

STORAGE NAME: h0589b.utco.doc
DATE: March 8, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
UTILITIES AND TELECOMMUNICATIONS
ANALYSIS**

BILL #: HB 589
RELATING TO: Local Government Utilities Assistance
SPONSOR(S): Representative(s) Fasano

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) UTILITIES AND TELECOMMUNICATIONS YEAS 10 NAYS 0 (RIC)
- (2) GENERAL GOVERNMENT APPROPRIATIONS (FRC)
- (3) COUNCIL FOR READY INFRASTRUCTURE
- (4)
- (5)

I. SUMMARY:

The bill creates the Local Government Utilities Assistance Act. The bill provides legislative intent.

Under the provisions of the bill, the Local Government Utilities Assistance Program is established within the Department of Environmental Protection, (DEP), to provide local governments with financial assistance in acquiring privately owned water-wastewater utilities that pose a health or an environmental threat to the public, or utilities that desire to sell or consolidate their systems. A pilot program is to be implemented in Pasco County for the fiscal year 2001-2002.

The bill provides criteria for which a privately owned water-wastewater utility may be deemed eligible for assistance under the program.

Administration of the program will be provided by the DEP. The DEP is granted rulemaking authority to implement the provisions of the bill. The bill provides for an allocation, not to exceed \$5 million, from the Solid Waste Management Trust Fund. If acquiring a problematic utility provides a preferable and cost-effective remedy, DEP would allocate proceeds from the program, in the form of a grant, or a share of the proceeds to be pledged for the payment of debt service on bonds, to assist local government in financing the cost of acquiring a utility.

The Revenue Estimating Conference determined that this bill has no fiscal impact. The bill provides an effective date of July 1, 2001.

On March 7, 2001, the Utilities and Telecommunications Committee adopted six amendments. These amendments amended legislative intent; provided a definition for "community standards;" eliminated language relating to money to cover debt service on bonds. Further, proceeds from the fund would be awarded only by a grant; local government applicants are to provide DEP acceptable documentation to support utility acquisition. The DEP may use up to 2% of the funds appropriated for administering the pilot program. Additionally, the DEP will provide to the Governor and the Legislature an evaluation of the pilot program, including a recommendation for possibly expanding the program.

II. 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 DEP's responsibilities would be increased by its role in the bill. The DEP would be responsible for the program implementation, the administration, the determination of project eligibility and priority, the providing for disbursement from the trust fund, and the auditing.

B. PRESENT SITUATION:

According to DEP, there are a number of privately owned water and wastewater utilities that routinely encounter compliance problems that present some level of risk to the environment and/or public health. There is, however, no compelling evidence that the proportion of such utilities is substantially greater than that for publicly owned utilities. The same kinds of compliance problems experienced by privately owned water and wastewater utilities are also encountered by many smaller, economically disadvantaged, local government utilities. Currently, there is no state funding program available under which local governments can secure grants or loans to purchase problematic privately owned water or wastewater utilities.

C. EFFECT OF PROPOSED CHANGES:

The bill creates the Local Government Utilities Assistance Act. Under the act, the Local Government Utilities Assistance Program is established within the DEP to provide financial assistance to local governments to acquire privately owned water-wastewater utilities that pose threats to the health, or environmental safety of its customers, or utilities that desire to sell or consolidate their water-wastewater systems.

Sections 4(1)(a), (b), (c) provide that utilities are eligible for assistance under the program if they meet one or more of the following criteria:

- The water-wastewater utility is not capable of making the improvements necessary to alleviate the public health or environmental threats through its own resources without increasing its rate for services to an amount beyond that which is commensurate with community standards.
- The water-wastewater utility is confronted with a public health or environmental threat or both, including secondary state water quality standards, that may be better addressed through public management or ownership, or both.
- The private utility desires to sell or consolidate.

If acquiring a problematic utility provides a preferable and cost-effective remedy, allocation of the proceeds from the program would be in the form of a grant, or a share of the proceeds to be pledged to the payment of debt service on bonds, to assist a local government in financing the cost of acquiring a privately owned water-wastewater utility.

Financial assistance may be provided to a local government if a problematic private utility cannot upgrade its system through its own resources to alleviate an environmental or public health threat without raising its rates beyond that, which is commensurate with community standards. Community standards are not defined.

Under the provisions of the bill, the DEP would administer the program. The DEP is also granted rule-making authority to implement the provisions of the bill. However, DEP has noted that there are no specific criteria for making the determination as to whether acquisition of a privately owned utility is "necessary."

The bill provides for an allocation of money to the program. One-half of the money that would otherwise be distributed to the Solid Waste Management Trust Fund, not to exceed \$5 million, would be distributed to the program to be used to implement a pilot in Pasco County. The money may be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, or any other form of indebtedness issued by an appropriate local government, or used to purchase credit to permit such borrowing. The indebtedness is solely that of the local government and does not constitute a general obligation on the State.

The bill provides an effective date on July 1, 2001.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The impact on the Public Service Commission, for a one county pilot program, would be minimal for the administrative costs associated with recognizing a utility that is transferring to county jurisdiction. There is an indeterminate impact associated with the loss of regulatory assessment fees.

2. Expenditures:

According to the Revenue Estimating Conference, the impact on general revenue would be zero.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate.

2. Expenditures:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For eligible utilities, the customer impact would be beneficial if environmental and health hazards are resolved through acquisition of a water-wastewater utility by a local government. The impact on future rate levels charged by the governments is indeterminate.

D. FISCAL COMMENTS:

Up to \$5 million in sales tax revenues that would normally go to the Solid Waste Management Trust Fund would be diverted to fund the Pasco County utilities acquisition pilot program. According to DEP, the primary purpose for the Fund has been to finance local recycling program grants.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require cities or counties to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce revenue raising authority for any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not affect the amount of state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The DEP is granted rulemaking authority to implement the provisions of the bill.

C. OTHER COMMENTS:

Information was requested of the PSC as to the impact of the bill. However, due to time constraints, official information could not be obtained.

The DEP further noted that the legislation equates "secondary state water quality standards" with a public health or environmental threat. Secondary standards are associated with drinking water and include color, odor and other aesthetic considerations. Violations of these standards may make water less pleasant to drink but they do not constitute public health or environmental "threats."

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 7, 2001, the Committee on Utilities and Telecommunications adopted six amendments.

Amendment one amended legislative intent.

Amendment two provided a definition for "community standards" to provide DEP evaluative measures for eligibility.

Amendment three eliminated language on the proceeds from the fund being in the form of money to cover debt service on bonds. It further provided local government application criteria.

Amendment four conformed to amendment three to eliminate bond language. It also provided that DEP acceptable documentation would be required to support the acquisition.

Amendment five conformed to amendment three to eliminate bond language. It further provided that DEP may use up to 2% of the funds appropriated for administering the pilot program.

Amendment six provided that by January 1, 2003, the DEP report to the Governor and the Legislature its evaluation of the pilot program, including a recommendation for possibly expanding the program.

VII. SIGNATURES:

COMMITTEE ON UTILITIES AND TELECOMMUNICATIONS:

Prepared by:

Staff Director:

Wendy G. Holt

Patrick L. "Booter" Imhof