

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power & Light Company (FPL) for authority to charge FPL rates to former City of Vero Beach customers and for approval of FPL's accounting treatment for City of Vero Beach transaction.

DOCKET NO. 20170235-EI

In re: Joint petition to terminate territorial agreement, by Florida Power & Light and the City of Vero Beach.

DOCKET NO. 20170236-EU

DATED: SEPTEMBER 28, 2018

MOTION FOR OFFICIAL RECOGNITION

Pursuant to Rule 28-106.213(6), Florida Administrative Code (F.A.C.), and Section 90.202(12), Florida Statutes (F.S.), the staff of the Florida Public Service Commission (Commission staff) files this Motion for Official Recognition and states as follows:

1. Section 90.202(12), F.S., allows a court to take official recognition of “[f]acts that are not subject to dispute because they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned.”

2. The Florida House of Representatives maintains its official website at [www.myfloridahouse.gov](http://www.myfloridahouse.gov). All House bills filed in Regular Sessions from 1998 to 1999 and Regular, Special, and Organizational Sessions from 2000 to 2018 are recorded on this website. The website provides the date a bill was filed, the bill text, and the legislative history of the bill. Official state websites have been found to support official recognition in administrative proceedings for the purpose of proving that documents were filed and that the text contained therein is a true and accurate representation of the content of those documents as filed.<sup>1</sup>

3. Commission staff is requesting that the Commission take official recognition of the following Florida House of Representative Bills in this docket:

2010 House Bill 725/Senate Bill 2632  
2010 House Bill 1397  
2011 House Bill 899  
2013 House Bill 733/Senate Bill 1620  
2014 House Bill 813/Senate Bill 1248  
2014 House Bill 861/Senate Bill 1294  
2015 House Bill 773  
2015 House Bill 337/Senate Bill 442  
2016 House Bill 579/Senate Bill 840

<sup>1</sup> Yusmel Planas Duverger v. Group 3 Contractors, LLC, n/ka a Corradi Construction Group LLC and Group 3 Contractors, LLC, Case No. OJCC 17-017679MGK, June 5, 2018; 2018 WL 2949801 (2018).

MOTION FOR OFFICIAL RECOGNITION  
DOCKET NOS. 20170235-EI, 20170236-EU  
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WHEREFORE, the Commission staff requests that the Commission take official recognition of the House Bills listed above for the purpose of proving that these documents were filed and that the text contained on the Florida House of Representative's official website, [www.myfloridahouse.gov](http://www.myfloridahouse.gov), is a true and accurate representation of the content of those documents as filed.

RESPECTFULLY SUBMITTED, this 28th day of September, 2018:

*/s/ Suzanne Brownless*

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SUZANNE S. BROWNLESS

Special Counsel, Office of the General Counsel

FLORIDA PUBLIC SERVICE COMMISSION

2540 Shumard Oak Blvd.

Tallahassee, FL 32399-0850

(850) 413-6199

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power & Light Company (FPL) for authority to charge FPL rates to former City of Vero Beach customers and for approval of FPL's accounting treatment for City of Vero Beach transaction.

DOCKET NO. 20170235-EI

In re: Joint petition to terminate territorial agreement, by Florida Power & Light and the City of Vero Beach.

DOCKET NO. 20170236-EU

DATED: SEPTEMBER 28, 2018

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the MOTION FOR OFFICIAL RECOGNITION has been filed with the Office of Commission Clerk and a copy has been furnished to the following by electronic mail, this 28th day of September, 2018:

James O'Connor  
Wayne R. Coment  
Lange Sykes  
City of Vero Beach  
P.O. Box 1389  
Vero Beach, Florida 32961  
[citymgr@covb.org](mailto:citymgr@covb.org)  
[wcoment@covb.org](mailto:wcoment@covb.org)

J. Michael Walls  
Carlton Law Firm  
4221 Boy Scout Boulevard, Suite 1000  
Tampa, Florida 33607  
[mwalls@carltonfield.com](mailto:mwalls@carltonfield.com)

J.R. Kelly  
Stephanie Morse  
Charles Rehwinkel  
Office of Public Counsel  
111 W. Madison Street, Room 812  
Tallahassee, Florida 32399  
[Kelly.jr@leg.state.fl.us](mailto:Kelly.jr@leg.state.fl.us)  
[Morse.stephanie@leg.state.fl.us](mailto:Morse.stephanie@leg.state.fl.us)  
[Rehwinkel.charles@leg.state.fl.us](mailto:Rehwinkel.charles@leg.state.fl.us)

Lynne A. Larkin  
Civic Association of Indian River County, Inc.  
5690 HWY A1A, #101  
Vero Beach, Florida 32963  
[lynnelarkin@bellsouth.net](mailto:lynnelarkin@bellsouth.net)

Brian T. Heady  
406 19th Street  
Vero Beach, Florida 32960  
[brianheady@msn.com](mailto:brianheady@msn.com)

Michael Moran  
P.O. Box 650222  
Vero Beach, Florida 32965  
[mmoran@veronet.net](mailto:mmoran@veronet.net)

CERTIFICATE OF SERVICE  
DOCKET NOS. 20170235-EI, 20170236-EU  
PAGE 2

Ken Hoffman  
215 South Monroe Street  
Suite 810  
Tallahassee, Florida 32301  
[ken.hoffman@fpl.com](mailto:ken.hoffman@fpl.com),

Bryan S. Anderson,  
Kenneth M. Rubin,  
700 Universe Boulevard  
Juno Beach, Florida 33408  
[bryan.anderson@fpl.com](mailto:bryan.anderson@fpl.com),  
[ken.rubin@fpl.com](mailto:ken.rubin@fpl.com),

D. Bruce May, Jr.  
Holland & Knight LLP  
315 S. Calhoun Street, Suite 600  
Tallahassee, Florida 32301  
[Bruce.may@hklaw.com](mailto:Bruce.may@hklaw.com)

Dylan Reingold, County Attorney  
Indian River County  
1801 27<sup>th</sup> Street  
Vero Beach, Florida 32960  
[dreingold@ircgov.com](mailto:dreingold@ircgov.com)

Robert H. Stabe  
6001 North A1A  
Indian River Shores, Florida 32963  
[townmanager@irshores.com](mailto:townmanager@irshores.com)

*/s/ Suzanne Brownless*

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SUZANNE S. BROWNLESS  
Special Counsel, Office of the General Counsel

FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
(850) 413-6199

[Home](#)   [Bills](#)   [HB 725](#)

HB 725 - Municipal Electric Utilities

**General Bill** by Mayfield

**Municipal Electric Utilities:** Provides that certain municipal electric utilities are not exempt from specified provisions regulating public utilities; provides that PSC has authority to enforce provisions of act; provides rulemaking authority.

**Effective Date:** upon becoming a law

**Last Event:** Died in Energy & Utilities Policy Committee on Friday, April 30, 2010 6:59 PM

Referred Committees and Committee Actions

House Referrals

- [Energy & Utilities Policy Committee](#)
- [Military & Local Affairs Policy Committee](#)
- [Government Operations Appropriations Committee](#)
- [General Government Policy Council](#)

Related Bills

Bill #	Subject	Relationship
<a href="#">SB 2632</a>	Municipal Electric Utilities [EPSC]	Similar

Bill Text

[Original Filed Version](#)

Staff Analysis

(None Available)

Vote History

(no votes recorded)

Bill History

Event	Time	Member	Committee	Ver.
H Died in Energy & Utilities Policy Committee	4/30/2010 - 6:59 PM		<a href="#">Energy &amp; Utilities Policy Committee</a>	—
H 1st Reading	3/02/2010 - 10:50 PM			—
H Now in Energy & Utilities Policy Committee	1/28/2010 - 2:54 PM		<a href="#">Energy &amp; Utilities Policy Committee</a>	—
H Referred to General Government Policy Council	1/28/2010 - 2:54 PM		<a href="#">General Government Policy Council</a>	—
H Referred to Government Operations Appropriations Committee	1/28/2010 - 2:54 PM		<a href="#">Government Operations Appropriations Committee</a>	—
H Referred to Military & Local Affairs Policy Committee	1/28/2010 - 2:54 PM		<a href="#">Military &amp; Local Affairs Policy Committee</a>	—
H Referred to Energy & Utilities Policy Committee	1/28/2010 - 2:54 PM		<a href="#">Energy &amp; Utilities Policy Committee</a>	—
H Filed	1/19/2010 - 10:19 AM	<a href="#">Mayfield</a>		—

Statutes Referenced by this Bill

[366.11](#)

[366.02](#)

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1                                   A bill to be entitled  
 2           An act relating to municipal electric utilities; amending  
 3           s. 366.02, F.S.; revising the definition of the term  
 4           "public utility" to include certain municipal electric  
 5           utilities for a specified minimum period; amending s.  
 6           366.11, F.S.; providing that such municipal electric  
 7           utilities are not exempt from specified provisions  
 8           regulating public utilities; providing that the Florida  
 9           Public Service Commission has the authority to enforce the  
 10          provisions of the act; providing rulemaking authority;  
 11          providing an effective date.

12  
 13   Be It Enacted by the Legislature of the State of Florida:

14  
 15           Section 1. Subsection (1) of section 366.02, Florida  
 16   Statutes, is amended to read:

17           366.02 Definitions.—As used in this chapter:

18           (1) "Public utility" means every person, corporation,  
 19   partnership, association, or other legal entity and their  
 20   lessees, trustees, or receivers supplying electricity or gas  
 21   (natural, manufactured, or similar gaseous substance) to or for  
 22   the public within this state; but the term "public utility" does  
 23   not include either a cooperative now or hereafter organized and  
 24   existing under the Rural Electric Cooperative Law of the state;  
 25   a municipality or any agency thereof, except for a municipality  
 26   or agency thereof that is supplying electricity to or for the  
 27   public and has less than 45 percent of its total retail electric  
 28   customers receiving service at physical addresses located within

29 | its corporate boundaries; any dependent or independent special  
 30 | natural gas district; any natural gas transmission pipeline  
 31 | company making only sales or transportation delivery of natural  
 32 | gas at wholesale and to direct industrial consumers; any entity  
 33 | selling or arranging for sales of natural gas which neither owns  
 34 | nor operates natural gas transmission or distribution facilities  
 35 | within the state; or a person supplying liquefied petroleum gas,  
 36 | in either liquid or gaseous form, irrespective of the method of  
 37 | distribution or delivery, or owning or operating facilities  
 38 | beyond the outlet of a meter through which natural gas is  
 39 | supplied for compression and delivery into motor vehicle fuel  
 40 | tanks or other transportation containers, unless such person  
 41 | also supplies electricity or manufactured or natural gas. A  
 42 | municipality or agency thereof that qualifies as a public  
 43 | utility under this subsection shall be treated as a public  
 44 | utility for a minimum of 5 years.

45 | Section 2. Subsection (1) of section 366.11, Florida  
 46 | Statutes, is amended to read:

47 | 366.11 Certain exemptions.—

48 | (1) No provision of this chapter shall apply in any  
 49 | manner, other than as specified in ss. 366.04, 366.05(7) and  
 50 | (8), 366.051, 366.055, 366.093, 366.095, 366.14, 366.80-366.85,  
 51 | and 366.91, to utilities owned and operated by municipalities,  
 52 | except those defined as public utilities pursuant to s.  
 53 | 366.02(1), whether within or without any municipality, or by  
 54 | cooperatives organized and existing under the Rural Electric  
 55 | Cooperative Law of the state, or to the sale of electricity,  
 56 | manufactured gas, or natural gas at wholesale by any public

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2010

57 utility to, and the purchase by, any municipality or cooperative  
 58 under and pursuant to any contracts now in effect or which may  
 59 be entered into in the future, when such municipality or  
 60 cooperative is engaged in the sale and distribution of  
 61 electricity or manufactured or natural gas, or to the rates  
 62 provided for in such contracts.

63 Section 3. The Florida Public Service Commission shall  
 64 have jurisdiction to enforce the provisions of this act and is  
 65 authorized to adopt rules to implement this act.

66 Section 4. This act shall take effect upon becoming a law.

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HB 1397 - City of Vero Beach, Indian River County

**Local Bill** by Mayfield

**City of Vero Beach, Indian River County:** Provides that city utility is public utility for certain purposes & subject to jurisdiction of Florida Public Service Commission; requires that city set fair, just, & reasonable rates; prescribes criteria for establishing revenue requirement; provides that PSC has authority to enforce provisions of act.

**Effective Date:** upon becoming a law

**Last Event:** Died in Military & Local Affairs Policy Committee on Friday, April 30, 2010 6:59 PM

Referred Committees and Committee Actions

House Referrals

- [Military & Local Affairs Policy Committee](#)
- [Energy & Utilities Policy Committee](#)
- [Economic Development & Community Affairs Policy Council](#)

Related Bills

(no related bills on record)

Bill Text

[Original Filed Version](#)

Staff Analysis

(None Available)

Vote History

(no votes recorded)

Bill History

Event	Time	Member	Committee	Ver.
H Died in Military & Local Affairs Policy Committee	4/30/2010 - 6:59 PM		<a href="#">Military &amp; Local Affairs Policy Committee</a>	—
H Now in Military & Local Affairs Policy Committee	3/10/2010 - 4:16 PM		<a href="#">Military &amp; Local Affairs Policy Committee</a>	—
H Referred to Economic Development & Community Affairs Policy Council	3/10/2010 - 4:16 PM		<a href="#">Economic Development &amp; Community Affairs Policy Council</a>	—
H Referred to Energy & Utilities Policy Committee	3/10/2010 - 4:16 PM		<a href="#">Energy &amp; Utilities Policy Committee</a>	—
H Referred to Military & Local Affairs Policy Committee	3/10/2010 - 4:16 PM		<a href="#">Military &amp; Local Affairs Policy Committee</a>	—
H 1st Reading	3/02/2010 - 10:50 PM			—
H Filed	2/26/2010 - 11:23 AM	<a href="#">Mayfield</a>		—

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A bill to be entitled  
An act relating to the City of Vero Beach, Indian River County; providing that the City of Vero Beach Electric Utility is a public utility for purposes of chapter 366, F.S., and is subject to the jurisdiction of the Florida Public Service Commission; requiring that the city set rates that are fair, just, and reasonable; prescribing criteria for the establishment of the revenue requirement; providing that the Florida Public Service Commission has the authority to enforce the provisions of this act; providing an effective date.

WHEREAS, it is determined by the Legislature to be in the best interest of the customers that the rates of the City of Vero Beach Electric Utility be fair, just, and reasonable, and

WHEREAS, the City of Vero Beach Electric Utility makes transfers to the City of Vero Beach General Fund of \$4.893 million annually, and

WHEREAS, a significant number of customers of the utility reside outside of the City of Vero Beach and are not represented by the City of Vero Beach, NOW, THEREFORE:

Be It Enacted by the Legislature of the State of Florida:

Section 1. Notwithstanding sections 366.02(1) and 366.11(1), Florida Statutes, the City of Vero Beach Electric Utility shall be considered a public utility for purposes of

28 chapter 366, Florida Statutes, and shall be subject to the  
29 jurisdiction of the Florida Public Service Commission.

30 Section 2. The rates charged by the City of Vero Beach  
31 shall be fair, just, and reasonable, in accordance with chapter  
32 366, Florida Statutes, as determined by the Florida Public  
33 Service Commission.

34 Section 3. Nothing in this act prohibits the City of Vero  
35 Beach from levying a municipal utility tax on the utility  
36 customers residing within the city boundaries, or from seeking a  
37 county electric surcharge to be applied to customers residing  
38 outside the city, if a cost differential for providing service  
39 outside the city can be justified.

40 Section 4. The Florida Public Service Commission shall  
41 have jurisdiction to enforce the provisions of this act and is  
42 authorized to adopt rules to implement this act.

43 Section 5. This act shall take effect upon becoming a law.

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HB 899 - City of Vero Beach, Indian River County

**Local Bill** by Mayfield

**City of Vero Beach, Indian River County:** Provides that city utility is public utility for certain purposes & subject to jurisdiction of Florida Public Service Commission; requires that city set fair, just, & reasonable rates; prescribes criteria for establishing revenue requirement; provides that PSC has authority to enforce provisions of act; provides circumstances under which utility is not public utility & not required to comply with act.

**Effective Date:** July 1, 2011

**Last Event:** Died in Energy & Utilities Subcommittee on Saturday, May 7, 2011 2:07 AM

Referred Committees and Committee Actions

House Referrals

- [Energy & Utilities Subcommittee](#)
- [Rulemaking & Regulation Subcommittee](#)
- [Economic Affairs Committee](#)
- [State Affairs Committee](#)

Related Bills

(no related bills on record)

Bill Text

[Original Filed Version](#)

Staff Analysis

(None Available)

Vote History

(no votes recorded)

Bill History

Event	Time	Member	Committee	Ver.
H Died in Energy & Utilities Subcommittee	5/07/2011 - 2:07 AM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Indefinitely postponed and withdrawn from consideration	5/07/2011 - 12:01 AM			—
H 1st Reading	3/08/2011 - 10:24 PM			—
H Now in Energy & Utilities Subcommittee	3/03/2011 - 9:50 AM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Referred to State Affairs Committee	3/03/2011 - 9:50 AM		<a href="#">State Affairs Committee</a>	—
H Referred to Economic Affairs Committee	3/03/2011 - 9:50 AM		<a href="#">Economic Affairs Committee</a>	—
H Referred to Rulemaking & Regulation Subcommittee	3/03/2011 - 9:50 AM		<a href="#">Rulemaking &amp; Regulation Subcommittee</a>	—
H Referred to Energy & Utilities Subcommittee	3/03/2011 - 9:50 AM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Filed	2/22/2011 - 11:15 AM	<a href="#">Mayfield</a>		—

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1                                   A bill to be entitled  
 2           An act relating to the City of Vero Beach, Indian River  
 3           County; providing that the City of Vero Beach Electric  
 4           Utility is a public utility for purposes of chapter 366,  
 5           F.S., and is subject to the jurisdiction of the Florida  
 6           Public Service Commission; requiring that the city set  
 7           rates that are fair, just, and reasonable; prescribing  
 8           criteria for the establishment of the revenue requirement;  
 9           providing that the Florida Public Service Commission has  
 10          the authority to enforce the provisions of this act and is  
 11          authorized to adopt rules; providing that the utility  
 12          shall not be considered a public utility and shall not be  
 13          required to comply with this act under certain  
 14          circumstances; providing an effective date.

15  
 16          WHEREAS, it is determined by the Legislature to be in the  
 17          best interest of the customers that the rates of the City of  
 18          Vero Beach Electric Utility be fair, just, and reasonable, and

19          WHEREAS, the City of Vero Beach Electric Utility makes  
 20          transfers to the City of Vero Beach General Fund of  
 21          approximately \$5 million annually, and

22          WHEREAS, a significant number of customers of the utility  
 23          reside outside of the City of Vero Beach and are not represented  
 24          by the City of Vero Beach, NOW, THEREFORE:

25  
 26          Be It Enacted by the Legislature of the State of Florida:  
 27

28           Section 1. Notwithstanding sections 366.02(1) and  
 29 366.11(1), Florida Statutes, the City of Vero Beach Electric  
 30 Utility shall be considered a public utility for purposes of  
 31 chapter 366, Florida Statutes, and shall be subject to the  
 32 jurisdiction of the Florida Public Service Commission.

33           Section 2. The rates charged by the City of Vero Beach  
 34 shall be fair, just, and reasonable, in accordance with chapter  
 35 366, Florida Statutes, as determined by the Florida Public  
 36 Service Commission.

37           Section 3. Nothing in this act prohibits the City of Vero  
 38 Beach from levying a municipal utility tax on the utility  
 39 customers residing within the city boundaries, or from seeking a  
 40 county electric surcharge to be applied to customers residing  
 41 outside the city, if a cost differential for providing service  
 42 outside the city can be justified.

43           Section 4. The Florida Public Service Commission shall  
 44 have jurisdiction to enforce the provisions of this act and is  
 45 authorized to adopt rules to implement this act.

46           Section 5. The City of Vero Beach Electric Utility shall  
 47 not be considered a public utility as described in section 1 and  
 48 shall not be required to comply with the provisions of this act  
 49 if the City of Vero Beach Electric Utility ceases to provide  
 50 service for customers residing outside of the City of Vero  
 51 Beach.

52           Section 6. This act shall take effect July 1, 2011.

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HB 733 - Government-Owned Utilities

**General Bill** by Mayfield (CO-SPONSORS) Van Zant

**Government-Owned Utilities:** Revises conditions for county to furnish certain utility facilities to property being furnished like facilities by municipality; provides that certain corporate powers of municipality relating to utility facilities do not extend or apply within unincorporated areas of county without consent of board of county commissioners of such county; revises provisions relating to jurisdiction of PSC public utilities providing electricity or gas; revises definition of term "public utility" to include municipalities that supply electricity or gas outside of their incorporated limits; revises provisions relating to regulation by commission of water & wastewater utilities; requires that municipal utility that sells water or wastewater utility service outside of its incorporated limits be regulated.

**Effective Date:** July 1, 2013

**Last Event:** Died in Energy & Utilities Subcommittee on Friday, May 3, 2013 7:16 PM

Referred Committees and Committee Actions

House Referrals

- [Energy & Utilities Subcommittee](#)
- [Local & Federal Affairs Committee](#)
- [Government Operations Appropriations Subcommittee](#)
- [Regulatory Affairs Committee](#)

Related Bills

Bill #	Subject	Relationship
<a href="#">SB 1620</a>	Municipal Public Works	Compare

Bill Text

[Original Filed Version](#)

Staff Analysis

(None Available)

Vote History

(no votes recorded)

Bill History

Event	Time	Member	Committee	Ver.
H Died in Energy & Utilities Subcommittee	5/03/2013 - 7:16 PM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H 1st Reading	3/05/2013 - 11:59 PM			—
H Now in Energy & Utilities Subcommittee	2/20/2013 - 2:54 PM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Referred to Regulatory Affairs Committee	2/20/2013 - 2:54 PM		<a href="#">Regulatory Affairs Committee</a>	—
H Referred to Government Operations Appropriations Subcommittee	2/20/2013 - 2:54 PM		<a href="#">Government Operations Appropriations Subcommittee</a>	—
H Referred to Local & Federal Affairs Committee	2/20/2013 - 2:54 PM		<a href="#">Local &amp; Federal Affairs Committee</a>	—
H Referred to Energy & Utilities Subcommittee	2/20/2013 - 2:54 PM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Filed	2/12/2013 - 2:05 PM	<a href="#">Mayfield</a>		—

Statutes Referenced by this Bill

- [153.03](#)
- [180.02](#)
- [366.02](#)
- [367.022](#)

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1                                   A bill to be entitled  
 2           An act relating to government-owned utilities;  
 3           amending s. 153.03, F.S.; revising conditions for a  
 4           county to furnish certain utility facilities to  
 5           property being furnished like facilities by a  
 6           municipality; amending s. 180.02, F.S.; providing that  
 7           certain corporate powers of a municipality relating to  
 8           utility facilities do not extend or apply within the  
 9           unincorporated areas of any county without the consent  
 10          of the board of county commissioners of such county;  
 11          amending s. 366.02, F.S., relating to jurisdiction of  
 12          the Public Service Commission over public utilities  
 13          providing electricity or gas; revising the definition  
 14          of the term "public utility" to include any  
 15          municipality that supplies electricity or gas outside  
 16          of its incorporated limits; amending s. 367.022, F.S.,  
 17          relating to regulation by the commission of water and  
 18          wastewater utilities; requiring that any municipal  
 19          utility that sells water or wastewater utility service  
 20          outside of its incorporated limits be regulated;  
 21          providing an effective date.

22  
 23   Be It Enacted by the Legislature of the State of Florida:

24  
 25           Section 1. Subsection (1) of section 153.03, Florida  
 26   Statutes, is amended to read:  
 27           153.03 General grant of power.—Any of the several counties  
 28   of the state which may hereafter come under the provisions of

29 | this chapter as hereinafter provided is hereby authorized and  
 30 | empowered:

31 |       (1) To purchase or ~~and/or~~ construct and to improve,  
 32 | extend, enlarge, and reconstruct a water supply system or  
 33 | systems or sewage disposal system or systems, or both, within  
 34 | such county and any adjoining county or counties and to purchase  
 35 | or ~~and/or~~ construct or reconstruct water system improvements or  
 36 | sewer improvements, or both, within such county and any  
 37 | adjoining county or counties and to operate, manage, and control  
 38 | all such systems so purchased or ~~and/or~~ constructed and all  
 39 | properties pertaining thereto and to furnish and supply water  
 40 | and sewage collection and disposal services to any of such  
 41 | counties and to any municipalities and any persons, firms, or  
 42 | corporations, public or private, in any of such counties. ~~+~~  
 43 | ~~provided,~~ However, ~~that~~ none of the facilities provided for  
 44 | under ~~by~~ this chapter may be constructed, owned, operated, or  
 45 | maintained by the county on property located within the  
 46 | corporate limits of any municipality without the consent of the  
 47 | council, commission, or body having general legislative  
 48 | authority in the government of such municipality unless such  
 49 | facilities were owned by the county on such property prior to  
 50 | the time such property was included within the corporate limits  
 51 | of the ~~such~~ municipality. A ~~No~~ county may not ~~shall~~ furnish any  
 52 | of the facilities provided for under ~~by~~ this chapter to any  
 53 | property already being furnished like facilities by any  
 54 | municipality:

55 |       (a) Without the express consent of the council,  
 56 | commission, or body having general legislative authority in the

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2013

57 government of such municipality; however, such consent is not  
 58 required if the municipality furnished such services in an  
 59 unincorporated area of the county pursuant to a franchise  
 60 agreement, resolution, or ordinance which has expired; and

61 (b) Without first holding a referendum of qualified voters  
 62 residing in the area proposed to be served by the county, or a  
 63 mail survey of owners of property located in the area proposed  
 64 to be served by the county, which referendum or survey indicates  
 65 that a majority of those voting or responding to the survey  
 66 prefer to be served by the county.

67 Section 2. Subsection (2) of section 180.02, Florida  
 68 Statutes, is amended to read:

69 180.02 Powers of municipalities.—

70 (2) Any municipality may extend and execute all of its  
 71 corporate powers applicable for the accomplishment of the  
 72 purposes of this chapter outside of its corporate limits, as  
 73 hereinafter provided and as may be desirable or necessary for  
 74 the promotion of the public health, safety, and welfare or for  
 75 the accomplishment of the purposes of this chapter. ~~;~~ ~~provided,~~  
 76 However, such that said corporate powers do shall not extend or  
 77 apply within the corporate limits of another municipality or  
 78 extend or apply within the unincorporated areas of any county  
 79 without the consent of the board of county commissioners of such  
 80 county.

81 Section 3. Section 366.02, Florida Statutes, is amended to  
 82 read:

83 366.02 Definitions.—As used in this chapter, the term:

84 (1) "Public utility" means every person, corporation,

85 partnership, association, or other legal entity and their  
 86 lessees, trustees, or receivers supplying electricity or gas  
 87 (natural, manufactured, or similar gaseous substance) to or for  
 88 the public within this state. The term includes any municipality  
 89 that supplies electricity or gas outside of its incorporated  
 90 limits, including selling electricity or gas to other  
 91 municipalities or providing electricity or gas directly to  
 92 customers in unincorporated areas. ~~but~~ The term "~~public~~  
 93 ~~utility~~" does not include either a cooperative now or hereafter  
 94 organized and existing under the Rural Electric Cooperative Law  
 95 of the state; a municipality supplying electricity or gas solely  
 96 within its corporate boundaries or any agency thereof; any  
 97 dependent or independent special natural gas district; any  
 98 natural gas transmission pipeline company making only sales or  
 99 transportation delivery of natural gas at wholesale and to  
 100 direct industrial consumers; any entity selling or arranging for  
 101 sales of natural gas which neither owns nor operates natural gas  
 102 transmission or distribution facilities within the state; or a  
 103 person supplying liquefied petroleum gas, in either liquid or  
 104 gaseous form, irrespective of the method of distribution or  
 105 delivery, or owning or operating facilities beyond the outlet of  
 106 a meter through which natural gas is supplied for compression  
 107 and delivery into motor vehicle fuel tanks or other  
 108 transportation containers, unless such person also supplies  
 109 electricity or manufactured or natural gas.

110 (2) "Electric utility" means any municipal electric  
 111 utility, investor-owned electric utility, or rural electric  
 112 cooperative which owns, maintains, or operates an electric

113 generation, transmission, or distribution system within the  
 114 state.

115 (3) "Commission" means the Florida Public Service  
 116 Commission.

117 Section 4. Subsection (2) of section 367.022, Florida  
 118 Statutes, is amended to read:

119 367.022 Exemptions.—The following are not subject to  
 120 regulation by the commission as a utility nor are they subject  
 121 to the provisions of this chapter, except as expressly provided:

122 (2) Systems owned, operated, managed, or controlled by  
 123 governmental authorities, including water or wastewater  
 124 facilities operated by private firms under water or wastewater  
 125 facility privatization contracts as defined in s. 153.91, and  
 126 nonprofit corporations formed for the purpose of acting on  
 127 behalf of a political subdivision with respect to a water or  
 128 wastewater facility; however, any municipality that sells water  
 129 or wastewater utility service, directly or indirectly, outside  
 130 of its incorporated limits, including selling utility services  
 131 to other municipalities or providing utility services directly  
 132 to customers in unincorporated areas of a county, is subject to  
 133 regulation by the commission.

134 Section 5. This act shall take effect July 1, 2013.

[Home](#) [Bills](#) [HB 813](#)

HB 813 - Water and Wastewater Utilities

**General Bill** by Mayfield (CO-SPONSORS) Santiago; Van Zant

**Water and Wastewater Utilities:** Designates act as "Ratepayer Representation Act"; prohibits county from providing water or sewer services in unincorporated areas covered by agreement with municipality; authorizes county to services when agreement does not provide expiration date; specifies that corporate powers of municipality do not apply to unincorporated areas of county without county's express consent; limits amount of water & sewer utility rates, fees, charges, & surcharges that municipality may impose on consumers outside of municipality's boundaries or ratepayers in unincorporated areas of county; requires PSC approval of such rates, fees, charges, & surcharges; authorizes ratepayers in unincorporated areas to petition PSC for determination whether rates, fees, & charges imposed by municipality are just & equitable; provides that PSC has regulatory authority over municipality that provides water or wastewater utility service in unincorporated areas of county; requires PSC approval before municipality purchases certain water or wastewater facilities.

**Effective Date:** July 1, 2014

**Last Event:** Died in Energy & Utilities Subcommittee on Friday, May 2, 2014 10:39 PM

Referred Committees and Committee Actions

House Referrals

- **Energy & Utilities Subcommittee**  
On agenda for: 03/18/14 3:00 PM [View Notice](#)  
Retained (*final action*)
- On agenda for: 03/24/14 12:30 PM [View Notice](#)  
Temporarily Postponed (*final action*)
- **Government Operations Appropriations Subcommittee**
- **Regulatory Affairs Committee**

Related Bills

Bill #	Subject	Relationship
<a href="#">SB 1248</a>	Water and Wastewater Utilities	Similar

Bill Text

Original Filed Version

A <a href="#">914459</a> , Watson, B. (EUS)	Date Filed: 03/18/14, Line#: 213	House(c): Withdrawn 03/18/2014 06:00 PM
D <a href="#">033069</a> , Mayfield (EUS)	Date Filed: 03/17/14, Line#: 0	House(c): Withdrawn 03/18/2014 06:00 PM
D <a href="#">511155</a> , Mayfield (EUS)	Date Filed: 03/18/14, Line#: 0	House(c): Adopted 03/18/2014 06:00 PM

Staff Analysis

Chamber	Committee
House	<a href="#">Energy &amp; Utilities Subcommittee 3/18/2014 9:54:18 AM</a>
House	<a href="#">Energy &amp; Utilities Subcommittee 3/18/2014 9:52:46 AM --UnPublished--</a>

Vote History

(no votes recorded)

Bill History

Event	Time	Member	Committee	Ver.
H Died in Energy & Utilities Subcommittee	5/02/2014 - 10:39 PM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Added to Energy & Utilities Subcommittee agenda	3/25/2014 - 7:02 PM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Added to Energy & Utilities Subcommittee agenda	3/14/2014 - 4:28 PM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H 1st Reading	3/04/2014 - 11:50 PM			—
H Now in Energy & Utilities Subcommittee	2/14/2014 - 11:59 AM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Referred to Regulatory Affairs Committee	2/14/2014 - 11:59 AM		<a href="#">Regulatory Affairs Committee</a>	—
H Referred to Government Operations Appropriations Subcommittee	2/14/2014 - 11:59 AM		<a href="#">Government Operations Appropriations Subcommittee</a>	—
H Referred to Energy & Utilities Subcommittee	2/14/2014 - 11:59 AM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—

H Filed

2/05/2014 - 8:45 AM

Mayfield

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**Statutes Referenced by this Bill**

[153.03](#)

[180.02](#)

[180.191](#)

[367.022](#)

[367.071](#)

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27 requiring the commission's approval of such surcharges  
 28 in certain circumstances; providing for expiration of  
 29 surcharges imposed before a specified date;  
 30 authorizing ratepayers in unincorporated areas to  
 31 petition the commission for determination whether  
 32 rates, fees, and charges imposed by a municipality are  
 33 just and equitable; amending s. 367.022, F.S.;

34 providing that the commission has regulatory authority  
 35 over a municipality that provides water or wastewater  
 36 utility service in unincorporated areas of a county;  
 37 amending s. 367.071, F.S.; requiring commission  
 38 approval before a municipality may purchase certain  
 39 water or wastewater facilities; providing an effective  
 40 date.

41  
 42 Be It Enacted by the Legislature of the State of Florida:

43  
 44 Section 1. This act may be cited as the "Ratepayer  
 45 Representation Act."

46 Section 2. Section 153.03, Florida Statutes, is amended to  
 47 read:

48 153.03 General grant of power.—A county ~~Any of the several~~  
 49 ~~counties of the state which may hereafter come under the~~  
 50 ~~provisions of this chapter as hereinafter provided~~ is hereby  
 51 authorized ~~and empowered~~:

52 (1) To purchase or ~~and/or~~ construct and to improve,

53 extend, enlarge, or ~~and~~ reconstruct a water supply system ~~or~~  
 54 ~~systems~~ or sewage disposal system ~~or systems, or both,~~ within  
 55 the such county and any adjoining ~~county or counties;~~ and to  
 56 ~~purchase and/or construct or reconstruct water system~~  
 57 ~~improvements or sewer improvements, or both, within such county~~  
 58 ~~and any adjoining county or counties and to operate, manage, and~~  
 59 control those all such systems ~~so purchased and/or constructed~~  
 60 and all properties pertaining thereto; and to furnish and supply  
 61 water and sewage collection and disposal services to any of such  
 62 counties and to any municipalities and any persons, firms, or  
 63 corporations, public or private, in any of such counties. +  
 64 ~~provided,~~ However, ~~that~~ none of the facilities described in  
 65 ~~provided by~~ this chapter may be constructed, owned, operated, or  
 66 maintained by the county on property located within the  
 67 corporate limits of a any municipality without the consent of  
 68 the governing council, commission or body having general  
 69 ~~legislative authority in the government~~ of such municipality  
 70 unless the such facilities were owned by the county before the  
 71 ~~on such property prior to the time such~~ property was included  
 72 within the corporate limits of the such municipality.

73 (a) If a municipality and a county have entered into a  
 74 franchise agreement, resolution, or ordinance that authorizes  
 75 the municipality to provide water and sewage collection and  
 76 disposal services in an unincorporated area of the county, the  
 77 ~~No~~ county may not shall furnish any of the facilities described  
 78 in provided by this chapter to that unincorporated area any

79 ~~property already being furnished like facilities by any~~  
 80 ~~municipality~~ without the express consent of the governing  
 81 ~~council, commission or body having general legislative authority~~  
 82 ~~in the government of that such municipality~~ until the franchise  
 83 agreement, resolution, or ordinance has expired. The county must  
 84 also compensate the municipality for the fair market value of  
 85 the facilities owned by the municipality that are transferred to  
 86 the county to serve the unincorporated area of the county.

87 (b) If the franchise agreement, resolution, or ordinance  
 88 contains no expiration date, the county may provide services  
 89 subject to meeting the following requirements:

90 1. A majority of the ratepayers in the unincorporated area  
 91 of the county served by the municipality, either by vote in a  
 92 referendum or written response to a mail survey, have agreed to  
 93 be served by the county; and

94 2. The county compensates the municipality for the fair  
 95 market value of such facilities owned by the municipality that  
 96 are transferred to the county to serve the unincorporated area  
 97 of the county.

98 (2) To issue water revenue bonds and/or sewer revenue  
 99 bonds or general obligation bonds of the county to pay all or a  
 100 part of the cost of such purchase and/or construction or  
 101 reconstruction.

102 (3) To fix and collect rates, fees and other charges for  
 103 the service and facilities furnished by any such water supply  
 104 system or water system improvements and sewage disposal system

105 | or sewer improvements and to fix and collect charges for making  
 106 | connections with the water system of the county.

107 |       (4) To receive and accept from the Federal Government or  
 108 | any agency thereof grants for or in aid of the planning,  
 109 | purchase, construction, reconstruction, or financing of any  
 110 | facility and to receive and accept contributions from any source  
 111 | of either money, property, labor, or other things of value to be  
 112 | held, used, and applied only for the purpose for which such  
 113 | grants and contributions may be made.

114 |       (5) To acquire in the name of the county by gift, purchase  
 115 | as hereinafter provided or by the exercise of the right of  
 116 | eminent domain, such lands and rights and interests therein,  
 117 | including lands under water and riparian rights, and to acquire  
 118 | such personal property as it may deem necessary for the  
 119 | efficient operation or for the extension of or the improvement  
 120 | of any facility purchased or constructed under the provisions of  
 121 | this chapter and to hold and dispose of all real and personal  
 122 | property under its control; provided, however, that no county  
 123 | shall have the right to exercise the right of eminent domain  
 124 | over any such lands or rights or interests therein or any  
 125 | personal property owned by any municipality within the state nor  
 126 | to exercise such right with respect to any privately owned water  
 127 | supply system or sewage disposal system including without  
 128 | limitation ponds, streams and surface waters constituting a part  
 129 | thereof, provided any such system is primarily used, owned or  
 130 | operated by an industrial or manufacturing plant for its own use

131 as a water supply system or in disposing of its industrial  
 132 wastes.

133 (6) To make and enter into all contracts and agreements  
 134 necessary or incidental to the performance of its duties and the  
 135 execution of its powers under this chapter and to employ such  
 136 consulting and other engineers, superintendents, managers,  
 137 construction and accounting experts and attorneys and such other  
 138 employees and agents as it may deem necessary in its judgment  
 139 and to fix their compensation.

140 (7) Subject to the provisions and restrictions as may be  
 141 set forth in the resolution hereinafter mentioned authorizing or  
 142 securing any bonds issued under the provisions of this chapter  
 143 to enter into contracts with the government of the United States  
 144 or any agency or instrumentality thereof or with any other  
 145 county or with any municipality, private corporation,  
 146 copartnership, association, or individual providing for or  
 147 relating to the acquisition and supplying of water and the  
 148 collection, treatment and disposal of sewage.

149 (8) To acquire by gift or purchase at a price to be  
 150 mutually agreed upon, any of the facilities or portions thereof,  
 151 provided for by this chapter, which shall, prior to such  
 152 acquisition, have been owned by any private person, group, firm,  
 153 partnership, association or corporation; provided, however, if  
 154 the price for same cannot be agreed upon, the price shall be  
 155 determined by an arbitration board consisting of three persons,  
 156 one of whom shall be selected by the board of county

157 commissioners, one shall be appointed by the private company or  
 158 corporation, and the two persons so selected shall select a  
 159 third member of said board; and provided, further, that in the  
 160 event said board cannot agree as to the price to be paid by the  
 161 said board of county commissioners, then the board of county  
 162 commissioners shall exercise the right of eminent domain.

163 (9) To enter into agreements and contracts with building  
 164 contractors erecting improvements within any duly platted  
 165 subdivision within the county, the terms of which said  
 166 agreements or contracts may provide that such building  
 167 contractors shall install within such subdivision water mains,  
 168 lines and equipment and sewer mains and lines, to be approved by  
 169 the county commission, said mains and lines to run to a point or  
 170 location to be agreed upon, at which said point or location said  
 171 mains and lines shall be connected to the water supply system or  
 172 water system improvements and/or to the sewage disposal system  
 173 or sewer improvements of the county. In the event such  
 174 agreements or contracts are entered into they shall provide that  
 175 upon the connection of the mains or lines within the subdivision  
 176 to the water or sewer facilities of the county said mains, lines  
 177 and equipment running to the various privately owned parcels of  
 178 land within such subdivision shall become the property of the  
 179 county and shall become a part of the county water system  
 180 improvements and/or sewer improvements.

181 (10) To restrain, enjoin or otherwise prevent any person  
 182 or corporation, public or private, from contaminating or

183 | polluting (as defined in s. 387.08) any source of water supply  
184 | from which is obtained water for human consumption to be used in  
185 | any water supply system or water system improvement as  
186 | authorized by this chapter, and to restrain, enjoin or otherwise  
187 | prevent the violation of any provision of this chapter or any  
188 | resolution, rule or regulation adopted pursuant to the powers  
189 | granted by this chapter; provided, however, that this chapter  
190 | shall not apply to or affect any existing contract that a  
191 | municipality may have for water or sewage disposal without the  
192 | consent of both parties to said contract but this subsection  
193 | shall not authorize the institution or prosecution of any  
194 | proceeding hereunder nor the adoption of any resolution, rule or  
195 | regulation which shall in anywise affect the right of any  
196 | industrial or manufacturing plant to discharge industrial waste  
197 | into any nonnavigable or navigable waters unless such waters are  
198 | now being used or are hereafter used hereunder as a source of  
199 | water for human consumption and unless the industrial wastes of  
200 | any such plant are not being discharged into such waters prior  
201 | to the time that action is taken by the commission under this  
202 | chapter to include such water as a part of any water supply  
203 | system.

204 |       (11) To acquire by gift or purchase, at such price, and  
205 | upon such deferred or other terms, as may be mutually agreed  
206 | upon, all the capital stock of any domestic or foreign  
207 | corporation which, prior to such acquisition, shall have owned  
208 | or operated any of the facilities or portions thereof provided

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209 for by this chapter; to pledge the revenues from the facilities  
 210 as security for payment of the purchase price for said stock;  
 211 and to operate the facilities through the corporation so  
 212 acquired or to dissolve said corporation and operate the  
 213 facilities in any other manner authorized by law.

214 Section 3. Subsection (2) of section 180.02, Florida  
 215 Statutes, is amended to read:

216 180.02 Powers of municipalities.—

217 (2) A ~~Any~~ municipality may extend and execute all of its  
 218 applicable corporate powers to accomplish ~~applicable for the~~  
 219 ~~accomplishment of~~ the purposes of this chapter outside of its  
 220 corporate limits, ~~as hereinafter provided and~~ as may be  
 221 desirable or necessary to promote ~~for the promotion of~~ the  
 222 public health, safety, and welfare or to accomplish ~~for the~~  
 223 ~~accomplishment of~~ the purposes of this chapter. ~~;~~ provided,  
 224 However, such ~~that said~~ corporate powers do ~~shall~~ not extend or  
 225 apply within the corporate limits of another municipality or  
 226 extend or apply within the unincorporated areas of a county  
 227 without the express consent of a majority of the commissioners  
 228 at a duly noticed meeting of the board of county commissioners  
 229 of that county.

230 Section 4. Section 180.191, Florida Statutes, is amended  
 231 to read:

232 180.191 Limitation on rates charged consumer outside city  
 233 limits.—

234 (1) Any municipality within the state operating a water or

235 sewer utility outside of the boundaries of such municipality  
 236 shall charge consumers outside the boundaries rates, fees, and  
 237 charges determined in one of the following manners:

238 (a) It may charge the same rates, fees, and charges as  
 239 consumers inside the municipal boundaries. ~~However, in addition~~  
 240 ~~thereto, the municipality may add a surcharge of not more than~~  
 241 ~~25 percent of such rates, fees, and charges to consumers outside~~  
 242 ~~the boundaries.~~ Fixing of such rates, fees, and charges in this  
 243 manner shall not require a public hearing except as may be  
 244 provided for service to consumers inside the municipality.

245 (b) It may charge rates, fees, and charges that are just  
 246 and equitable and which are based on the same factors used in  
 247 fixing the rates, fees, and charges for consumers inside the  
 248 municipal boundaries. ~~In addition thereto, the municipality may~~  
 249 ~~add a surcharge not to exceed 25 percent of such rates, fees,~~  
 250 ~~and charges for said services to consumers outside the~~  
 251 ~~boundaries.~~ However, the total of all such rates, fees, and  
 252 charges for the services to consumers outside the boundaries  
 253 shall not be more than 25 50 percent greater than ~~in excess of~~  
 254 the total amount the municipality charges consumers served  
 255 within the municipality for corresponding service. No such  
 256 rates, fees, and charges shall be imposed which are greater than  
 257 the total amount charged to consumers within the municipal  
 258 boundaries until the Public Service Commission reviews and  
 259 approves the rates, fees, and charges and determines they are  
 260 just and equitable ~~fixed until after a public hearing at which~~

261 ~~all of the users of the water or sewer systems; owners, tenants,~~  
 262 ~~or occupants of property served or to be served thereby; and all~~  
 263 ~~others interested shall have an opportunity to be heard~~  
 264 ~~concerning the proposed rates, fees, and charges. Any change or~~  
 265 ~~revision of such rates, fees, or charges may be made in the same~~  
 266 ~~manner as such rates, fees, or charges were originally~~  
 267 ~~established, but if such change or revision is to be made~~  
 268 ~~substantially pro rata as to all classes of service, both inside~~  
 269 ~~and outside the municipality, no hearing or notice shall be~~  
 270 ~~required.~~

271 (2) A municipality operating a water or sewer utility in  
 272 the unincorporated areas of a county may not impose on  
 273 ratepayers in the unincorporated areas of the county a surcharge  
 274 greater than 25 percent of the rates, fees, and charges imposed  
 275 on ratepayers in the municipality. In addition, the following  
 276 shall apply:

277 (a) Effective July 1, 2014, a municipality may not  
 278 establish a new surcharge or increase an existing surcharge on  
 279 ratepayers in unincorporated areas of a county unless the Public  
 280 Service Commission finds that the proceeds of any new surcharge,  
 281 or the existing surcharge and any new increase, are dedicated  
 282 exclusively to repayment of that portion of bonds issued by the  
 283 municipality to finance the facilities that serve the  
 284 unincorporated areas. The commission must also determine the  
 285 appropriate rate and duration of the surcharge necessary to  
 286 accomplish this purpose. However, the total surcharge may not

287 exceed 25 percent of the rates, fees, and charges applied to  
 288 ratepayers inside the municipal boundaries.

289 (b) Effective July 1, 2018, a surcharge imposed by a  
 290 municipality on or before July 1, 2014, on ratepayers in  
 291 unincorporated areas of a county, which surcharge exceeds 15  
 292 percent of the rates, fees, and charges applied to ratepayers  
 293 inside the municipal boundaries, must be approved by the Public  
 294 Service Commission. The commission must find that the proceeds  
 295 from the entire surcharge are dedicated exclusively to repayment  
 296 of that portion of bonds issued by the municipality to finance  
 297 the facilities that serve the unincorporated areas. The  
 298 commission shall determine the rate and duration of the  
 299 surcharge necessary to accomplish this purpose. However, the  
 300 total surcharge may not exceed 25 percent of the rates, fees,  
 301 and charges applied to ratepayers inside the municipal  
 302 boundaries.

303 (c) A surcharge imposed by a municipality on or before  
 304 July 1, 2014, on ratepayers in unincorporated areas of a county  
 305 shall expire effective July 1, 2024, and may not be imposed by  
 306 the municipality after such date unless approved by the Public  
 307 Service Commission. The commission must find that the existing  
 308 surcharge are dedicated exclusively to repayment of that portion  
 309 of bonds issued by the municipality to finance the facilities  
 310 that serve the unincorporated areas. The commission shall  
 311 determine the appropriate rate and duration of any surcharge  
 312 necessary to accomplish this purpose. However, the total

313 surcharge may not exceed 25 percent of the rates, fees, and  
314 charges applied to ratepayers inside the municipal boundaries. A  
315 municipality whose surcharge is approved by the commission as  
316 set forth in paragraph (b) is deemed to have received commission  
317 approval under this paragraph.

318 (3) A ratepayer in an unincorporated area of a county who  
319 is receiving water or sewer utility services from a municipality  
320 may petition the Public Service Commission for a review of the  
321 rates, fees, or charges being imposed by the municipality. The  
322 Public Service Commission shall accept such petition and  
323 determine whether such rates, fees, and charges are just and  
324 equitable.

325 (4)-(2) Whenever any municipality has engaged, or there are  
326 reasonable grounds to believe that any municipality is about to  
327 engage, in any act or practice prohibited by subsection (1) or  
328 subsection (2), a civil action for preventive relief, including  
329 an application for a permanent or temporary injunction,  
330 restraining order, or other order, may be instituted by the  
331 person or persons aggrieved.

332 (5)-(3) This section shall apply to municipally owned water  
333 and sewer utilities within the confines of a single county and  
334 may apply, pursuant to interlocal agreement, to municipally  
335 owned water and sewer utilities beyond the confines of a single  
336 county.

337 (6)-(4) In any action commenced pursuant to this section,  
338 the court in its discretion may allow the prevailing party

339 | treble damages and, in addition, a reasonable attorney  
 340 | ~~attorney's~~ fee as part of the cost.

341 | Section 5. Subsection (2) of section 367.022, Florida  
 342 | Statutes, is amended to read:

343 | 367.022 Exemptions.—The following are not subject to  
 344 | regulation by the commission as a utility nor are they subject  
 345 | to the provisions of this chapter, except as expressly provided:

346 | (2) Systems owned, operated, managed, or controlled by  
 347 | governmental authorities, including water or wastewater  
 348 | facilities operated by private firms under water or wastewater  
 349 | facility privatization contracts as defined in s. 153.91, and  
 350 | nonprofit corporations formed for the purpose of acting on  
 351 | behalf of a political subdivision with respect to a water or  
 352 | wastewater facility; however, any municipality that provides  
 353 | water or wastewater utility service, directly or indirectly, in  
 354 | unincorporated areas of the county is subject to regulation by  
 355 | the commission as set forth in s. 180.191.

356 | Section 6. Subsection (4) of section 367.071, Florida  
 357 | Statutes, is amended to read:

358 | 367.071 Sale, assignment, or transfer of certificate of  
 359 | authorization, facilities, or control.—

360 | (4) An application shall be disposed of as provided in s.  
 361 | 367.045, except that:

362 | (a) The sale of facilities, in whole or part, to a  
 363 | governmental authority shall be approved as a matter of right;  
 364 | however, before taking any official action, the governmental

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365 authority shall, ~~prior to taking any official action,~~ obtain  
366 from the utility or commission with respect to the facilities to  
367 be sold the most recent available income and expense statement,  
368 balance sheet, and statement of rate base for regulatory  
369 purposes and contributions-in-aid-of-construction. Any request  
370 for rate relief pending before the commission at the time of  
371 sale is deemed to have been withdrawn. Interim rates, if  
372 previously approved by the commission, must be discontinued, and  
373 any money collected pursuant to interim rate relief must be  
374 refunded to the customers of the utility with interest.

375 (b) Notwithstanding paragraph (a), approval of the  
376 commission is required before a municipality acquires, in whole  
377 or in part, the facilities of a utility that will serve  
378 ratepayers in unincorporated areas of the county. As part of the  
379 approval process, the commission shall review the utility's most  
380 recent available income and expense statement, balance sheet,  
381 contributions-in-aid-of-construction, rates, classification, and  
382 charges for service of every kind provided by the utility. The  
383 municipality shall provide its proposed rate structure,  
384 including proposed rates, fees, and charges for ratepayers  
385 within the municipal boundaries and for ratepayers in  
386 unincorporated areas of the county to be served by the  
387 municipality. If a municipality, as part of the acquisition,  
388 will impose a surcharge on ratepayers in unincorporated areas of  
389 the county, the municipality is subject to s. 180.191.

390 (c) ~~(b)~~ When paragraph (a) does not apply, the commission

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391 | shall amend the certificate of authorization as necessary to  
392 | reflect the change resulting from the sale, assignment, or  
393 | transfer.

394 |       Section 7. This act shall take effect July 1, 2014.

[Home](#) [Bills](#) [HB 861](#)

HB 861 - Municipal Power Regulation

**General Bill** by Mayfield (CO-SPONSORS) Van Zant

**Municipal Power Regulation:** Amends definition of "public utility" to include municipalities that purchase or receive power from entity created under Florida Interlocal Cooperation Act of 1969; amends definition of "electric utility" to exempt municipalities that purchase or receive power from entity created under Florida Interlocal Cooperation Act of 1969 .

**Effective Date:** July 1, 2014

**Last Event:** Died in Energy & Utilities Subcommittee on Friday, May 2, 2014 10:39 PM

Referred Committees and Committee Actions

House Referrals

- [Energy & Utilities Subcommittee](#)
- [Local & Federal Affairs Committee](#)
- [Regulatory Affairs Committee](#)

Related Bills

Bill #	Subject	Relationship
<a href="#">SB 1294</a>	Municipal Power Regulation	Identical

Bill Text

[Original Filed Version](#)

Staff Analysis

(None Available)

Vote History

(no votes recorded)

Bill History

Event	Time	Member	Committee	Ver.
H Died in Energy & Utilities Subcommittee	5/02/2014 - 10:39 PM		<a href="#">Energy &amp; Utilities Subcommittee</a>	---
H 1st Reading	3/04/2014 - 11:50 PM			---
H Now in Energy & Utilities Subcommittee	2/20/2014 - 9:55 AM		<a href="#">Energy &amp; Utilities Subcommittee</a>	---
H Referred to Regulatory Affairs Committee	2/20/2014 - 9:55 AM		<a href="#">Regulatory Affairs Committee</a>	---
H Referred to Local & Federal Affairs Committee	2/20/2014 - 9:55 AM		<a href="#">Local &amp; Federal Affairs Committee</a>	---
H Referred to Energy & Utilities Subcommittee	2/20/2014 - 9:55 AM		<a href="#">Energy &amp; Utilities Subcommittee</a>	---
H Filed	2/10/2014 - 10:36 AM	<a href="#">Mayfield</a>		---

Statutes Referenced by this Bill

[366.02](#)

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1                                   A bill to be entitled  
 2       An act relating to municipal power regulation;  
 3       amending s. 366.02, F.S.; amending the definition of  
 4       "public utility" to include municipalities that  
 5       receive or purchase power from an entity created under  
 6       the Florida Interlocal Cooperation Act of 1969;  
 7       amending the definition of "electric utility" to  
 8       exempt municipalities that do not purchase or receive  
 9       power from an entity created under the Interlocal  
 10       Cooperation Act of 1969; providing an effective date.

11  
 12   Be It Enacted by the Legislature of the State of Florida:

13  
 14       Section 1. Subsections (1) and (2) of section 366.02,  
 15       Florida Statutes, are amended to read:

16       366.02 Definitions.—As used in this chapter:

17       (1) "Public utility" means every person, corporation,  
 18       partnership, association, or other legal entity and their  
 19       lessees, trustees, or receivers supplying electricity or gas  
 20       (natural, manufactured, or similar gaseous substance) to or for  
 21       the public within this state and includes a municipality or an  
 22       agency thereof that purchases or receives all or a portion of  
 23       its power from an entity created under the Florida Interlocal  
 24       Cooperation Act of 1969; but the term "public utility" does not  
 25       include either a cooperative now or hereafter organized and  
 26       existing under the Rural Electric Cooperative Law of the state;

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27 a municipality or any agency thereof that does not purchase or  
28 receive any power from an entity created under the Florida  
29 Interlocal Cooperation Act of 1969; any dependent or independent  
30 special natural gas district; any natural gas transmission  
31 pipeline company making only sales or transportation delivery of  
32 natural gas at wholesale and to direct industrial consumers; any  
33 entity selling or arranging for sales of natural gas which  
34 neither owns nor operates natural gas transmission or  
35 distribution facilities within the state; or a person supplying  
36 liquefied petroleum gas, in either liquid or gaseous form,  
37 irrespective of the method of distribution or delivery, or  
38 owning or operating facilities beyond the outlet of a meter  
39 through which natural gas is supplied for compression and  
40 delivery into motor vehicle fuel tanks or other transportation  
41 containers, unless such person also supplies electricity or  
42 manufactured or natural gas.

43 (2) "Electric utility" means any municipal electric  
44 utility that does not purchase or receive any power from an  
45 entity created under the Florida Interlocal Cooperation Act of  
46 1969, investor-owned electric utility, or rural electric  
47 cooperative which owns, maintains, or operates an electric  
48 generation, transmission, or distribution system within the  
49 state.

50 Section 2. This act shall take effect July 1, 2014.

[Home](#)   [Bills](#)   [HB 773](#)

HB 773 - Municipal Power Regulation

**General Bill** by Mayfield

**Municipal Power Regulation:** Amends definition of "public utility" to include certain entities created under the Florida Interlocal Cooperation Act of 1969.

**Effective Date:** July 1, 2015

**Last Event:** Died in Energy & Utilities Subcommittee on Tuesday, April 28, 2015 1:15 PM

Referred Committees and Committee Actions

House Referrals

- [Energy & Utilities Subcommittee](#)
- [Local & Federal Affairs Committee](#)
- [Regulatory Affairs Committee](#)

Related Bills

(no related bills on record)

Bill Text

[Original Filed Version](#)

Staff Analysis

(None Available)

Vote History

(no votes recorded)

Bill History

Event	Time	Member	Committee	Ver.
H Died in Energy & Utilities Subcommittee	4/28/2015 - 1:15 PM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H 1st Reading	3/03/2015 - 10:37 PM			—
H Now in Energy & Utilities Subcommittee	2/26/2015 - 4:18 PM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Referred to Regulatory Affairs Committee	2/26/2015 - 4:18 PM		<a href="#">Regulatory Affairs Committee</a>	—
H Referred to Local & Federal Affairs Committee	2/26/2015 - 4:18 PM		<a href="#">Local &amp; Federal Affairs Committee</a>	—
H Referred to Energy & Utilities Subcommittee	2/26/2015 - 4:18 PM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Filed	2/16/2015 - 4:46 PM	<a href="#">Mayfield</a>		—

Statutes Referenced by this Bill

[366.02](#)

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1                                   A bill to be entitled  
 2           An act relating to municipal power regulation;  
 3           amending s. 366.02, F.S.; amending the definition of  
 4           the term "public utility" to include certain entities  
 5           created under the Florida Interlocal Cooperation Act  
 6           of 1969; providing an effective date.

7  
 8   Be It Enacted by the Legislature of the State of Florida:

9  
 10           Section 1. Subsection (1) of section 366.02, Florida  
 11           Statutes, is amended to read:

12           366.02 Definitions.—As used in this chapter:

13           (1) "Public utility" means every person, corporation,  
 14           partnership, association, or other legal entity and their  
 15           lessees, trustees, or receivers supplying electricity or gas  
 16           (natural, manufactured, or similar gaseous substance) to or for  
 17           the public within this state and includes any entity created  
 18           under the Florida Interlocal Cooperation Act of 1969 to supply  
 19           electricity to its member municipalities; but the term "public  
 20           utility" does not include either a cooperative now or hereafter  
 21           organized and existing under the Rural Electric Cooperative Law  
 22           of the state; a municipality or any agency thereof; any  
 23           dependent or independent special natural gas district; any  
 24           natural gas transmission pipeline company making only sales or  
 25           transportation delivery of natural gas at wholesale and to  
 26           direct industrial consumers; any entity selling or arranging for

27 | sales of natural gas which neither owns nor operates natural gas  
28 | transmission or distribution facilities within the state; or a  
29 | person supplying liquefied petroleum gas, in either liquid or  
30 | gaseous form, irrespective of the method of distribution or  
31 | delivery, or owning or operating facilities beyond the outlet of  
32 | a meter through which natural gas is supplied for compression  
33 | and delivery into motor vehicle fuel tanks or other  
34 | transportation containers, unless such person also supplies  
35 | electricity or manufactured or natural gas.

36 |       Section 2. This act shall take effect July 1, 2015.

[Home](#) [Bills](#) [HB 337](#)

HB 337 - Local Government Services

**General Bill** by Mayfield (CO-SPONSORS) Perry

**Local Government Services:** Authorizes county to provide certain services & facilities outside boundaries of municipality without express consent of municipality's governing body under certain circumstances; prohibits municipality from extending its corporate powers within unincorporated areas of county without express consent of county's governing body.

**Effective Date:** July 1, 2015

**Last Event:** Died in Energy & Utilities Subcommittee on Tuesday, April 28, 2015 1:15 PM

Referred Committees and Committee Actions

House Referrals

- **Local Government Affairs Subcommittee**  
On agenda for: 02/09/15 4:00 PM [View Notice](#)  
Temporarily Postponed (*final action*)
- On agenda for: 02/17/15 1:00 PM [View Notice](#)  
Favorable (*final action*) [See Votes](#)
- **Energy & Utilities Subcommittee**
- **Local & Federal Affairs Committee**

Related Bills

Bill #	Subject	Relationship
<a href="#">SB 442</a>	Local Government Services	Similar

Bill Text

[Original Filed Version](#)

Staff Analysis

Chamber	Committee
House	<a href="#">Local Government Affairs Subcommittee 2/17/2015 5:18:29 PM</a>
House	<a href="#">Local Government Affairs Subcommittee 2/11/2015 5:38:37 PM</a>
House	<a href="#">Local Government Affairs Subcommittee 2/2/2015 4:51:00 PM</a>

Vote History

(no votes recorded)

Bill History

Event	Time	Member	Committee	Ver.
H Died in Energy & Utilities Subcommittee	4/28/2015 - 1:15 PM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H 1st Reading	3/03/2015 - 10:37 PM			—
H Now in Energy & Utilities Subcommittee	2/18/2015 - 8:02 AM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Reported out of Local Government Affairs Subcommittee	2/18/2015 - 8:02 AM		<a href="#">Local Government Affairs Subcommittee</a>	—
H Favorable by Local Government Affairs Subcommittee	2/17/2015 - 5:12 PM		<a href="#">Local Government Affairs Subcommittee</a>	—
H Added to Local Government Affairs Subcommittee agenda	2/10/2015 - 3:36 PM		<a href="#">Local Government Affairs Subcommittee</a>	—
H Added to Local Government Affairs Subcommittee agenda	2/02/2015 - 4:08 PM		<a href="#">Local Government Affairs Subcommittee</a>	—
H Now in Local Government Affairs Subcommittee	1/28/2015 - 4:54 PM		<a href="#">Local Government Affairs Subcommittee</a>	—
H Referred to Local & Federal Affairs Committee	1/28/2015 - 4:54 PM		<a href="#">Local &amp; Federal Affairs Committee</a>	—
H Referred to Energy & Utilities Subcommittee	1/28/2015 - 4:54 PM		<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Referred to Local Government Affairs Subcommittee	1/28/2015 - 4:54 PM		<a href="#">Local Government Affairs Subcommittee</a>	—
H Filed	1/19/2015 - 1:55 PM	<a href="#">Mayfield</a>		—

**Statutes Referenced by this Bill**

[153.03](#)

[180.02](#)

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27 | county or counties and to operate, manage and control all such  
 28 | systems so purchased and/or constructed and all properties  
 29 | pertaining thereto and to furnish and supply water and sewage  
 30 | collection and disposal services to any of such counties and to  
 31 | any municipalities and any persons, firms or corporations,  
 32 | public or private, in any of such counties; provided, however,  
 33 | that none of the facilities provided by this chapter may be  
 34 | constructed, owned, operated or maintained by the county on  
 35 | property located within the corporate limits of any municipality  
 36 | without the consent of the council, commission or body having  
 37 | general legislative authority in the government of such  
 38 | municipality unless such facilities were owned by the county on  
 39 | such property prior to the time such property was included  
 40 | within the corporate limits of such municipality. A ~~Ne~~ county  
 41 | may not shall furnish any of the facilities or services provided  
 42 | by this chapter to a ~~any~~ property already being furnished such  
 43 | like facilities or services by a ~~any~~ municipality without the  
 44 | express consent of the council, commission, or body having  
 45 | general legislative authority in the government of such  
 46 | municipality unless the facilities or services will be provided  
 47 | outside the boundary of that municipality and a prior consent  
 48 | agreement between the parties related to the provision of  
 49 | facilities or services outside the municipality boundary, has  
 50 | expired.

51 | Section 2. Subsection (2) of section 180.02, Florida  
 52 | Statutes, is amended to read:

53           180.02 Powers of municipalities.—  
 54           (2) A ~~Any~~ municipality may extend and execute all of its  
 55 corporate powers to accomplish ~~applicable for the accomplishment~~  
 56 ~~of~~ the purposes of this chapter outside of its corporate limits,  
 57 as hereinafter provided and as may be desirable or necessary to  
 58 promote ~~for the promotion of~~ the public health, safety, and  
 59 welfare or to accomplish ~~for the accomplishment of~~ the purposes  
 60 of this chapter; provided, however, that such ~~said~~ corporate  
 61 powers do ~~shall~~ not extend or apply within the corporate limits  
 62 of another municipality or extend to or apply within the  
 63 unincorporated areas of a county without the express consent of  
 64 the board of county commissioners of such county.

65           Section 3. This act shall take effect July 1, 2015.

[Home](#) [Bills](#) [CS/HB 579](#)

CS/HB 579 - Municipal Power Regulation

**General Bill** by Energy & Utilities Subcommittee and Mayfield (CO-SPONSORS) Perry; Van Zant

**Municipal Power Regulation:** Requires certain entities created under Interlocal Cooperation Act of 1969 to submit financial statements for certain electric power projects to specified public entities.

**Effective Date:** July 1, 2016

**Last Event:** Died in Regulatory Affairs Committee on Friday, March 11, 2016 6:45 PM

Referred Committees and Committee Actions

House Referrals

- **Energy & Utilities Subcommittee**  
On agenda for: 01/11/16 4:00 PM [View Notice](#)  
Favorable With Committee Substitute (*final action*) [See Votes](#)
- **Government Operations Appropriations Subcommittee**  
On agenda for: 01/28/16 3:30 PM [View Notice](#)  
Favorable (*final action*) [See Votes](#)
- **Regulatory Affairs Committee**

Related Bills

Bill #	Subject	Relationship
<a href="#">CS/SB 840</a>	Municipal Power Regulation	Identical

Bill Text

**Committee Substitute 1**

**Original Filed Version**

D <a href="#">461639</a> , Mayfield (EUS)	Date Filed: 01/08/16, Line#: 0	House(c): Withdrawn 01/11/2016 07:53 PM
D <a href="#">741895</a> , Eisnaugle (EUS)	Date Filed: 01/11/16, Line#: 0	House(c): Adopted Without Objection 01/11/2016 07:53 PM

Staff Analysis

Chamber	Committee
House	<a href="#">Government Operations Appropriations Subcommittee 1/28/2016 7:11:25 PM</a>
House	<a href="#">Government Operations Appropriations Subcommittee 1/26/2016 4:23:37 PM</a>
House	<a href="#">Energy &amp; Utilities Subcommittee 1/14/2016 11:58:01 AM</a>
House	<a href="#">Energy &amp; Utilities Subcommittee 1/8/2016 6:24:27 PM</a>

Vote History

(no votes recorded)

Bill History

Event	Time	Member	Committee	Ver.
H Died in Regulatory Affairs Committee	3/11/2016 - 6:45 PM		<a href="#">Regulatory Affairs Committee</a>	c1
H Now in Regulatory Affairs Committee	1/28/2016 - 7:12 PM		<a href="#">Regulatory Affairs Committee</a>	c1
H Reported out of Government Operations Appropriations Subcommittee	1/28/2016 - 7:12 PM		<a href="#">Government Operations Appropriations Subcommittee</a>	c1
H Favorable by Government Operations Appropriations Subcommittee	1/28/2016 - 6:40 PM		<a href="#">Government Operations Appropriations Subcommittee</a>	c1
H Added to Government Operations Appropriations Subcommittee agenda	1/26/2016 - 4:15 PM		<a href="#">Government Operations Appropriations Subcommittee</a>	c1
H Now in Government Operations Appropriations Subcommittee	1/15/2016 - 1:55 PM		<a href="#">Government Operations Appropriations Subcommittee</a>	c1
H Referred to Regulatory Affairs Committee	1/15/2016 - 1:55 PM		<a href="#">Regulatory Affairs Committee</a>	c1

H Referred to Government Operations Appropriations Subcommittee	1/15/2016 - 1:55 PM	<a href="#">Government Operations Appropriations Subcommittee</a>	c1
H 1st Reading	1/14/2016 - 8:25 PM		c1
H CS Filed	1/14/2016 - 12:12 PM		c1
H Laid on Table under Rule 7.19(a)	1/14/2016 - 12:12 PM		—
H Reported out of Energy & Utilities Subcommittee	1/14/2016 - 11:55 AM	<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H 1st Reading	1/12/2016 - 8:37 PM		—
H Favorable with CS by Energy & Utilities Subcommittee	1/11/2016 - 7:53 PM	<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Added to Energy & Utilities Subcommittee agenda	1/04/2016 - 4:13 PM	<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Now in Energy & Utilities Subcommittee	11/16/2015 - 4:40 PM	<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Referred to Regulatory Affairs Committee	11/16/2015 - 4:40 PM	<a href="#">Regulatory Affairs Committee</a>	—
H Referred to Government Operations Appropriations Subcommittee	11/16/2015 - 4:40 PM	<a href="#">Government Operations Appropriations Subcommittee</a>	—
H Referred to Energy & Utilities Subcommittee	11/16/2015 - 4:40 PM	<a href="#">Energy &amp; Utilities Subcommittee</a>	—
H Filed	11/04/2015 - 3:21 PM	<a href="#">Mayfield</a>	—

Statutes Referenced by this Bill

[163.01](#)

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1                                   A bill to be entitled  
 2           An act relating to municipal power regulation;  
 3           amending s. 163.01, F.S.; requiring certain entities  
 4           created under the Interlocal Cooperation Act of 1969  
 5           to submit independently prepared financial statements  
 6           for certain electric power projects to specified  
 7           public entities; providing statement requirements;  
 8           providing eligibility requirements for membership on  
 9           the governing body of certain entities created under  
 10          the Interlocal Cooperation Act of 1969; amending s.  
 11          350.0611, F.S.; expanding the duties of the Public  
 12          Counsel to include proceedings involving the Florida  
 13          Municipal Power Agency; amending s. 366.02, F.S.;  
 14          revising the definition of the term "public utility"  
 15          to include the Florida Municipal Power Agency;  
 16          defining the term "Florida Municipal Power Agency";  
 17          amending s. 366.04, F.S.; exempting the agency from  
 18          regulation by the Public Service Commission for  
 19          purposes of rates and service; providing an effective  
 20          date.

21  
 22          WHEREAS, The Florida Municipal Power Agency is a joint-use  
 23          action agency created pursuant to a series of interlocal  
 24          agreements with the state's municipalities to finance, acquire,  
 25          contract, manage, and operate its own electric power projects or  
 26          jointly accomplish the same purposes with other public or

27 private utilities, and

28 WHEREAS, the Florida Municipal Power Agency is governed by  
29 a board of directors, consisting of one board member from each  
30 member municipality, which decides all issues concerning each  
31 project except for the "All-Requirements" power supply project,  
32 and

33 WHEREAS, the All-Requirements power supply project is  
34 governed by an executive committee, with each All-Requirements  
35 project member municipality that purchases power from the  
36 project appointing one executive committee member, and

37 WHEREAS, the Auditor General conducted an operational audit  
38 of the of Florida Municipal Power Agency and released Report No.  
39 2015-165 to the Joint Legislative Auditing Committee on March  
40 30, 2015, which included findings and recommendations, and

41 WHEREAS, the Auditor General found many of the Florida  
42 Municipal Power Agency's hedging activities to be inconsistent  
43 with other joint-use action agencies, leading to net losses of  
44 \$247.6 million over the past 12 fiscal years, and

45 WHEREAS, the Auditor General concluded that several of the  
46 Florida Municipal Power Agency's personnel and payroll  
47 administration activities may negatively affect future rates,  
48 including the Chief Executive Officer's employment contract that  
49 provides severance pay and lifetime benefits even if employment  
50 is terminated for cause, and

51 WHEREAS, the Florida Municipal Power Agency did not  
52 consistently follow its own procurement and competitive

53 selection policies, one of which may increase the cost of future  
 54 bond issues, and

55 WHEREAS, the Florida Municipal Power Agency's All-  
 56 Requirements project agreement to curtail peak-shaving  
 57 activities is primarily voluntary, relies on self-reporting, and  
 58 contains no penalties for noncompliance, and

59 WHEREAS, certain All-Requirements project contract  
 60 provisions relating to the withdrawal of members are ambiguous,  
 61 use a fixed discount rate rather than one based on current  
 62 capital costs, and do not provide for independent verification  
 63 by a withdrawing member, and

64 WHEREAS, even though the Florida Municipal Power Agency is  
 65 a governmental entity, many of the laws that apply to local  
 66 governments do not apply to the agency, and

67 WHEREAS, the Florida Municipal Power Agency is not subject  
 68 to any rate-setting authority, including by the Public Service  
 69 Commission, and

70 WHEREAS, there exists a need to promote transparency and  
 71 consistency and to increase public understanding and confidence  
 72 in the operation of the Florida Municipal Power Agency by the  
 73 member municipalities and the public, including those electric  
 74 ratepayers who are not residents of the municipality supplying  
 75 electric power but who are subject to a municipality that is  
 76 receiving power from the agency, NOW, THEREFORE,

77  
 78 Be It Enacted by the Legislature of the State of Florida:

79

80 Section 1. Subsection (19) is added to section 163.01,  
81 Florida Statutes, to read:

82 163.01 Florida Interlocal Cooperation Act of 1969.—

83 (19) (a) Any entity created pursuant to this section that  
84 supplies electricity through an interlocal agreement to its  
85 member municipalities shall annually submit to the Public  
86 Service Commission, the Public Counsel, and each member  
87 municipality that participates in the electric power project an  
88 independently prepared financial statement for each individual  
89 generation asset. The financial statement must include:

90 1. A balance sheet that reflects assets and liabilities  
91 associated with each generation asset, including the plant in  
92 service, accumulated additions and removals, net plant,  
93 depreciation, operations and maintenance expenses, allocations,  
94 and any other material asset and liability categories.

95 2. An income statement that reflects each generation  
96 asset's operational and financial activities for the reporting  
97 period, including revenues, expenses, gains, and losses. Any  
98 gains or losses from hedging activities associated with the  
99 generation asset shall be separately itemized.

100 3. A statement of cash flows that identifies changes in  
101 the generation asset's cash flows during the reporting period.

102 4. The current fair market value for each generation  
103 asset. The current fair market value shall be determined  
104 assuming the price that a willing buyer would pay a willing

105 seller for the generation asset, with neither party being under  
 106 any compulsion to buy or sell and both having reasonable  
 107 knowledge of relevant facts, and assuming all risk of ownership,  
 108 loss, and decommissioning, as applicable. The current fair  
 109 market value statement shall include the overall fair market  
 110 value of the generation asset as a whole and each member  
 111 municipality's equity position net of the entity's debt, based  
 112 on the current fair market generation asset value. The current  
 113 fair market value statement shall include, after considering the  
 114 market value of the generation assets, the net return of equity  
 115 or the cost to exit the entity for each member municipality.

116 (b) To serve as a member of the governing body of an  
 117 entity created pursuant to this section for the purpose of  
 118 supplying electricity to its member municipalities, each member  
 119 of the governing body must be an elected official from one of  
 120 the entity's member municipalities. Current members of a  
 121 governing body of such an entity who are not elected officials  
 122 may continue to serve until expiration of their terms but no  
 123 later than July 1, 2018.

124 Section 2. Section 350.0611, Florida Statutes, is amended  
 125 to read:

126 350.0611 Public Counsel; duties and powers.—It shall be  
 127 the duty of the Public Counsel to provide legal representation  
 128 for the people of the state in proceedings before the  
 129 commission, ~~and~~ in proceedings before counties pursuant to s.  
 130 367.171(8), and in proceedings before the Florida Municipal

131 Power Agency. The Public Counsel shall have such powers as are  
 132 necessary to carry out the duties of his or her office,  
 133 including, but not limited to, the following specific powers:

134 (1) To recommend to the commission, ~~or~~ the counties, or  
 135 the Florida Municipal Power Agency, by petition, the  
 136 commencement of any proceeding or action or to appear, in the  
 137 name of the state or its citizens, in any proceeding or action  
 138 before the commission, ~~or~~ the counties, or the agency, and urge  
 139 therein any position which he or she deems to be in the public  
 140 interest, whether consistent or inconsistent with positions  
 141 previously adopted by the commission, ~~or~~ the counties, or the  
 142 agency, and utilize therein all forms of discovery available to  
 143 attorneys in civil actions generally, subject to protective  
 144 orders of the commission or the counties which shall be  
 145 reviewable by summary procedure in the circuit courts of this  
 146 state;

147 (2) To have access to and use of all files, records, and  
 148 data of the commission, ~~or~~ the counties, or the Florida  
 149 Municipal Power Agency available to any other attorney  
 150 representing parties in a proceeding before the commission, ~~or~~  
 151 the counties, or the agency;

152 (3) In any proceeding in which he or she has participated  
 153 as a party, to seek review of any determination, finding, or  
 154 order of the commission, ~~or~~ the counties, the Florida Municipal  
 155 Power Agency, or ~~of~~ any hearing examiner designated by the  
 156 commission, ~~or~~ the counties, or the agency, in the name of the

157 state or its citizens;

158 (4) To prepare and issue reports, recommendations, and  
 159 proposed orders to the commission, the Governor, and the  
 160 Legislature on any matter or subject within the jurisdiction of  
 161 the commission or the Florida Municipal Power Agency, and to  
 162 make such recommendations as he or she deems appropriate for  
 163 legislation relative to commission or agency procedures, rules,  
 164 jurisdiction, personnel, and functions; and

165 (5) To appear before other state agencies, federal  
 166 agencies, and state and federal courts in connection with  
 167 matters under the jurisdiction of the commission or the Florida  
 168 Municipal Power Agency, in the name of the state or its  
 169 citizens.

170  
 171 As used in this section, the term "Florida Municipal Power  
 172 Agency" or "agency" has the same meaning as provided in s.  
 173 366.02.

174 Section 3. Subsection (1) of section 366.02, Florida  
 175 Statutes, is amended, and subsection (4) is added to that  
 176 section, to read:

177 366.02 Definitions.—As used in this chapter:

178 (1) "Public utility" means every person, corporation,  
 179 partnership, association, or other legal entity and their  
 180 lessees, trustees, or receivers supplying electricity or gas  
 181 (natural, manufactured, or similar gaseous substance) to or for  
 182 the public within this state, including the Florida Municipal

183 Power Agency. However, ~~but~~ the term "public utility" does not  
 184 include either a cooperative now or hereafter organized and  
 185 existing under the Rural Electric Cooperative Law of the state;  
 186 a municipality or any agency thereof; any dependent or  
 187 independent special natural gas district; any natural gas  
 188 transmission pipeline company making only sales or  
 189 transportation delivery of natural gas at wholesale and to  
 190 direct industrial consumers; any entity selling or arranging for  
 191 sales of natural gas which neither owns nor operates natural gas  
 192 transmission or distribution facilities within the state; or a  
 193 person supplying liquefied petroleum gas, in either liquid or  
 194 gaseous form, irrespective of the method of distribution or  
 195 delivery, or owning or operating facilities beyond the outlet of  
 196 a meter through which natural gas is supplied for compression  
 197 and delivery into motor vehicle fuel tanks or other  
 198 transportation containers, unless such person also supplies  
 199 electricity or manufactured or natural gas.

200 (4) "Florida Municipal Power Agency" means the legal  
 201 entity, or a successor entity, formed under s. 163.01 by  
 202 interlocal agreement among municipalities.

203 Section 4. Subsection (1) of section 366.04, Florida  
 204 Statutes, is amended to read:

205 366.04 Jurisdiction of commission.—

206 (1) In addition to its existing functions, the commission  
 207 shall have jurisdiction to regulate and supervise each public  
 208 utility with respect to its rates and service, except for the

209 Florida Municipal Power Agency; assumption by it of liabilities  
 210 or obligations as guarantor, endorser, or surety; and the  
 211 issuance and sale of its securities, except a security which is  
 212 a note or draft maturing not more than 1 year after the date of  
 213 such issuance and sale and aggregating (together with all other  
 214 then-outstanding notes and drafts of a maturity of 1 year or  
 215 less on which such public utility is liable) not more than 5  
 216 percent of the par value of the other securities of the public  
 217 utility then outstanding. In the case of securities having no  
 218 par value, the par value for the purpose of this section shall  
 219 be the fair market value as of the date of issue. The  
 220 commission, upon application by a public utility, may authorize  
 221 the utility to issue and sell securities of one or more  
 222 offerings, or of one or more types, over a period of up to 12  
 223 months; or, if the securities are notes or drafts maturing not  
 224 more than 1 year after the date of issuance and sale, the  
 225 commission, upon such application, may authorize the utility to  
 226 issue and sell such securities over a period of up to 24 months.  
 227 The commission may take final action to grant an application by  
 228 a public utility to issue and sell securities or to assume  
 229 liabilities or obligations after having given notice in the  
 230 Florida Administrative Register published at least 7 days in  
 231 advance of final agency action. In taking final action on such  
 232 application, the commission may deny authorization for the  
 233 issuance or sale of a security or assumption of a liability or  
 234 obligation if the security, liability, or obligation is for

235 nonutility purposes; and shall deny authorization for the  
 236 issuance or sale of a security or assumption of a liability or  
 237 obligation if the financial viability of the public utility is  
 238 adversely affected such that the public utility's ability to  
 239 provide reasonable service at reasonable rates is jeopardized.  
 240 Securities issued by a public utility or liabilities or  
 241 obligations assumed by a public utility as guarantor, endorser,  
 242 or surety pursuant to an order of the commission, which order is  
 243 certified by the clerk of the commission and which order  
 244 approves or authorizes the issuance and sale of such securities  
 245 or the assumption of such liabilities or obligations, shall not  
 246 be invalidated by a modification, repeal, or amendment to that  
 247 order or by a supplemental order; however, the commission's  
 248 approval of the issuance of securities or the assumption of  
 249 liabilities or obligations shall constitute approval only as to  
 250 the legality of the issue or assumption, and in no way shall it  
 251 be considered commission approval of the rates, service,  
 252 accounts, valuation, estimates, or determinations of cost or any  
 253 other such matter. The jurisdiction conferred upon the  
 254 commission shall be exclusive and superior to that of all other  
 255 boards, agencies, political subdivisions, municipalities, towns,  
 256 villages, or counties, and, in case of conflict therewith, all  
 257 lawful acts, orders, rules, and regulations of the commission  
 258 shall in each instance prevail.

259 Section 5. This act shall take effect July 1, 2016.