

By the Committee on Communications, Energy, and Public Utilities; and Senator Simpson

579-01067-14

2014272c1

1 A bill to be entitled
2 An act relating to water and wastewater utilities;
3 creating s. 367.072, F.S.; providing legislative
4 intent; authorizing the Florida Public Service
5 Commission to suspend or revoke a certificate of
6 authorization upon receipt of a petition; providing
7 criteria for such petition; authorizing the commission
8 to adopt rules; creating s. 367.0812, F.S.; requiring
9 the commission to consider the quality of water or
10 wastewater service when fixing rates; providing
11 criteria that the commission must consider in making
12 its determination; requiring the utility to meet with
13 its customers to discuss the costs and benefits of
14 plausible solutions if the commission finds that the
15 utility has failed to meet certain water or wastewater
16 quality standards; requiring the commission to adopt
17 rules; providing an effective date.

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

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21 Section 1. Section 367.072, Florida Statutes, is created to
22 read:

23 367.072 Petition to revoke certificate of authorization.—
24 The Legislature finds that it is in the public interest that
25 water and wastewater service be of good quality and consistent
26 with the standards set forth in this chapter. The Legislature
27 finds that the customers of a utility are in a position to
28 initially assess the quality of the water or wastewater service
29 provided. Therefore, a utility's certificate of authorization

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30 may be suspended or revoked if its customers file a petition
31 with the commission in accordance with this section.

32 (1) For the purpose of determining whether a utility is
33 providing quality water or wastewater service, a petition must:

34 (a) State with specificity each issue customers have with
35 the water or wastewater service; and

36 (b) Be signed by at least 65 percent of a system's
37 customers. The term "customer" means an individual whose
38 property is serviced by a single meter or a person whose name
39 appears on the bill for a master meter. A person whose name
40 appears on the bill for a master meter may sign a petition if at
41 least 65 percent of the customers, tenants, or unit owners
42 served by the master meter support the petition, in which case
43 documentation of such support must be included with the
44 petition.

45 (2) Upon receipt, the commission shall review the petition
46 and determine if it is in compliance with this section and
47 whether the issues identified within the petition support a
48 finding that the water or wastewater utility is failing to
49 provide quality water or wastewater service. If the commission
50 finds that there is a reasonable likelihood that the utility is
51 not providing quality water or wastewater service, then it shall
52 submit a copy of the petition to the respective utility. The
53 utility shall submit a response to the commission addressing the
54 issues identified within the petition and explaining whether it
55 is providing quality water or wastewater service using the
56 following criteria:

57 (a) Federal, state, and local primary standards or quality
58 standards pursuant to s. 367.0812; and

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59 (b) The relationship between the utility and its customers,
60 including each complaint received regarding service quality, the
61 length of time each customer has been complaining about service,
62 the resolution of each complaint, and the time it has taken to
63 address such complaints.

64 (3) The commission shall evaluate the issues identified
65 within the petition; the utility's response as to whether it is
66 providing quality water or wastewater service; the rates of the
67 utility in comparison with other utilities of similar size and
68 operational characteristics; and any other factor the commission
69 deems relevant.

70 (4) Notwithstanding s. 367.045 and based upon its
71 evaluation, the commission shall:

72 (a) Dismiss the petition if the decision is supported by
73 competent substantial evidence, in which case the decision is
74 subject to ss. 120.569 and 120.57;

75 (b) Suspend the utility's certificate and require the
76 utility to take the necessary steps to correct the water or
77 wastewater service issues identified. The commission shall set
78 benchmarks within a timeframe, not to exceed 3 years, and may
79 require the utility to provide interim reports describing its
80 progress in meeting such benchmarks; or

81 (c) Revoke the utility's certificate, in which case a
82 receiver must be appointed pursuant to s. 367.165 until a sale
83 of the utility system has been approved pursuant to s. 367.071.

84 (5) The commission shall adopt by rule the format of and
85 requirements for a petition and may adopt other rules to
86 administer this section.

87 Section 2. Section 367.0812, Florida Statutes, is created

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88 to read:

89 367.0812 Rate fixing; quality of water or wastewater
90 service as criterion.-

91 (1) In fixing rates that are just, reasonable,
92 compensatory, and not unfairly discriminatory, the commission
93 shall consider the extent to which the utility provides water
94 service that meets secondary water quality standards for taste,
95 odor, color, or corrosiveness, as established by the Department
96 of Environmental Protection, the respective water management
97 district, or the local governmental entity. The commission may
98 deny all or part of a rate increase for a utility's system or
99 part of a system if it determines that the quality of water
100 service is less than satisfactory. In determining whether a
101 utility has satisfied its obligation to provide water service to
102 its customers which meets the standards for taste, odor, color,
103 or corrosiveness, the commission shall consider:

104 (a) Testimony and evidence provided by customers and the
105 utility;

106 (b) The results of past tests required by the Department of
107 Environmental Protection or a county health department which
108 measure the utility's compliance with the applicable secondary
109 water quality standards;

110 (c) Complaints regarding the applicable secondary water
111 quality standards filed by customers with the commission, the
112 Department of Environmental Protection, the respective water
113 management district, or the respective local governmental entity
114 during the past 5 years; and

115 (d) If the commission deems necessary, the results of any
116 updated test.

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117 (2) In fixing just, reasonable, compensatory, and not
118 unfairly discriminatory rates, the commission shall consider the
119 extent to which the utility provides wastewater service to its
120 customers without generating odor, noise, aerosol drift, or
121 lighting that adversely affects customers. The commission may
122 deny all or part of a rate increase for a utility's system or
123 part of a system if it determines that the quality of wastewater
124 service is less than satisfactory. In determining the extent to
125 which the utility provides wastewater service to its customers
126 without generating odor, noise, aerosol drift, or lighting that
127 adversely affects customers, the commission shall consider:

128 (a) Testimony and evidence provided by customers and the
129 utility;

130 (b) Complaints regarding the alleged odor, noise, aerosol
131 drift, or lighting filed with the Department of Environmental
132 Protection, a county health department, or the respective local
133 governmental entity during the past 5 years; and

134 (c) Complaints regarding the alleged odor, noise, aerosol
135 drift, or lighting filed with the commission during the past 5
136 years.

137 (3) (a) If the commission determines that a utility:

138 1. Has failed to provide water service that meets the
139 secondary water quality standards of the department, the
140 respective water management district, or the local governmental
141 entity, regarding taste, odor, color, or corrosiveness; or

142 2. Has generated odor, noise, aerosol drift, or lighting in
143 providing wastewater service that adversely affects customers,

144
145 the utility shall create an estimate of the costs and benefits

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146 of a plausible solution to each issue identified by the
147 commission.

148 (b) The utility shall meet with its customers within a time
149 prescribed by the commission to discuss the estimated costs and
150 benefits of and time necessary for implementation of a plausible
151 solution for each quality of service issue identified and the
152 utility shall report the results of such meetings to the
153 commission.

154 (c) The utility shall inform the commission if:

155 1. The customers and the utility agree on a solution for
156 each quality of service issue identified; or

157 2. The customers and utility prefer a different solution to
158 at least one of the quality of service issues identified.

159 (d) The commission may require the utility to implement a
160 solution that is in the best interest of the customers for each
161 quality of service issue. The commission may establish the
162 necessary benchmarks a utility must meet for each solution and
163 require the utility to report periodically until each solution
164 is completed.

165 (4) The commission shall adopt rules to assess and enforce
166 compliance with this section. The rules must prescribe penalties
167 for a utility's failure to adequately resolve each quality of
168 service issue as required by the commission, which may include
169 finances as provided in s. 367.161, a reduction of return on equity
170 of up to 100 basis points, or cancellation of the certificate of
171 authority under s. 367.072.

172 Section 3. This act shall take effect July 1, 2014.