

Amendment No. 5

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Commerce Committee
 2 Representative Santiago offered the following:

Amendment (with title amendment)

Between lines 24 and 25, insert:

Section 1. Paragraph (g) of subsection (7) of section 163.01, Florida Statutes, is amended to read:

163.01 Florida Interlocal Cooperation Act of 1969.—
(7)

(g)1. Notwithstanding any other provisions of this section, any separate legal entity created under this section, the membership of which is limited to municipalities and counties of the state, and which may include a special district in addition to a municipality or county or both, may acquire, own, construct, improve, operate, and manage public facilities, or finance facilities on behalf of any person, relating to a

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17 governmental function or purpose, including, but not limited to,
18 wastewater facilities, water or alternative water supply
19 facilities, and water reuse facilities, which may serve
20 populations within or outside of the members of the entity.
21 Notwithstanding s. 367.171(7), any separate legal entity created
22 under this paragraph is not subject to Public Service Commission
23 jurisdiction. The separate legal entity may not provide utility
24 services within the service area of an existing utility system
25 unless it has received the consent of the utility.

26 2. For purposes of this paragraph, the term:

27 a. "Host government" means the governing body of the
28 county, if the largest number of equivalent residential
29 connections currently served by a system of the utility is
30 located in the unincorporated area, or the governing body of a
31 municipality, if the largest number of equivalent residential
32 connections currently served by a system of the utility is
33 located within that municipality's boundaries.

34 b. "Separate legal entity" means any entity created by
35 interlocal agreement the membership of which is limited to two
36 or more special districts, municipalities, or counties of the
37 state, but which entity is legally separate and apart from any
38 of its member governments.

39 c. "System" means a water or wastewater facility or group
40 of such facilities owned by one entity or affiliate entities.

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41 d. "Utility" means a water or wastewater utility and
42 includes every person, separate legal entity, lessee, trustee,
43 or receiver owning, operating, managing, or controlling a
44 system, or proposing construction of a system, who is providing,
45 or proposes to provide, water or wastewater service to the
46 public for compensation.

47 3. A separate legal entity that seeks to acquire any
48 utility shall notify the host government in writing by certified
49 mail about the contemplated acquisition not less than 30 days
50 before any proposed transfer of ownership, use, or possession of
51 any utility assets by such separate legal entity. The potential
52 acquisition notice shall be provided to the legislative head of
53 the governing body of the host government and to its chief
54 administrative officer and shall provide the name and address of
55 a contact person for the separate legal entity and information
56 identified in s. 367.071(4)(a) concerning the contemplated
57 acquisition.

58 4.a. Within 30 days following receipt of the notice, the
59 host government may adopt a resolution to become a member of the
60 separate legal entity, adopt a resolution to approve the utility
61 acquisition, or adopt a resolution to prohibit the utility
62 acquisition by the separate legal entity if the host government
63 determines that the proposed acquisition is not in the public
64 interest. A resolution adopted by the host government which

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65 prohibits the acquisition may include conditions that would make
66 the proposal acceptable to the host government.

67 b. If a host government adopts a membership resolution,
68 the separate legal entity shall accept the host government as a
69 member on the same basis as its existing members before any
70 transfer of ownership, use, or possession of the utility or the
71 utility facilities. If a host government adopts a resolution to
72 approve the utility acquisition, the separate legal entity may
73 complete the acquisition. If a host government adopts a
74 prohibition resolution, the separate legal entity may not
75 acquire the utility within that host government's territory
76 without the specific consent of the host government by future
77 resolution. If a host government does not adopt a prohibition
78 resolution or an approval resolution, the separate legal entity
79 may proceed to acquire the utility after the 30-day notice
80 period without further notice.

81 5. After the acquisition or construction of any utility
82 systems by a separate legal entity created under this paragraph,
83 revenues or any other income may not be transferred or paid to a
84 member of a separate legal entity, or to any other special
85 district, county, or municipality, from user fees or other
86 charges or revenues generated from customers that are not
87 physically located within the jurisdictional or service delivery
88 boundaries of the member, special district, county, or
89 municipality receiving the transfer or payment. Any transfer or

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90 payment to a member, special district, or other local government
91 must be solely from user fees or other charges or revenues
92 generated from customers that are physically located within the
93 jurisdictional or service delivery boundaries of the member,
94 special district, or local government receiving the transfer of
95 payment.

96 6. This section is an alternative provision otherwise
97 provided by law as authorized in s. 4, Art. VIII of the State
98 Constitution for any transfer of power as a result of an
99 acquisition of a utility by a separate legal entity from a
100 municipality, county, or special district.

101 7. The entity may finance or refinance the acquisition,
102 construction, expansion, and improvement of such facilities
103 relating to a governmental function or purpose through the
104 issuance of its bonds, notes, or other obligations under this
105 section or as otherwise authorized by law. The entity has all
106 the powers provided by the interlocal agreement under which it
107 is created or which are necessary to finance, own, operate, or
108 manage the public facility, including, without limitation, the
109 power to establish rates, charges, and fees for products or
110 services provided by it, the power to levy special assessments,
111 the power to sell or finance all or a portion of such facility,
112 and the power to contract with a public or private entity to
113 manage and operate such facilities or to provide or receive
114 facilities, services, or products. Except as may be limited by

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115 the interlocal agreement under which the entity is created, all
116 of the privileges, benefits, powers, and terms of s. 125.01,
117 relating to counties, and s. 166.021, relating to
118 municipalities, are fully applicable to the entity. However,
119 neither the entity nor any of its members on behalf of the
120 entity may exercise the power of eminent domain over the
121 facilities or property of any existing water or wastewater plant
122 utility system, nor may the entity acquire title to any water or
123 wastewater plant utility facilities, other facilities, or
124 property which was acquired by the use of eminent domain after
125 the effective date of this act unless 10 or more years have
126 elapsed since the date of the acquisition by eminent domain.
127 Bonds, notes, and other obligations issued by the entity are
128 issued on behalf of the public agencies that are members of the
129 entity.

130 8. Any entity created under this section may also issue
131 bond anticipation notes in connection with the authorization,
132 issuance, and sale of bonds. The bonds may be issued as serial
133 bonds or as term bonds or both. Any entity may issue capital
134 appreciation bonds or variable rate bonds. Any bonds, notes, or
135 other obligations must be authorized by resolution of the
136 governing body of the entity and bear the date or dates; mature
137 at the time or times, not exceeding 40 years from their
138 respective dates; bear interest at the rate or rates; be payable
139 at the time or times; be in the denomination; be in the form;

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140 carry the registration privileges; be executed in the manner; be
141 payable from the sources and in the medium or payment and at the
142 place; and be subject to the terms of redemption, including
143 redemption prior to maturity, as the resolution may provide. If
144 any officer whose signature, or a facsimile of whose signature,
145 appears on any bonds, notes, or other obligations ceases to be
146 an officer before the delivery of the bonds, notes, or other
147 obligations, the signature or facsimile is valid and sufficient
148 for all purposes as if he or she had remained in office until
149 the delivery. The bonds, notes, or other obligations may be sold
150 at public or private sale for such price as the governing body
151 of the entity shall determine. Pending preparation of the
152 definitive bonds, the entity may issue interim certificates,
153 which shall be exchanged for the definitive bonds. The bonds may
154 be secured by a form of credit enhancement, if any, as the
155 entity deems appropriate. The bonds may be secured by an
156 indenture of trust or trust agreement. In addition, the
157 governing body of the legal entity may delegate, to an officer,
158 official, or agent of the legal entity as the governing body of
159 the legal entity may select, the power to determine the time;
160 manner of sale, public or private; maturities; rate of interest,
161 which may be fixed or may vary at the time and in accordance
162 with a specified formula or method of determination; and other
163 terms and conditions as may be deemed appropriate by the
164 officer, official, or agent so designated by the governing body

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165 of the legal entity. However, the amount and maturity of the
166 bonds, notes, or other obligations and the interest rate of the
167 bonds, notes, or other obligations must be within the limits
168 prescribed by the governing body of the legal entity and its
169 resolution delegating to an officer, official, or agent the
170 power to authorize the issuance and sale of the bonds, notes, or
171 other obligations.

172 9. Bonds, notes, or other obligations issued under this
173 paragraph may be validated as provided in chapter 75. The
174 complaint in any action to validate the bonds, notes, or other
175 obligations must be filed only in the Circuit Court for Leon
176 County. The notice required to be published by s. 75.06 must be
177 published in Leon County and in each county that is a member of
178 the entity issuing the bonds, notes, or other obligations, or in
179 which a member of the entity is located, and the complaint and
180 order of the circuit court must be served only on the State
181 Attorney of the Second Judicial Circuit and on the state
182 attorney of each circuit in each county that is a member of the
183 entity issuing the bonds, notes, or other obligations or in
184 which a member of the entity is located. Section 75.04(2) does
185 not apply to a complaint for validation brought by the legal
186 entity.

187 10. The accomplishment of the authorized purposes of a
188 legal entity created under this paragraph is in all respects for
189 the benefit of the people of the state, for the increase of

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190 their commerce and prosperity, and for the improvement of their
191 health and living conditions. Since the legal entity will
192 perform essential governmental functions for the public health,
193 safety, and welfare in accomplishing its purposes, the legal
194 entity is not required to pay any taxes or assessments of any
195 kind whatsoever upon any property acquired or used by it for
196 such purposes or upon any revenues at any time received by it,
197 whether the property is within or outside the jurisdiction of
198 members of the entity. The exemption provided in this paragraph
199 applies regardless of whether the separate legal entity enters
200 into agreements with private firms or entities to manage,
201 operate, or improve the utilities owned by the separate legal
202 entity. The bonds, notes, and other obligations of an entity,
203 their transfer, and the income therefrom, including any profits
204 made on the sale thereof, are at all times free from taxation of
205 any kind by the state or by any political subdivision or other
206 agency or instrumentality thereof. The exemption granted in this
207 subparagraph is not applicable to any tax imposed by chapter 220
208 on interest, income, or profits on debt obligations owned by
209 corporations.

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T I T L E A M E N D M E N T

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Between lines 2 and 3, insert:

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COMMITTEE/SUBCOMMITTEE AMENDMENT
Bill No. PCS for CS/HB 203 (2020)

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215 | 163.01, F.S.; providing a condition under which certain entities
216 | may acquire title to any water or wastewater plant utility
217 | facilities, other facilities, or property, that were previously
218 | acquired by eminent domain;