

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-This bill increases the gross annual revenue level below which a private water or wastewater utility may request a rate adjustment through a staff-assisted rate case.

B. EFFECT OF PROPOSED CHANGES:

Background

Chapter 367, F.S., gives the Public Service Commission (PSC) regulatory oversight regarding private water and wastewater utilities as it relates to service, and rates. However, ch. 367, F.S., only applies to utilities within those counties that have declared themselves subject to the provisions of this chapter. A county that declares itself subject to the provisions of ch. 367, F.S., may not exclude itself from those provisions for 10 years.¹

Water and wastewater utilities regulated by the PSC are required to charge the rates and charges approved by the PSC. Section 367.081, F.S., provides the statutory procedures for fixing and changing rates, including procedures for rate cases. Section 367.081(4)(a), F.S., requires the PSC to annually establish “a price increase or decrease index for major categories of operating costs incurred by utilities subject to its jurisdiction reflecting the percentage of increase or decrease in such costs from the most recent 12-month historical data available.” Section 367.081(4)(b), F.S., allows for the direct pass through of certain utility costs to the ratepayers, upon 45 days notice to the PSC.²

In a traditional rate case processed under s. 367.081, F.S., the utility is required to compile the information necessary to meet the minimum filing requirements for a rate case. In some cases, the company does not have the resources to do this in-house and must hire outside consultants and attorneys to work on its case. According to the PSC, these expenses average approximately \$48,000 per rate case. The utility is allowed by law to recover prudently incurred rate case expense.³

In addition to the traditional water and wastewater rate-setting process, s. 367.0814, F.S., provides an alternative for smaller utilities. Specifically, this section authorizes the PSC to establish rules to allow water or wastewater utilities with gross annual revenues of \$150,000 or less to obtain staff assistance for changing its rates and charges. This process is known as a staff-assisted rate case (SARC). This section was created in 1989⁴, and the revenue threshold for a SARC has not been subsequently amended.

In the SARC process, PSC staff does much of the work that would be required of the utility in a traditional rate case. It audits the company, compiles necessary information, presents the information to customers, and makes recommendations to the Commissioners as to whether or not the requested rate increase is justified. The SARC statute provides that the utility must accept “the final rates and charges approved by the commission unless the final rates and charges produce less revenue than the

¹ S. 367.171(1), F.S. As of October 2007, there were 34 counties subject to the PSC’s jurisdiction. The counties are Alachua, Bradford, Brevard, Broward, Clay, Duval, Escambia, Franklin, Gadsden, Gulf, Highlands, Jackson, Lake, Lee, Levy, Manatee, Marion, Martin, Monroe, Nassau, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Seminole, St. Lucie, Sumter, Volusia, and Washington.

² These costs include purchased water, electric power, ad valorem taxes, certain fees charged by the Department of Environmental Protection, and regulatory assessment fees imposed by the PSC.

³ S. 367.081(7), F.S.

⁴ S.8, ch. 89-353, L.O.F.

existing rates and charges.”⁵ Customers may protest the results of SARC cases, but, according to the PSC, this rarely happens.

According to the PSC, 76 water systems and 49 wastewater systems have revenue levels that qualify them for a SARC. Since 2000, the PSC has averaged seven SARCs annually; however, the actual number of SARCs ranged from two in 2003 to twelve in 2007.

Proposed Changes

This bill amends s. 367.0814(1), F.S., related to staff-assisted rate cases for small water and wastewater utilities. It increases the revenue level for a SARC to gross annual revenues of \$250,000 or less. The bill requires the PSC to adjust the gross annual revenue level on July 1, 2013, and every five years thereafter, based on the most recent cumulative five years of the price index established by the PSC pursuant to s. 367.081(4)(a), F.S.

According to the PSC, an additional 14 water systems and an additional 14 wastewater systems would be eligible for SARCs under the higher revenue level. The PSC predicts that no more than two additional SARCs would be filed per year.

Additionally, the bill creates s. 367.0814(10), F.S., requiring the PSC to submit to the President of the Senate and the Speaker of the House of Representatives by January 1, 2013, and every five years thereafter, a report on the status of SARCs. The report is supposed to include the following:

- The number of utilities eligible to request a SARC,
- The number of SARCs conducted annually for the most recent five-year period,
- The associated impact on PSC resources, and
- Any other information the PSC deems appropriate.

This bill has an effective date of July 1, 2008.

C. SECTION DIRECTORY:

Section 1 Amends s. 367.0814, F.S., relating to staff-assisted rate cases for small water and wastewater utilities.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None. The PSC has indicated that it can handle additional SARC proceedings and reporting requirements under this bill with existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁵ S. 367.0814(6), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill's proposed \$250,000 revenue cap can allow more private water and wastewater utilities to become eligible for a SARC proceeding, which can provide savings to those utilities and their customers. According to the PSC, this bill would add no more than two additional SARC proceedings per year. Considering that the average expense for a rate case is approximately \$48,000, utility customers could save approximately \$96,000 per year under this bill.

D. FISCAL COMMENTS:

This bill's proposed revenue cap increase from \$150,000 to \$250,000 provides the first statutory adjustment for inflation in s. 367.0814, F.S., since 1989, when the current \$150,000 SARC revenue cap became law. A current staff review of three separate economic indices reveals that this bill's proposed \$250,000 revenue cap is consistent with inflationary adjustments during the past 19 years. These indices are as follows:

- The Gross Domestic Product Implicit Price Deflator (GDP);
- The Consumer Price Index for All Urban Consumers (CPI-U); and
- The Chained Consumer Price Index for All Urban Consumers (C-CPI-U).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of sales tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

While the bill does not provide specific rule-making authority, the PSC's current SARC rule⁶ can be amended pursuant to existing authority in s. 367.0814, F.S., to be consistent with the revisions made in this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Not applicable as this is a proposed council bill.

⁶ S. 35-30.455, F.A.C.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES