioned over a four-year period. At the end of those four years, the rates were required to be reduced by the amount of the rate case expense that had been approved by the PSC and included in the rates. The requirement that the rates be reduced after this four-year period was deleted by section 6 of chapter 99-319, Laws of Florida

C. EFFECT OF PROPOSED CHANGES:

This bill amends section 367.171, Florida Statutes, to delete 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.

The bill amends section 350.0611, Florida Statutes, extending the Public Counsel's duties to include citizen representation in water and wastewater issues before county government.

The bill amends 367.0816, Florida Statutes, to reinstate the provision that a utility must immediately reduce its rates at the conclusion of a rate case by the amount of rate case expense previously included in its rates.

The bill takes effect upon becoming law.

D. SECTION-BY-SECTION ANALYSIS:

Please refer to EFFECT OF PROPOSED CHANGES for a description of the bill.

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.

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:

The Committee on Local Government and Veterans Affairs adopted a Committee Substitute for HB 41. The bill was amended on the floor of the House and passed as amended. It was recalled from the Senate and further amended to its final form as it was enacted.

VI. SIGNATURES:

COMMITTEE ON UTILITIES & TELECOMMUNICATIONS:

Prepared by:

Wendy G. Holt

Staff Director:

Patrick "Booter" Imhof

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

Prepared by:

Christopher J. Shipley

Staff Director:

Joan Highsmith-Smith

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AS FURTHER REVISED BY THE COUNCIL FOR READY INFRASTRUCTURE:

Prepared by:

Staff Director:

Randy Havlicak

Thomas J. Randle

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON UTILITIES AND TELECOMMUNICATIONS:

Prepared by:

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Wendy G. Holt

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