

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 851 Manatee County

**SPONSOR(S):** Boyd

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee		Darden	Miller
2) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

Unpaid water and sewer bills to county governments create a lien on the property or parcel serviced under Chapter 153, F.S. Counties are able to initiate foreclosure proceedings to collect on this lien. The Manatee County Water System was authorized by a special act that not did create a lien on parcels or property for unpaid utility bills.

The bill amends Chapter 63-1598, Laws of Florida, to place a lien on property for unpaid utility bills in Manatee County. The bill does not allow the county to foreclose on the property solely on the basis of this lien.

The Economic Impact Statement, signed an employee of the Manatee County Board of County Commissioners, stated the bill would have no fiscal impact. However, the district has written off over \$6,000,000 in bad debt over the five most recent fiscal years.

The bill shall take effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### General Law

To address a historic lack of water and sewer systems in unincorporated areas, the Legislature authorized counties to construct such systems.<sup>1</sup> Counties are required to set a schedule of rates, fees, and other charges for water and sewer service.<sup>2</sup> These fees must be sufficient, when combined with other county funds appropriated for the purpose to fund the operation and maintenance expenses of the water system, including the payment of principal and interest on revenue bonds issued for the system.<sup>3</sup>

To help ensure prompt payment, the statute provides that any unpaid balance and all interest accruing on that balance is the lien on the parcel or property being provided service.<sup>4</sup> This lien has priority over the interests of any owner, lessee, tenant, mortgagee, or other person.<sup>5</sup> The lien is considered to be on the same level as that of any outstanding taxes owed to the county.<sup>6</sup> If the unpaid balance is greater than thirty days old, the district may file a civil action to recover the balance, interest, and any attorney's fees and court costs associated with the action.<sup>7</sup> The county may foreclose upon this lien as the foreclosure of a mortgage on real property.<sup>8</sup>

##### Manatee County

The Manatee County Utility System does not fall under the auspices of ch. 153, F.S., since it was created by special act.<sup>9</sup> The act authorized the county to construct a water and sewer system.<sup>10</sup> The county may charge "fees, rental, and other charges" according to a schedule of rates set by the Manatee County Board of County Commissioners.<sup>11</sup>

Under current law, the only tool available to the county to collect unpaid utility bills is to discontinue and shut off services for nonpayment.<sup>12</sup> The county is allowed to shut off services until the debtor has paid the outstanding balance in full, including interest and any disconnection fees.<sup>13</sup> The county may also file suit in a court of competent jurisdiction for the recovery of fees, plus any reasonable attorney's fees.<sup>14</sup>

The inability to effectively recover unpaid utility fees has placed a financial burden on the county. According to figures provided by the Manatee County Utility System, the System wrote off \$875,080 in bad debt during fiscal year 2014 and has written off almost \$6,000,000 in bad debt over the course of

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<sup>1</sup> S. 153.51, F.S.

<sup>2</sup> S. 153.64(1), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> S. 153.67, F.S.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Ch. 63-1598, Laws of Fla.

<sup>10</sup> Ch. 63-1598, s. 2(1), (2), Laws of Fla.

<sup>11</sup> Ch. 63-1598, s. 7(4), Laws of Fla.

<sup>12</sup> Ch. 63-1598, s. 14, Laws of Fla.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

five most recent fiscal years.<sup>15</sup> The adopted Manatee County utility budget for fiscal year 2014 was \$99,140,723<sup>16</sup> and the utility system had total bonded debt outstanding of \$121,205,000.<sup>17</sup>

### **Effect of Proposed Changes**

The bill would amend Ch. 63-1598, Laws of Florida, to make unpaid fees, rentals, rates, or other charges to the Manatee County Utility System a lien upon the property serviced. The bill would enable the county to enforce the lien on the property pursuant to s. 153.67, F.S., allowing county water and sewer districts to enforce lien for unpaid fees. The bill would not, however, allow Manatee County to initiate a foreclosure action solely on the basis of the utility lien created by this bill.

The bill would improve the financial situation of the Manatee County Utility System by giving the county a tool to collect unpaid fees.<sup>18</sup> The bill would also benefit utility customers who make prompt payment, by reducing the extent to which they face higher fees to makeup shortfalls caused by the non-payment of others.<sup>19</sup>

#### **B. SECTION DIRECTORY:**

Section 1: Amends ch. 63-1598, Laws of Florida, authorizing the Manatee County Utility System to place a lien on property for unpaid fees.

Section 2: Provides that the bill shall take effect upon becoming law.

### **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? December 15, 2014

WHERE? Bradenton Herald, a daily newspaper published in Manatee County, Florida.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

None.

#### **B. RULE-MAKING AUTHORITY:**

This bill does not provide authority or require executive branch rulemaking.

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<sup>15</sup> Email from Cari Roth, Dean Mean, RE: Info on Manatee County Utilities HB 851 (03/09/15). Email retained by House Local Government Affairs Subcommittee staff.

<sup>16</sup> Manatee County, *Fiscal Year 2015 Adopted Budget*, at 178, available at <http://www.myanatee.org/home/government/departments/financial-management/budget-downloads.html> (accessed 3/13/15).

<sup>17</sup> *Id.*

<sup>18</sup> Economic Impact Statement for HB 851 (2015).

<sup>19</sup> *Id.*

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**