



commission's 1980 sunset bill and how the County's resolution in 1980 lead to its opting in under Chapter 367.

4. On the question of the Commission's jurisdiction to judge the validity of the County's legislative enactment, the Commission is directed to the County's reply to PCUC's intervention motion.

5. On the merits, PCUC first contends there was no resolution. Except for land use resolutions, Florida law does not prescribe any requirements for resolutions enacted by counties. See Fla. Stat. §125.66(1) & (4). This is in sharp contrast to legislation governing city resolutions which include style, subject matter limits, effective date, and recordation requirements, among others. See Fla. Stat. §166.041(1)(b), (2), (4) & (5). This distinction between county and city resolutions was true in 1980 when Flagler County took its opt in action as it is today under the law. Compare with Fla. Stat. §125.66(1) & (5); §166.041 (1979).

6. Moreover, the unregulated, non-specific nature of county resolutions is further reinforced by comparing them to county ordinances. County ordinances have requirements as to form, content, notice, hearing procedures, effective date, codification and even penalties. Fla. Stat. §§125.66, .67, .68 & .69.

7. Thus, when Flagler County acted in 1980 to opt in, there were no legal requirements as to the form of a resolution, either in Chapter 367 or anywhere else in Florida law. Indeed, this unregulated, liberal deference to county

resolutions matches the jurisprudence of the nation. See 5 McQuillin on Municipal Corporations §15.06 at p. 73 ("Any official action, though not in form a resolution, may be one in legal effect. Indeed, it has been ruled that a resolution, particularly when used to express a ministerial act, need not partake of any definite form and need not be a written instrument. It has been held that a motion taking the form of a resolution is equivalent to a resolution, and it also has been observed that there is no distinction between a resolution and a motion." Footnotes and citations omitted.)

8. Within this context the question is whether Flagler County enacted a measure within the intent of Fla. Stat. §367.171(1). The Flagler County Commission clearly expressed its consent to have its area utilities regulated by the Public Service Commission. The measure was on the agenda and was entered into the record by majority vote. This occurred on May 5, 1980, during the waning days of the legislative session as the PSC sunset bill was being heard and PSC jurisdiction was to be re-enacted.

9. The Florida Senate first passed the sunset bill on April 8, 1980, See Exhibit 1, bill history for SB 297. At this point, Flagler County was not placed within PSC jurisdiction. Only Citrus, Martin, Monroe and Seminole Counties were added to PSC jurisdiction. See Exhibit 2, last page. The bill was then referred to the House of Representatives which amended the Senate version and passed

it on May 28, 1980. See Exhibit 3. On this date, per the request of the Flagler County Commission, Flagler was amended onto the bill as one of the new counties placed under PSC jurisdiction. See Exhibit 3 at House Journal page 704 striking the previously passed Senate bill and inserting a new bill, and at House Journal page 709, section 22, bringing Flagler within PSC jurisdiction in addition to the counties previously mentioned.

10. The House version of the bill was then referred to the Senate the next day and it passed in the same form as enacted by the House, including Flagler within PSC jurisdiction. See Exhibit 4, at Senate Journal pages 443 & 448, section 22.

11. Thus, it is clear that the county commission's measure lead to its inclusion within PSC jurisdiction. Flagler County was not put under PSC jurisdiction because of a legislative finding that Flagler was unable to regulate utilities or any other reason other than the County expressed option to be included.

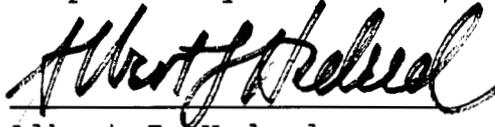
12. It is true that Flagler County did not forward its 1980 determination to the Commission. However, delivery of its determination was not material given the context of the PSC sunset bill rapidly moving into law at the end of the legislative session. This omission was indeed harmless to the actual invocation of Commission jurisdiction for the private utilities in Flagler County.

13. Further, it does not appear that the delivery of a county resolution is critical to the statutory scheme but rather the discretionary decision of the local government to opt into the PSC system is critical. The delivery serves as notification to the PSC and appears only to facilitate the ministerial implementation of the Commission's jurisdiction, obviated in this instance due to the July 1, 1980 effective date of the sunset bill.

14. PCUC relies on the 1966 holding in Orange City Water Co. v. Town of Orange City, 188 So.2d 306, 309 (Fla. 1966). That case invalidated a county's opt out resolution but at that time there was no statutory authorization for counties to get out. The court was unwilling to imply a right to rescind the operation of Chapter 367. That right is now explicit. Fla. Stat. §367.171(1).

15. Finally, in the County's 1996 resolution reinstating its regulatory jurisdiction, the factual premises are set out and they demonstrate the good faith of the County's historical actions. There should be no doubt that the County met the intent of the law, both in giving the Commission jurisdiction and now in rescinding it.

Respectfully submitted,



Albert J. Hadeed  
County Attorney  
FL Bar #0180906  
1200 E. Moody Blvd. #11  
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Attorney for Flagler County

CERTIFICATE OF SERVICE

I certify that a correct copy of the foregoing has been furnished to B. Kenneth Gatlin, Esq., Gatlin, Woods & Carlson, The Mahan Station, 1709-D Mahan Drive, Tallahassee, FL 32308, by U.S. Mail this 26th day of August, 1996.

A handwritten signature in black ink, appearing to read "Albert J. Hadeed", written over a horizontal line.

Albert J. Hadeed  
Attorney for Flagler County

# Florida Legislature

## History of Legislation

### 1980 Regular Session

### ● Special Sessions C, D and E

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EXHIBIT 1

prepared by:

**Legislative Information Division**

**Joint Legislative Management Committee**

**Capitol Building, Room 826 — 488-4371**

MOBILE HOMES/TAXATION; PROVIDES THAT ATTACHMENTS TO A MOBILE HOME TO WHICH A CURRENT MOBILE HOME STICKER HAS BEEN ISSUED ARE EXEMPT FROM TANGIBLE PERSONAL PROPERTY TAX; PROVIDES A LIMITATION. AMENDS 193.075. EFFECTIVE DATE: 01/01/81.  
 02/14/80 SENATE PREFILED  
 02/22/80 SENATE REFERRED TO WAYS AND MEANS  
 04/08/80 SENATE INTRODUCED, REFERRED TO WAYS AND MEANS -SJ 00032  
 04/09/80 SENATE SUBREFERRED TO WAYS AND MEANS SUBCOMMITTEE D -SJ 00097  
 05/05/80 SENATE EXTENSION OF TIME GRANTED COMMITTEE WAYS AND MEANS  
 05/13/80 SENATE EXTENSION OF TIME GRANTED COMMITTEE WAYS AND MEANS  
 05/26/80 SENATE EXTENSION OF TIME GRANTED COMMITTEE WAYS AND MEANS  
 06/06/80 SENATE WITHDRAWN FROM WAYS AND MEANS; SUBCOMMITTEE D, WAYS & MEANS; REFERRED TO RULES AND CALENDAR -SJ 01010  
 06/07/80 SENATE DIED IN COMMITTEE ON RULES AND CALENDAR

S 0296 GENERAL BILL/CS BY JUDICIARY-CRIMINAL, CARLUCCI (IDENTICAL CS/H 0263, SIMILAR S 0088)  
 CONTROLLED DRUGS; MAKES IT UNLAWFUL TO SELL, MANUFACTURE, DELIVER, BRING INTO STATE, OR TO KNOWINGLY BE IN ACTUAL OR CONSTRUCTIVE POSSESSION OF SPECIFIED AMOUNTS OF PHENCYCLIDINE & METHAQUALONE; PROVIDES PENALTIES; PRESCRIBES MANDATORY FINES & MANDATORY MINIMUM TERMS OF IMPRISONMENT. AMENDS CH. 893. EFFECTIVE DATE: UPON BECOMING LAW.  
 02/14/80 SENATE PREFILED  
 02/22/80 SENATE REFERRED TO JUDICIARY-CRIMINAL  
 04/08/80 SENATE INTRODUCED, REFERRED TO JUDICIARY-CRIMINAL -SJ 00032  
 04/21/80 SENATE EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CRIMINAL  
 04/30/80 SENATE COMM. REPORT: C/S PLACED ON CALENDAR BY JUDICIARY-CRIMINAL -SJ 00231  
 06/03/80 SENATE C/S READ FIRST TIME; IDEN./SIM. HOUSE BILL SUBSTITUTED; LAID ON TABLE UNDER RULE, IDEN./SIM./COMPARE BILL PASSED, REFER TO C/S HB 263 (CH. 80-70) -SJ 00577

S 0297 GENERAL BILL/CS BY NATURAL RESOURCES AND CONSERVATION, VOGT (SIMILAR H 1096, H 1823)  
 WATER & SEWER SYSTEM REG. LAW; (SUNSET) CLARIFIES LEGISLATIVE INTENT; MODIFIES EXEMPTIONS & CERTIFICATION REQUIREMENT; MODIFIES PROVISIONS RE ISSUANCE OF CERTIFICATE, EXTENSION OF SERVICE, FIXING & CHANGING OF RATES, RATES FOR NEW CLASSES OF SERVICE, ETC. REVIVES, READOPTS & AMENDS CH. 367. EFFECTIVE DATE: 07/01/80.  
 02/14/80 SENATE PREFILED  
 02/22/80 SENATE REFERRED TO NATURAL RESOURCES AND CONSERVATION  
 03/13/80 SENATE COMM. REPORT: C/S PLACED ON CALENDAR BY NATURAL RESOURCES AND CONSERVATION  
 04/08/80 SENATE INTRODUCED, REFERRED TO NATURAL RESOURCES AND CONSERVATION -SJ 00032; COMM. REPORT: C/S PLACED ON CALENDAR BY NATURAL RESOURCES AND CONSERVATION -SJ 00061; PLACED ON SPECIAL ORDER CALENDAR; C/S READ FIRST TIME -SJ 00067; C/S PASSED AS AMENDED; YEAS 36 NAYS 1 -SJ 00068  
 04/14/80 HOUSE RECEIVED, REFERRED TO NATURAL RESOURCES, REGULATORY REFORM -HJ 00129  
 04/15/80 HOUSE COMM. REPORT: FAVORABLE WITH AMEND. BY NATURAL RESOURCES -HJ 00164; NOW IN REGULATORY REFORM  
 05/22/80 HOUSE WITHDRAWN FROM REGULATORY REFORM -HJ 00544; PLACED ON CALENDAR  
 05/26/80 HOUSE PLACED ON SPECIAL ORDER CALENDAR  
 05/28/80 HOUSE READ SECOND TIME -HJ 00704; AMENDMENTS ADOPTED; READ THIRD TIME; PASSED AS AMENDED; YEAS 94 NAYS 1 HJ 00711  
 05/29/80 SENATE CONCURRED; C/S PASSED AS FURTHER AMENDED; YEAS 39 NAYS 0 -SJ 00450; ORDERED ENGROSSED, THEN ENROLLED  
 06/03/80 SENATE SIGNED BY OFFICERS AND PRESENTED TO GOVERNOR -SJ 00803  
 06/12/80 APPROVED BY GOVERNOR CHAPTER NO. 80-99

S 0298 GENERAL BILL BY MYERS (SIMILAR H 0046)  
 RELIEF/MIAMI BEACH/OCEAN OUTFALL; PROVIDES FOR REIMBURSEMENT FOR CONSTRUCTION OF AN OCEAN OUTFALL IN RELIANCE ON APPROVAL BY STATE BOARD OF HEALTH & RECONVERSION TO SECONDARY WASTE TREATMENT AS REQUIRED BY FLORIDA STATUTES & ADMINISTRATIVE REGULATION. CLAIM WITH APPROPRIATION; CONTINUED ON NEXT PAGE

\$3,047,422. EFFECTIVE DATE: UPON BECOMING LAW.  
 02/14/80 SENATE PREFILED  
 02/22/80 SENATE REFERRED TO THE SPECIAL MASTER FOR CLAIM BILLS, WAYS AND MEANS  
 04/08/80 SENATE INTRODUCED, REFERRED TO THE SPECIAL MASTER FOR CLAIM BILLS, WAYS AND MEANS -SJ 00032  
 04/18/80 SENATE EXTENSION OF TIME GRANTED COMMITTEE THE SPECIAL MASTER FOR CLAIM BILLS  
 04/30/80 SENATE EXTENSION OF TIME GRANTED COMMITTEE THE SPECIAL MASTER FOR CLAIM BILLS  
 05/12/80 SENATE COMM. REPORT: UNFAVORABLE BY THE SPECIAL MASTER FOR CLAIM BILLS; NOW IN WAYS AND MEANS -SJ 00278  
 05/13/80 SENATE EXTENSION OF TIME GRANTED COMMITTEE WAYS AND MEANS; SUBREFERRED TO WAYS AND MEANS SUBCOMMITTEE D -SJ 00306  
 05/15/80 SENATE NOW IN- WAYS & MEANS -SJ 00333  
 05/26/80 SENATE EXTENSION OF TIME GRANTED COMMITTEE WAYS AND MEANS  
 05/29/80 SENATE COMM. REPORT: FAVORABLE WITH AMEND., PLACED ON CALENDAR BY WAYS AND MEANS -SJ 00535  
 06/06/80 SENATE WITHDRAWN FROM CALENDAR, REFERRED TO RULES AND CALENDAR SJ 01010  
 06/07/80 SENATE DIED IN COMMITTEE ON RULES AND CALENDAR

S 0299 GENERAL BILL/CS BY TRANSPORTATION (IDENTICAL H 1658, COMPARE CS/S 0206, CS/S 0207, S 1257)  
 MOTOR VEHICLE DEALERS, ETC.; (SUNSET) PROVIDES FOR ISSUANCE OF TEMPORARY MOTOR VEHICLE TAGS; PROVIDES DEFINITIONS; SPECIFIES REQUIRED APPLICATION INFORMATION; PROVIDES FOR LICENSE CTF. & RECORD-KEEPING PROCEDURES; REQUIRES DELINQUENT LICENSEES TO CEASE ENGAGING IN BUSINESS, ETC. AMENDS CH. 320. EFFECTIVE DATE: 07/01/80.  
 02/15/80 SENATE PREFILED  
 02/22/80 SENATE REFERRED TO GOVERNMENTAL OPERATIONS  
 03/20/80 SENATE COMM. REPORT: C/S PLACED ON CALENDAR BY GOVERNMENTAL OPERATIONS  
 04/08/80 SENATE INTRODUCED, REFERRED TO GOVERNMENTAL OPERATIONS -SJ 00032; COMM. REPORT: C/S PLACED ON CALENDAR BY GOVERNMENTAL OPERATIONS -SJ 00061; WITHDRAWN FROM CALENDAR, REREFERRED TO TRANSPORTATION -SJ 00062; COMM. REPORT: C/S FOR C/S PLACED ON CALENDAR BY TRANSPORTATION -SJ 00077  
 04/09/80 SENATE PLACED ON SPECIAL ORDER CALENDAR; C/S READ FIRST TIME; C/S PASSED; YEAS 38 NAYS 0 -SJ 00083  
 04/16/80 HOUSE RECEIVED, REFERRED TO REGULATORY REFORM -HJ 00166  
 05/21/80 HOUSE WITHDRAWN FROM REGULATORY REFORM; PLACED ON CALENDAR; TAKEN UP IN LIEU OF HB 1658; READ SECOND TIME -HJ 00523; AMENDMENTS ADOPTED -HJ 00529  
 05/22/80 HOUSE READ THIRD TIME; PASSED AS AMENDED; YEAS 114 NAYS 1 -HJ 00542; IMMEDIATELY CERTIFIED  
 05/29/80 SENATE AMENDMENTS TO HOUSE AMENDMENTS ADOPTED -SJ 00442; CONCURRED IN HOUSE AMENDMENTS AS AMENDED; REQUESTED HOUSE TO CONCUR; C/S PASSED AS AMENDED; YEAS 38 NAYS 0 -SJ 00443  
 05/30/80 HOUSE PLACED IN RULES & CALENDAR -HJ 00847  
 06/03/80 HOUSE CONCURRED IN SENATE AMENDMENTS TO HOUSE AMENDMENTS; PASSED AS FURTHER AMENDED; YEAS 104 NAYS 0 -HJ 00978  
 06/03/80 SENATE ORDERED ENGROSSED, THEN ENROLLED  
 06/17/80 SENATE SIGNED BY OFFICERS AND PRESENTED TO GOVERNOR  
 06/27/80 APPROVED BY GOVERNOR CHAPTER NO. 80-217

S 0300 GENERAL BILL BY DUNN (IDENTICAL H 1286)  
 BUDGET SYSTEM PROCEDURES; PROVIDES THAT DATA PROCESSING EQUIPMENT USED IN IMPLEMENTING SUCH PROCEDURES WITHIN STATE OF FLORIDA ACCOUNTING SYSTEM BE TRANSFERRED TO AN AGENCY WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT NO LATER THAN 07/01/82. AMENDS 216.141. EFFECTIVE DATE: 07/01/80.  
 02/15/80 SENATE PREFILED  
 02/22/80 SENATE REFERRED TO GOVERNMENTAL OPERATIONS  
 04/08/80 SENATE INTRODUCED, REFERRED TO GOVERNMENTAL OPERATIONS SJ 00032  
 04/15/80 SENATE COMM. REPORT: FAVORABLE, PLACED ON CALENDAR BY CONTINUED ON NEXT PAGE

\* see file

DATE: February 8, 1980

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Klein <i>CGK</i>	Fernandez <i>CF</i>	1. N.R.	
2. _____	_____	2. _____	
3. _____	_____	3. _____	

SUBJECT: Water and Sewer System Regulatory Law (SUNSET)

BILL NO. AND SPONSOR: SB 297 by Senator Vogt

I. SUMMARY:

A. Present Situation:

Chapter 367, F.S., entitled the Water and Sewer System Regulatory Law, is repealed July 1, 1980, pursuant to the Regulatory Reform Act of 1976, unless it is reenacted by the Legislature. The law grants the Public Service Commission exclusive jurisdiction over regulated water and sewer utilities with respect to the utilities' rates, territorial authority, and quality of service. Each regulated utility must apply to PSC for a certificate which authorizes the utility to provide service in a specific territory. The certification process is designed to determine whether the utility has the technical and financial ability to provide service of an acceptable quality.

B. Effect of Proposed Changes:

The bill reenacts and revises chapter 367, F.S., and includes a substantial amount of clarifying language suggested by PSC. The major changes are as follows:

- (1) S. 367.022(8) is added, creating an exemption for those persons who resell water service at a rate which does not exceed the actual purchase price of same.
- (2) S. 367.041(1) is amended to require applicants for certificates to show a "need for service in the territory involved".
- (3) S. 367.071(3)(a) is amended to require full disclosure to local government of the value of the facilities for ratemaking purposes prior to the sale of investor-owned facilities to such local government.
- (4) S. 367.081(2) is amended to disallow both depreciation expense on CIAC and the inclusion of CIAC in the rate base. Current ch. 367 guarantees that a utility earns a profit based only on the "utility's investment in property used...in the public service". This amendment would prevent a monopolistic utility from charging rates based upon the consumers' mandatory contributions to the utility. The amendment was suggested by PSC and codifies existing PSC policy.
- (5) S. 367.082, regarding interim rates, is created to offset the effect of "regulatory lag".
- (6) S. 367.111(2) is amended to allow PSC to modify a certificate if service has not been provided (for 5 years) to part of the territory which a utility is authorized to serve.
- (7) S. 367.121(1)(h) is created and it gives PSC the authority to order interconnections of service or facilities between utilities.
- (8) S. 367.123 is amended to allow PSC to require a utility to provide service for resale.
- (9) S. 367.171(1) is amended to allow a county to rescind its resolution which subjected it to regulation by PSC.
- (10) S. 367.191, regarding abandonment and appointment of a receiver, is created.

(continued next page)

EXHIBIT 2

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II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Section 367.081(2), as amended, would result in lower costs to the consumer. The new language disallows a utility from claiming depreciation on CIAC property as an expense for ratemaking purposes. It prevents consumers who paid to construct CIAC property from paying for the property a second time when their rates are increased due to the depreciation expense on CIAC property. The proposed language in s. 367.081(2) also disallows the inclusion of the amount of CIAC property in the rate base. Here, the consumers save money because they will not pay, via higher rates, for the amount of property which they "contributed" to the utility. Although both of the amendments to s. 367.081(3) will result in considerable savings to the consumers, the exact amount is indeterminable.

Other provisions of the bill which would result in lower costs to the consumers are: the s. 367.041(1) required showing of "need" would prevent overbuilding and thus prevent higher rates; the s. 367.071(3)(a) disclosure provision would help to prevent the taxpayers from paying an inordinately high price for an investor-owned utility; the change to s. 367.081(3) would prevent the passing on (to the consumer) of costs which are within the control of the utility; the amendment to s. 367.121(1)(h) regarding forced interconnections would reduce wasted excess capacity and serve to keep rates down; the revision of s. 367.123 regarding service for resale would also reduce wasted excess capacity; and the change to s. 367.151 would insure that a tax is not paid twice when service is resold.

B. Government: NONE

III. COMMENTS:

PSC's policy to disallow any depreciation cost on CIAC has been challenged and litigation is pending. (See Florida Cities Water Company v. Florida Public Service Commission, Florida Supreme Court Case No. 55,722.) This issue is addressed in the proposed amendment to s. 367.081(2).

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- 367.101(2) - Requires that applications regarding service availability charges/conditions be accompanied by fees; suggested by PSC.
- 367.111(1) - This allows PSC to amend a certificate so as to prevent speculation by utilities; ties in with the proposed s. 367.041(1) requirement of a showing of need for service in a specific territory.
- 367.111(2) - Updates ch. 367 so it will comply with current environmental standards.
- 367.121(1)(a) - To avoid conflicting rules between PSC and other state agencies such as DER (which promulgates rules regarding water quality).
- 367.121(1)(b) - PSC already prescribes uniform systems of accounts by rule.
- 367.121(1)(c) - Insures that PSC is able to get timely reports and adequate financial data.
- 367.121(1)(d) - Clarifies existing language.
- 367.121(1)(f) - Prevents the promulgation of rules by a minority of the commissioners; suggested by PSC in their proposal re ch. 350.
- 367.121(1)(h) - Forced interconnections would allow PSC to make the best use of a utility's excess capacity; however, this is a serious power which would allow PSC to engage in a substantial amount of planning; suggested by PSC.
- 367.122 - "Meter" is a more appropriate word than "appliance"; suggested by PSC.
- 367.123 - Allowing PSC to require a utility to provide service for resale ties in with the proposed s. 367.121(g) language regarding forced interconnections; the change would allow PSC to require a utility to share its excess capacity; theoretically, if excess capacity is shared in contiguous areas, the rates will go down because a new facility will not have to be built to provide service. Also keeps exempt utilities (especially county utilities) from discontinuing service for resale without PSC approval; suggested by PSC.
- 367.131 - Updates the old language to comply with ch. 120; deletes language which gives standing to "any person in interest".
- 367.141 - Allows PSC to set fees by rule, with certain limitations; theoretically, the resultant fees will be more equitable; suggested by PSC.
- 367.151 - Insures that a tax is not paid twice if water or sewer service is resold; suggested by PSC.
- 367.161(2) - Updates the old language to comply with ch. 120.
- 367.171(1) - Allows a county to rescind its resolution which subjected it to PSC regulation; since ch. 367 was designed to assist a county which lacks the ability to regulate the utilities, a county should not be prohibited from performing the regulatory function when it later attains regulatory capability.

Series 18 Carton 916

- 367.171(2)(c) - Ties in with the s. 367.171(2)(b) provisions regarding "grandfathering in" a utility; when a utility is granted a certificate via the grandfather clause, PSC needs to evaluate the utility's value for ratemaking purposes.
- 367.171(3) - Citrus, Martin, Monroe, and Seminole Counties are deleted because they have adopted resolutions and are currently subject to PSC regulation.
- 367.191 - Protects the public by insuring that service is not interrupted via abandonment of a utility; insures that PSC has the power to appoint a receiver to continue to operate the utility; suggested by PSC.

# Journal

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of the

# House of Representatives



Second Regular Session  
of the  
Sixth Legislature  
under the Constitution as Revised in 1968

and of the  
82nd Regular Session  
since Statehood in 1845

APRIL 8 through JUNE 7, 1980

[Including a record of transmittal of Acts subsequent to sine die adjournment]

EXHIBIT 3

Yeas—111

Allen	Fox	Kutun	Plummer
Bankhead	Gallagher	Lehman	Price
Barrett	Gardner	Lewis, J. W.	Ready
Batchelor	Girardeau	Lewis, T. F.	Reynolds
Bell	Gordon	Liberti	Richmond
Boles	Grant	Lippman	Robinson
Brantley	Gustafson	Lockward	Rosen
Burnsed	Hagler	Malloy	Ryals
Burrall	Hall	Mann	Sample
Bush	Hattaway	Margolis	Shackelford
Campbell	Hawkins, L. R.	Martin	Sheldon
Carlton	Hawkins, M. E.	Martinez	Silver
Carpenter	Hazouri	McPherson	Smith, C. R.
Conway	Healey	Meek	Smith, J. H.
Cox	Hector	Melby	Smith, L. J.
Crotty	Hieber	Mica	Spaet
Danson	Hodges	Mills	Thomas
Davis	Hollingsworth	Mitchell	Thompson
Deratany	Jennings	Moffitt	Tygart
Dunbar	Johnson, A. E.	Morgan	Upchurch
Easley	Johnson, B. L.	Myers	Ward
Eckhart	Johnson, R. C.	Nergard	Warner
Evans	Jones, C. F.	Nuckolls	Watt
Ewing	Jones, D. L.	Ogden	Weinstock
Flinn	Kelly	O'Malley	Williams
Flynn	Kershaw	Pajcic	Woodruff
Fontana	Kirkwood	Patchett	Young
Foster	Kiser	Patterson	

Rosen	Smith, C. R.	Tygart	Weinstock
Ryals	Smith, J. H.	Upchurch	Williams
Sample	Smith, L. J.	Ward	Woodruff
Shackelford	Thomas	Warner	Young
Silver	Thompson	Watt	

Nays—3

Deratany Melby Patchett

Votes after roll call:

Yeas—Spaet, Davis, Richmond, Gersten

So the bill passed and was immediately certified to the Senate.

SB 95—A bill to be entitled An act relating to immunization of school children against communicable diseases; adding s. 232.032(4), Florida Statutes; exempting persons who administer required immunizations to children from certain liability; providing an effective date.

—was taken up, having been read the second time on May 26 and Amendment 1 left pending; taken up again on May 27, and now pending on motions to adopt Amendment 1 and Amendment 1 to Amendment 1. Without objection, the amendment and the amendment to the amendment were withdrawn.

On motion by Mr. Hagler, the rules were waived and SB 95 was read the third time by title. On passage, the vote was:

Nays—None

Votes after roll call:

Yeas—Gersten, Dyer

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motions by Mr. Morgan, the rules were waived and—

By the Committee on Appropriations—

HB 1809—A bill to be entitled An act relating to state government construction projects; providing appropriations for specific capital outlay projects to the Department of General Services; providing appropriations for specific capital outlay projects to various departments and other state agencies; providing for qualifications to the specific sums; amending chapters 78-401 and 79-212, Laws of Florida; suspending the operation of ss. 216.301(2), 20.22, 255.25, 216.292, and 216.301(3)(a), Florida Statutes, under certain circumstances; providing an effective date.

—was taken up instanter and read the first time by title.

On motions by Mr. Morgan, the rules were waived and HB 1809 was read the second time by title and the third time by title. On passage, the vote was:

Yeas—107

The Chair	Ewing	Hodes	Margolis
Allen	Flinn	Hodges	Martin
Bankhead	Flynn	Hollingsworth	Martinez
Barrett	Fontana	Jennings	McPherson
Batchelor	Foster	Johnson, A. E.	Meek
Boles	Fox	Johnson, B. L.	Mica
Brantley	Gallagher	Johnson, R. C.	Mills
Burnsed	Gardner	Jones, C. F.	Mitchell
Burrall	Girardeau	Jones, D. L.	Moffitt
Bush	Gordon	Kelly	Morgan
Campbell	Grant	Kershaw	Myers
Carlton	Gustafson	Kirkwood	Nergard
Carpenter	Haben	Kiser	Nuckolls
Conway	Hagler	Kutun	Ogden
Cox	Hall	Lehman	O'Malley
Crotty	Hattaway	Lewis, J. W.	Pajcic
Danson	Hawkins, L. R.	Lewis, T. F.	Patterson
Dunbar	Hawkins, M. E.	Liberti	Plummer
Dyer	Hazouri	Lippman	Price
Easley	Healey	Lockward	Ready
Eckhart	Hector	Malloy	Reynolds
Evans	Hieber	Mann	Robinson

Yeas—101

The Chair	Foster	Kershaw	Patterson
Allen	Fox	Kirkwood	Plummer
Bankhead	Gallagher	Kiser	Price
Barrett	Gardner	Kutun	Ready
Bell	Girardeau	Lehman	Reynolds
Boles	Gordon	Lewis, J. W.	Richmond
Brantley	Grant	Lewis, T. F.	Robinson
Burnsed	Gustafson	Liberti	Rosen
Burrall	Haben	Lippman	Ryals
Bush	Hagler	Lockward	Sample
Campbell	Hall	Malloy	Shackelford
Carpenter	Hattaway	Mann	Sheldon
Conway	Hawkins, L. R.	Margolis	Silver
Cox	Hazouri	Martin	Smith, C. R.
Crotty	Healey	Martinez	Smith, J. H.
Danson	Hector	McPherson	Smith, L. J.
Davis	Hieber	Melby	Spaet
Dunbar	Hodes	Mica	Thomas
Dyer	Hodges	Mills	Thompson
Easley	Hollingsworth	Mitchell	Ward
Eckhart	Jennings	Morgan	Warner
Evans	Johnson, A. E.	Myers	Watt
Ewing	Johnson, B. L.	Nergard	Young
Flinn	Johnson, R. C.	Nuckolls	
Flynn	Jones, C. F.	Ogden	
Fontana	Jones, D. L.	Patchett	

Nays—7

Batchelor	Moffitt	Tygart	Weinstock
Carlton	O'Malley	Upchurch	

Votes after roll call:

Yeas—Gersten  
Yeas to Nays—Jennings

So the bill passed and was immediately certified to the Senate.

Consideration of the following bills was temporarily deferred:

HB's 1677, 1606, 1607, 1608; HJR 1622; HB's 1686, 1729; CS for HB 1343; HB's 1758, 1759, 1760, 1761, 1762, 1763, 1766, and 1767.

CS for SB 297—A bill to be entitled An act relating to the Water and Sewer System Regulatory Law; reviving, readopting, and amending ss. 367.011, 367.021, 367.022, 367.031, 367.041, 367.051, 367.061, 367.071, 367.081, 367.091, 367.101, 367.111, 367.121, 367.122, 367.123, 367.141, 367.151, 367.161, and 367.171, Florida Statutes; clarifying legislative intent; providing defini-

tions; modifying exemptions; modifying the certification requirement; modifying provisions relating to application for a certificate; modifying provisions relating to issuance of a certificate; modifying provisions relating to extension of service and amendment of certificate; modifying provisions relating to sale or transfer of certificates, facilities, or organizational control; providing for establishment of rate base upon sale or transfer; modifying provisions relating to fixing and changing of rates and relating to rates for new classes of service; providing for the setting, by rule, of standards for service availability charges and conditions; authorizing the Public Service Commission to amend or revoke a certificate; clarifying meaning of "safe, efficient, and sufficient service"; modifying the powers of the commission; authorizing the commission to order certain interconnections of service or facilities and to approve plant capacity charges, wholesale service charges, or rates; providing for examination and testing of certain equipment; authorizing the commission to require a utility to provide service for resale; repealing s. 367.131, Florida Statutes; relating to judicial review; providing for application fees to be set by rule; modifying provisions relating to gross receipts tax; modifying provisions relating to violations; providing penalties; authorizing boards of county commissioners to rescind jurisdictional resolutions; providing for filing of financial information; providing for setting and approving rates; excluding certain counties from the purview of the chapter and including others; creating s. 367.0225, Florida Statutes; providing for determination of official filing dates; creating s. 367.082, Florida Statutes; providing for interim rates; creating s. 367.191, Florida Statutes; providing for abandonment of a utility and for placement of a utility in receivership; providing for the validity of existing certificates and authorizations; providing for repeal and legislative review of the act; providing a retroactive effective date.

—was read the second time by title.

Representative Sheldon offered the following amendment:

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Section 367.011, Florida Statutes, is amended to read:

367.011 Jurisdiction; legislative intent.—

(1) This chapter shall be known and may be cited as the "Water and Sewer System Regulatory Law."

(2) The Florida Public Service Commission shall have exclusive jurisdiction over each utility with respect to its authority, service, rates, and issuance and sale of its securities maturing more than 12 months after date of issue, except as provided in this chapter.

(3) The regulation of utilities is declared to be in the public interest, and this law is an exercise of the police power of the state for the protection of the public health, safety, and welfare. The provisions of this chapter shall be liberally construed for the accomplishment of this purpose.

(4) This chapter shall supersede all other laws on the same subject, and subsequent inconsistent laws shall supersede this chapter only to the extent that they do so by express reference. This chapter shall not impair or take away vested rights other than procedural rights or benefits.

Section 2. Section 367.021, Florida Statutes, is amended to read:

367.021 Definitions.—As used in this chapter the following words or terms shall have the meanings indicated:

(1) "Commission" means the Florida Public Service Commission.

(2) "Certificate" means a document issued by written authority from the commission authorizing to a utility to provide service in a specific territory.

(3) "Utility" means water or sewer utility and, except as provided in s. 367.022, includes every person, lessee, trustee or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or sewer service to the public for compensation.

(4) "System" means facilities and property used or useful in providing service and, upon a finding by the commission, may

include a combination of functionally related facilities and property.

(5) "Governmental agency" means a political subdivision authorized to provide water or sewer service.

(6) "Territory" means the geographical area described in a certificate, which may be within or without the boundaries of an incorporated municipality, and may include areas in more than one county.

(7) "Official date of filing" means the date upon which it has been determined, pursuant to s. 367.0225, by the commission or its designee that the utility has filed with the clerk the minimum filing requirements as established by rule of the commission.

(8) "Corporate undertaking" means the unqualified guarantee of a utility to pay a refund and any interest connected therewith which may be ordered by the commission at such time as the obligation becomes fixed and final.

Section 3. Section 367.022, Florida Statutes, is amended to read:

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

- (1) The sale, distribution, or furnishing of bottled water;
- (2) Systems owned, operated, managed, or controlled by governmental agencies;
- (3) Manufacturers providing service solely in connection with their operations;
- (4) Public lodging establishments providing service solely in connection with service to their guests;
- (5) Landlords providing service to their tenants without specific compensation for the service;
- (6) Systems with the capacity or proposed capacity designed to serve ~~or serving~~ 100 or fewer persons ~~or less~~; and
- (7) Nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives; and
- (8) Any person who resells water or sewer service at a rate or charge which does not exceed the actual purchase price of same, if such person files at least annually with the commission a list of charges and rates for all water service sold, the source and actual purchase price of same, and any other information required by the commission to justify the exemption; but such person is subject to the provisions of s. 367.122.

Section 4. Section 367.0225, Florida Statutes, is created to read:

367.0225 Determination of official date of filing.—Within 30 days after receipt of an application, rate request, or other written document for which an official date of filing is to be established, the commission or its designee shall either determine the official date of filing or issue a statement of deficiencies to the applicant, specifically listing why said applicant has failed to meet the minimum filing requirements. Such statement of deficiencies shall be binding upon the commission to the extent that once the deficiencies in the statement are satisfied, the official date of filing shall be promptly established as provided herein. Thereafter, within 15 days after the applicant indicates to the commission that it believes that it has met the minimum filing requirements, the commission or its designee shall either determine the official date of filing or issue another statement of deficiencies, specifically listing why the requirements have not been met, in which case this procedure shall be repeated until the applicant meets the minimum filing requirements and the official date of filing is established. When the commission initiates a proceeding, the official date of filing shall be the date upon which the order initiating the proceeding is issued.

Section 5. Section 367.031, Florida Statutes, is amended to read:

367.031 Certificate.—Prior to the issuance to a utility of a permit by the Department of Environmental Regulation for the construction of a new water or sewer facility, the ~~Each~~ utility

Section 6. Section 367.041, Florida Statutes, is amended to read:

367.041 Application.—Each applicant for a certificate shall:

(1) Provide information required by rule or order of the commission, which may include a detailed inquiry into the ability of the applicant to provide service, the territory and facilities involved, the need for service in the territory involved, and the existence or nonexistence of service from other sources within geographical proximity to the territory applied for;

(2) File with the commission schedules showing all rates, classifications, and charges for service of every kind furnished by it and all rules, regulations, and contracts relating thereto;

(3) File the application fee required by s. 367.141;

(4) Submit an affidavit that the applicant has caused notice of its intention to file an application, to be given:

(a) By mail or personal delivery to the governing body of the county or city affected, to the public counsel, and to the commission;+

(b) To such other persons and in such other manner prescribed by commission rule.

1. To each utility serving, as disclosed by the records of the commission, within 10 miles of the applied for territory, which has registered pursuant to the provisions of s. 367.171(1) (a); and

2. To the county commissions of the counties affected; and

(b) By publishing an advertisement each week, for 3 consecutive weeks, in a newspaper of general circulation in the territory involved.

Notice to be given shall be styled "Application For A Water Certificate," "Application For A Sewer Certificate," or "Application For A Water And Sewer Certificate," as the case may be, and shall include the name and address of the applicant together with a commonly understood description of the territory for which application is to be made.

Notice shall must be given no later more than 30 days prior to the filing of the application.

Section 7. Section 367.051, Florida Statutes, is amended to read:

367.051 Issuance of certificate.—

(1) If within 20 days following the official date of filing of the application, the commission does not receive written objection to the application, the commission may dispose of the application without hearing. If the applicant is dissatisfied with the disposition, he shall be entitled to a proceeding under s. 120.57.

(2) If, within 20 days following the official date of filing, the commission receives from the public counsel or a governmental agency, or from a utility or consumer who would be substantially affected by the requested certification, a written objection requesting a proceeding pursuant to s. 120.57, the commission shall order such proceeding conducted in or near the territory applied for, if feasible. If any consumer, utility, or governmental agency or the public counsel requests a public hearing on the application, such hearing shall, if feasible, be held in or near the territory applied for, and the transcript thereof and any material submitted at or prior to the hearing shall be considered as part of the record of the application and any proceeding related thereto. Notwithstanding any provision to the contrary in chapter 120, if within 20 days following the filing of the application the commission receives a written prima facie valid objection to the application from a consumer, utility, or governmental agency in the territory involved, the commission shall hold a public hearing in or near such territory, with notice of the hearing to be given to the applicant and parties objecting.

(3) In either event, The commission may grant a certificate, in whole or in part or with modifications in the public interest, but may in no event grant authority greater than that requested in the application or amendments thereto and noticed under s. 367.041, or it may deny a certificate. The commission shall not grant a certificate for a proposed system, or for the extension of an existing system, which will be in competition

with, or duplication of, any other system or portion of a system, unless it shall first determine that such other system or portion thereof is inadequate to meet the reasonable needs of the public or that the person operating the system is unable or refuses or neglects to provide reasonably adequate service.

(4) Revocation, suspension, transfer, or amendment of a certificate shall be subject to the provisions of this section and s. 367.041, except that the commission shall give notice as required in s. 367.041 when it initiates such action.

Section 8. Section 367.061, Florida Statutes, is amended to read:

367.061 Extension of certificate.—

(1) A utility may extend its service outside of the territory described in its certificate, if the extension does not involve territory described in an organizationally unrelated utility's certificate, served by a governmental agency, or receiving similar service from any other utility or governmental agency.

(2) Proposed extensions of service other than as authorized in subsection (1) shall not be commenced until the utility first obtains for such extensions an amended certificate in accordance with s. 367.041.

(3) A utility proposing to extend service in accordance with subsection (1) shall cause notice to be given at least 30 days prior to commencing of construction of the proposed extension, in the manner provided by s. 367.041(4).

(a) If within 50 days following the date notice was first given the commission does not receive written objection to the extension, the utility may provide service in the territory for which notice was given.

(b) If objection is received, the matter will be disposed of in accordance with s. 367.051(2) and (3).

(4) An application to amend a certificate may be made at any time within 1 year following notice as required in subsection (3), unless for good cause the commission extends such time for application but no later than April 1 of the year following the extension. The application shall contain a description of all additional territory served. The commission shall issue an amended certificate describing all territory which it had theretofore been authorized to serve, together with the additional territory served by such extension.

(5) Notices will be styled "Application For Amendment of Certificate No. . . . ."

(5)(6) Applications made pursuant to this section shall be accompanied by a fee as provided by s. 367.141.

Section 9. Section 367.071, Florida Statutes, is amended to read:

367.071 Transfer.—

(1) No utility shall sell, assign, or transfer its certificate, facilities or any portion thereof, or majority organizational control without determination and approval of the commission that the proposed sale, assignment, or transfer is in the public interest.

(2) Applications for proposed sale, assignment, or transfer shall be made in the same manner as provided by s. 367.041, except that:

(a) The notice shall be styled "Application For Transfer of Certificate No. . . . ." and

(b) The application shall be accompanied by a fee as provided by s. 367.141. No fee is required to be paid by a governmental agency that is buyer, assignee, or transferee.

(3) Applications shall be disposed of as provided in s. 367.051, except that:

(a) The sale or transfer of certificates or facilities to a governmental agency shall be approved as a matter of right; provided that the government agency shall, prior to taking any official action, obtain from the commission with respect to the authority or facilities to be sold or transferred the most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.

(b) When paragraph (a) of this subsection does not apply, the commission shall amend the certificates as necessary to reflect the change resulting from the sale, assignment, or transfer.

(4) The commission, by order, shall establish the rate base for a utility or its facilities or property when the commission approves a sale, assignment, or transfer thereof, except for any sale, assignment, or transfer to a governmental agency.

Section 10. Section 367.081, Florida Statutes, is amended to read:

367.081 Rates; procedure for fixing and changing.—

(1) Except as provided in subsection (4) rates and charges being charged and collected by a utility shall be changed only by approval of the commission.

(2) The commission shall, either upon request or upon its own motion, fix rates which are just, reasonable, compensatory, and not unfairly ~~unjustly~~ discriminatory. In all such proceedings, the commission shall consider the value and quality of the service and the cost of providing the service, which shall include, but not be limited to, debt interest, the utility's requirements for working capital, maintenance, depreciation, tax, and operating expenses incurred in the operation of all property used and useful in the public service, and a fair return on the utility's investment in property used and useful in the public service. However, the commission shall not allow the inclusion of contributions-in-aid-of-construction in the rate base of any utility during a rate proceeding, and accumulated depreciation on such contributions-in-aid-of-construction shall not be used to reduce the rate base, nor shall depreciation on such contributed assets be considered a cost of providing utility service. Contributions-in-aid-of-construction shall include any amount or item of money, services, or property received by a utility, from any person or governmental agency, any portion of which is provided at no cost to the utility and which represents a donation or contribution to the capital of the utility and which is utilized to offset the acquisition, improvement, or construction costs of the utility's property, facilities, or equipment used to provide utility services to the public. The commission shall also consider the utility's investment in property required by duly authorized governmental authority to be constructed in the public interest within a reasonable time in the future, not to exceed 24 months.

(3) The commission, in fixing rates, may determine the prudent cost of providing service during the period of time the rates will be in effect following the entry of a final order relating to the utility's rate request and may use such costs to determine the revenue requirements that will allow the utility to earn a fair rate of return on its rate base. The commission shall grant to any utility which receives all of its utility service from a governmental agency and redistributes that service to its utility customers an increase or decrease in rates for service, without hearing, upon verified notice that the rates charged by the governmental agency have changed. The new rates authorized shall reflect the amount of the change of the rates imposed upon the utility by the governmental agency. Provisions of this subsection shall not prevent a utility which receives its service from a governmental agency from seeking changes in rates pursuant to the provisions of subsection (2).

(4)(a) On or before March 31 of each year, the commission by order shall establish a price increase or decrease index for major categories of operating costs incurred by utilities subject to its jurisdiction reflecting the percentage of increase or decrease in such costs from the most recent 12-month historical data available. The commission by rule shall establish the procedure to be used in determining such indices and a procedure by which a utility, without further action by the commission, or the commission on its own motion may implement an increase or decrease in its rates based upon the application of the indices to the amount of the utility's major categories of operating costs incurred during the immediately preceding calendar year, except to the extent of any disallowances or adjustments for those expenses of that utility in its most recent rate proceeding before the commission. The rules shall provide that upon a finding of good cause including inadequate service, the commission may order a utility to refrain from implementing a rate increase hereunder unless implemented under a bond or corporate undertaking in the same manner as interim rates may be implemented under s. 367.082. No utility may use this

procedure to increase any operating cost for which an adjustment has been or could be made under subsection (4)(b).

(b) The approved rates of any utility which receives all or any portion of its utility service from a governmental agency or from a water or sewer utility regulated by the commission and which redistributes that service to its utility customers shall be automatically increased or decreased without hearing, upon verified notice to the commission 30 days prior to its implementation of the increase or decrease that the rates charged by the governmental agency or other utility have changed. The approved rates of any utility which is subject to an increase or decrease in the rates that it is charged for electric power or the amount of ad valorem taxes assessed against its property shall be increased or decreased by the utility, without action by the commission upon verified notice to the commission 30 days prior to its implementation of the increase or decrease that the rates charged by the supplier of the electric power or the taxes imposed by the governmental body have changed. The new rates authorized shall reflect the amount of the change of the ad valorem taxes or rates imposed upon the utility by the governmental agency, other utility, or supplier of electric power. Provisions of this subsection shall not prevent a utility from seeking changes in rates pursuant to the provisions of subsection (2).

(c) Before implementing a change in rates under this subsection the utility shall file an affirmation under oath as to the accuracy of the figures and calculations upon which the change in rates is based and that the change will not cause the utility to exceed the range of its last authorized rate of return. Whoever makes a false statement in the affirmation required hereunder which he does not believe to be true in regard to any material matter shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If, within 24 months of an adjustment in the rates as authorized by this subsection, the commission shall find that a utility did thereby exceed the range of its last authorized rate of return, it may order the utility to refund the difference to the rate payers. This provision shall not be construed to require a bond or corporate undertaking not otherwise required.

(e) Notwithstanding anything herein to the contrary, no utility may adjust its rates under this subsection more than two times in any 12-month period.

(f) The commission shall by order each year establish a minimal authorized rate of return on common equity which shall reasonably reflect the minimum return on equity for an average water or sewer utility and which, for purposes of this section, shall be the last authorized rate of return for any utility which otherwise would have no established rate of return. Said minimal return on common equity shall not apply to any utility once an overall rate of return has been established for said utility in a proceeding before the commission, nor shall it apply in any proceeding which will result in the establishment of an authorized rate of return.

(5)(4) Applications for rate changes shall be accompanied by a fee as provided by s. 367.141, except that no fee shall be required for applications for rate changes made pursuant to subsection (4) (3).

(6)(5) The commission may withhold consent to the operation of any rate request or any portion thereof by filing an order to that effect with the commission clerk within 60 days after the date of filing of the rate request, or within a shorter period of time established by rule of the commission. The order shall state a reason or statement of good cause for the withholding of consent. The commission shall provide a copy of the order to the utility and all interested persons who have requested notice. Such consent shall not be withheld for a period longer than 8 months following the date of filing. The new rates or any portion not consented to shall go into effect under a bond or corporate undertaking subject to refund at the expiration of such period upon notice to the commission. The commission shall determine whether the corporate undertaking may be filed in lieu of the bond. The utility shall keep accurate, detailed accounts of all amounts received because of such rates becoming effective under bond or corporate undertaking subject to refund, specifying by whom and in whose behalf such amounts were paid. In its final order relating to such rate request, the commission shall direct the utility to refund such

portion of the increased rates which are found not to be justified and which are collected during the time periods specified. The commission shall provide for the disposition of any funds not refunded, but in no event shall such funds accrue to the benefit of the utility. The commission shall take final action on the docket and enter its final order within 12 months of the official date of filing. Pending a final order by the commission in any rate proceeding under this section, the commission may withhold consent to the operation of all or any portion of the new rate schedules, delivering to the utility requesting such increase, within 30 days, a reason or written statement of good cause for withholding its consent. Such consent shall not be withheld for a period longer than 3 months from the date of filing the new schedules. The new rates or any portion not consented to shall go into effect under bond at the end of such period, but the commission shall by order require such utility to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts were paid, and upon completion of hearing and final decision in such proceeding shall by further order require such utility to refund with interest at a fair rate, to be determined by the commission in such manner as it may direct, such portion of the increased rate or charge as by its decision shall be found not justified. Any portion of such refund not thus refunded to patrons or customers of the utility shall be refunded or disposed of by the utility as the commission may direct; however, no such funds shall accrue to the benefit of the utility.

(4) In no instance is any regulated company allowed to put suspended rates into effect more than one time in any 12 month period.

Section 11. Section 367.082, Florida Statutes, is created to read:

367.082 Interim rates; procedure.—

(1) The commission may during any proceeding for a change of rates, upon its own motion, or petition from any party or by a tariff filing of a utility or a regulated company, authorize the collection of interim rates until the effective date of the final order. Such interim rates may be based upon a test period different from the test period used in the request for permanent rate relief. To establish a prima facie entitlement for interim relief, the commission, the petitioning party, the utility, or the regulated company shall demonstrate that the utility or the regulated company is earning outside the range of reasonableness on rate of return previously authorized by the commission. This determination shall be based upon the rate of return calculated in accordance with paragraph (a) or (b) of subsection (5).

(2)(a) In a proceeding for an interim increase in rates, the commission shall authorize within 60 days of the filing for such relief, the collection of rates sufficient to earn a rate of return at the minimum of the range of the last authorized rate of return. The difference between the interim rates and the previously authorized rates shall be collected under bond or corporate undertaking subject to refund with interest at a rate ordered by the commission.

(b) In a proceeding for an interim decrease in rates, the commission shall authorize within 60 days of the filing for such relief the continued collection of the previously authorized rates; however, revenues collected under those rates sufficient to reduce the achieved rate of return to the maximum of the last authorized rate of return shall be placed under bond or corporate undertaking subject to refund with interest at a rate ordered by the commission.

(c) The commission shall determine whether corporate undertaking may be filed in lieu of the bond.

(3) In granting such relief, the commission may, in an expedited hearing but within 60 days of the commencement of the proceeding, upon petition or upon its own motion, preclude the recovery of any extraordinary or imprudently incurred expenditures, or for good cause shown, increase the amount of the bond or corporate undertaking.

(4) Any refund ordered by the commission shall be calculated to reduce the utility's or the regulated company's rate of return during the pendency of the proceeding to the same level within the range of the newly authorized rate of return which is found fair and reasonable on a prospective basis but the

refund shall not be in excess of the amount of the revenues collected subject to refund and in accordance with paragraph (b) of subsection (2). In addition, the commission may require interest on the refund at a rate established by the commission.

(5) The commission in setting interim rates or setting revenues subject to refund shall determine the deficiency or excess by applying:

(a) The rate of return for the utility or the regulated company for the most recent 12-month period which shall be calculated by applying appropriate adjustments consistent with those which were used in the utility's or the regulated company's most recent rate case, and annualizing any rate changes occurring during such period but based upon an average investment rate base; or

(b) The rate of return calculated in accordance with paragraph (a) but based upon an end of period investment rate base.

(6) Nothing in this section shall be construed to prohibit the commission from authorizing interim rates for a utility which does not have an authorized rate of return previously established by the commission.

Section 12. Section 367.091, Florida Statutes, is amended to read:

367.091 Rates; new class of service.—If any request for service of a utility shall be for a new class of service not previously approved provided for in the filings required by s. 367.041(2), the utility may furnish the new class of service and fix and charge just, reasonable, and compensatory rates or charges therefor. A schedule of rates or charges so fixed shall be filed with the commission within 10 days after the service is furnished. The commission may approve such rates or charges as filed or may approve such other rates or charges for the new class of service which it finds are just, reasonable, and compensatory.

Section 13. Section 367.101, Florida Statutes, is amended to read:

367.101 Charges for service availability.—

(1) The commission, by rule, may set standards for service availability charges and service availability conditions. Charges and conditions made by a utility shall be just and reasonable. The commission shall, upon request or upon its own motion, investigate agreements or proposals for charges and conditions to be made by a utility for service availability. The commission shall set just and reasonable charges and conditions for service availability.

(2) Applications for approval of charges and conditions for service availability shall be accompanied by a fee as provided by s. 367.141.

Section 14. Section 367.111, Florida Statutes, is amended to read:

367.111 Service.—

(1) Each utility shall provide service to the territory described in its certificate within a reasonable time. If the commission finds that any utility has failed to provide service to any person reasonably entitled thereto, or finds that extension of service to any such person could be accomplished only at an unreasonable cost and that addition of the deleted territory to that of another utility company is economical and feasible, it may amend the certificate to delete the territory not served or not properly served by the utility, or it may rescind the certificate. If utility service has not been provided to any part of the territory which a utility is authorized to serve, whether or not there has been a demand for such service, within 5 years after the date of authorization for service to such part, such authorization may be reviewed and amended or revoked by the commission.

(2) Each utility shall provide to each person reasonably entitled thereto such safe, efficient, and sufficient service as is prescribed by the Florida Safe Drinking Water Act and the Florida Air and Water Pollution Control Act, or rules adopted pursuant thereto, or, if applicable, chapter 17-22, Florida Administrative Code chapter 10D-4, Florida Administrative Code for Water Systems, and chapter 17-4, Florida Administrative Code for Sewer Systems, but such service shall not be less

safe, less efficient, or less and sufficient than is consistent with the approved engineering design of the system and the reasonable and proper operation of the utility in the public interest.

Section 15. Section 367.121, Florida Statutes, is amended to read:

367.121 Powers of commission.—

(1) In the exercise of its jurisdiction, the commission shall have power:

(a) To prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and to prescribe service rules and regulations to be observed by each utility, except to the extent such authority is expressly given to another state agency;

(b) To prescribe, by rule, uniform system and classification of accounts for all utilities, which rules, among other things, shall establish adequate, fair, and reasonable depreciation rates and charges;

(c) To require such regular or emergency reports from a utility, including but not limited to financial reports, as the commission deems necessary, provided that if the commission finds a financial report to be incomplete, incorrect or inconsistent with the uniform system and classification of accounts, it may require a new report or a supplemental report, either of which the commission may require to be certified by an independent certified public accountant licensed under chapter 473 the filing by each utility of periodic reports and all other reasonably necessary information;

(d) To require repairs, improvements, additions, and extensions to any facility, or to require the construction of a new facility, if reasonably necessary to provide adequate and proper service to any person entitled to service or if reasonably necessary to provide any prescribed quality of service; the plant and equipment of any utility reasonably necessary to promote the convenience and welfare of the public and secure efficient service or facilities for those reasonably entitled thereto in the territory, except that no utility shall be required to extend its service outside the geographic territory described in its certificate its territory, or make additions to its plant or equipment to serve outside such its territory, unless the commission shall first finds that the utility is financially able to make such additional investment without impairing its capacity to serve its existing customers enter an order based upon findings establishing the financial ability of the utility to make such additional investment without impairing its capacity to serve its existing customers and its ability to operate efficiently;

(e) To employ and fix the compensation for such examiners and technical, legal, and clerical employees as it deems necessary to carry out the provisions of this chapter;

(f) To adopt, by affirmative vote of a majority of the commission, prescribe all rules and regulations reasonably necessary and appropriate for the administration and enforcement of this chapter; and

(g) To exercise all judicial powers, issue all writs, and do all things necessary or convenient to the full and complete exercise of its jurisdiction and the enforcement of its orders and requirements; and

(h) To order interconnections of service or facilities between utilities, and to approve any plant capacity charges or wholesale service charges or rates related thereto, provided that the commission first finds that the utility is financially able to make such additional investment as is required without impairing its capacity to serve its existing customers.

(2) The commission or its duly authorized representatives may, during all reasonable hours, enter upon any premises occupied by any utility and set up and use thereon any all necessary apparatus and appliance appliances for the purpose of making investigations, inspections, examinations, and tests and exercising any power conferred by this chapter. Such utility shall have the right to be notified of and be represented at the making of such investigations, inspections, examinations, and tests.

Section 16. Section 367.122, Florida Statutes, is amended to read:

367.122 Examination and testing of meters appliances.—

(1) The commission may provide for the examination and testing of all meters appliances used for measuring any product or service of a utility.

(2) Any customer or user may have any such meter appliance tested by the utility upon payment of the fee fixed by the commission.

(3) The commission shall establish reasonable fees to be paid for testing such meters appliances on the request of the customers. The fee shall be paid by the customer or user at the time of his request. However, the fee shall be paid by the utility and repaid to the customer or user if the meter appliance is found defective or incorrect to the disadvantage of the customer or user in excess of the degree or amount of tolerance customarily allowed for such meters appliances, or as may be provided for in rules and regulations of the commission. No fee may be charged for any such testing done by the commission or its representatives.

(4) The commission may purchase materials, apparatus, and standard measuring instruments for such examinations and tests.

Section 17. Section 367.123, Florida Statutes, is amended to read:

367.123 Service for resale.—The commission may shall not require a utility to provide service for resale, but Provided, however, before requiring the performance of services the commission shall first find that the utility is financially able to make such additional investment as is required without impairing its capacity to serve its existing customers. Any utility which provides service for resale shall provide such service upon terms and conditions established by the commission, and no utility shall discontinue such service without the approval of the commission. In the event a governmental agency voluntarily enters into an agreement for resale, such agreement shall provide that the service will not be discontinued without 90 days' notice being given to the purchaser prior to discontinuing such service. Nothing contained herein shall be construed to prohibit the governmental agency from requiring adequate security being given to such agency to insure payments required in the agreement.

Section 18. Section 367.131, Florida Statutes, is hereby repealed.

Section 19. Section 367.141, Florida Statutes, is amended to read:

367.141 Fees.—Applications by utilities, made pursuant to the provisions of s. ~~ss.~~ 367.041, s. 367.061, s. 367.071, and s. 367.081, s. 367.101, or s. 367.171, shall be accompanied by a fee, to be set by commission rule and to be based upon the existing or proposed capacity of the system or extension, with the following limitations as follows:

(1) From 1 to 249 persons, \$50;

(2) From 250 to 499 persons, \$75;

(1)(3) From 1 500 to 999 persons, not more than \$150;

(4) From 1,000 to 1,499 persons, \$275;

(5) From 1,500 to 2,499 persons, \$600;

(2)(6) From 1,000 2,500 to 4,999 persons, not more than \$900;

(3)(7) From 5,000 to 9,999 persons, not more than \$1,500;

(4)(8) Ten thousand or more persons, not more than \$2,250.

Such fees shall be placed in the Public Service Regulatory Trust Fund under the provisions of chapter 350.

Section 20. Section 367.151, Florida Statutes, is amended to read:

367.151 Gross receipts tax.—Each utility shall pay to the commission a regulatory fee in the amount of 2.5 percent of its gross operating revenues derived from intrastate business pursuant to s. 350.78. Each governmental agency to which ownership or control of a utility is transferred shall not be liable for any fees owed the commission by the utility as of the date of transfer, on or before March 15 in every year, report to the commission, under oath of one of its officers, the

total amount of the gross receipts derived by it in the immediately preceding period of January 1 to December 31, inclusive, from utility business done within this state. Each utility whose ownership or system is transferred in any manner to a governmental agency shall, within 30 days of the date of transfer, report the total amount of gross receipts derived by it during the period from January 1 to the date of transfer. In either event, at the time of so reporting, each utility shall pay to the commission a gross receipts tax in the amount of 2.5 percent of such gross receipts. However, whenever a purchase at wholesale is made of any water or sewer service and a tax is paid or payable thereon by the selling utility and the such utility purchasing such water or sewer service resells the same directly to customers, the purchasing such utility shall be entitled to, and shall receive, credit on such taxes as may be due by it under this section to the extent of the tax paid or payable upon such water or sewer service by the utility person, firm, or corporation from whom such purchase was made. If any utility fails to make such report and pay such tax, the commission, after giving at least 5 days' written notice to the utility, shall estimate the amount of such gross receipts from such information as it may be able to obtain from any source, add 10 percent of the amount of such tax as a penalty, and proceed to collect such tax and penalty, together with all costs of collection thereof, in the same manner as other delinquent taxes are collected. However, no penalty shall be added to the tax in the event a return is made and the amount of the tax is paid before the expiration of the time fixed in the notice given by the commission. All such tax payments and penalties shall be placed in the Florida Public Service Regulatory Trust Fund, as established under the provisions of chapter 350. The commission may audit such reports, and, upon demand, every utility shall submit all of its records, papers, books, and accounts to the commission or its representatives for audit.

Section 21. Section 367.161, Florida Statutes, is amended to read:

367.161 ~~Incrimination, violations, Penalties.—~~

(1) ~~A person called upon to testify before the commission or one of its examiners shall not be excused from answering on the ground or claim that his testimony would tend to incriminate him; but no person having so testified shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may have testified or produced documentary evidence. However, no person so testifying shall be exempted from prosecution or punishment for perjury in so testifying.~~

(2) ~~If any utility, by any authorized officer, agent, or employee, shall knowingly refuse to comply with, or willfully violates, any provision of this chapter or any lawful rule, regulation, order of, direction, demand, or requirement prescribed by the commission, such utility shall incur a penalty for each such offense of not more than \$5,000, to be fixed, imposed, and collected by the commission. However, any penalty assessed by the commission for violation of s. 367.111 (2) shall be reduced by any penalty assessed by any other state agency for the same violation. Each day that said refusal or violation continues shall constitute a separate offense. Each penalty shall be a lien upon the real and personal property of the utility, enforceable by the commission as statutory liens under chapter 85. The proceeds from the enforcement of any such lien shall be deposited in the general revenue fund of the state.~~

Section 22. Section 367.171, Florida Statutes, is amended to read:

367.171 ~~Effectiveness of this chapter.—~~

(1) The provisions of this chapter shall become effective in a county of this state upon the adoption of a resolution by the board of county commissioners of such county, or, in counties operating under a countywide charter, by the appropriate board, declaring that such county is subject to the provisions of this chapter. Any board of county commissioners adopting such resolution shall immediately notify the commission of its adoption and submit the resolution to the commission. A county, after 4 continuous years under the commission's jurisdiction, may by resolution rescind any prior resolution imposing commission jurisdiction and thereby exclude itself from the provisions of this chapter, except the county may not exclude itself from the provisions of this section.

(2)(a) Within 30 days after this chapter becomes applicable to a county, each utility shall register by filing with the commission a written statement setting forth the full legal name of the utility, its mailing address, and a brief description of its area of service.

(b) On the day this chapter becomes applicable to any county, any utility engaged in the operation or construction of a system shall be entitled to receive a certificate for the area served by such utility on the day this chapter becomes applicable to it if, within 90 days, the utility will make application by filing with the commission:

1. A map of its existing system or system under construction; and
2. A description of the area served by the system; and
3. A tariff listing all rates and charges and such other financial information as may be required by the commission.

Such application shall be accompanied by a fee as provided by s. 367.141.

(c) Before the commission issues a certificate under paragraph (b), it shall establish the amount of money prudently invested in property of the utility which property is used and useful in the public service, shall establish other elements of the rate base, and shall set and approve rates pursuant to s. 367.081.

(2)(a) In consideration of the advisory opinion of the Supreme Court of Florida to the Governor on May 14, 1960, responding to the Governor's request for the court's opinion upon a question affecting the executive powers and duties, as authorized by s. 1(c), Art. IV, State Constitution, the court found, inter alia, that the Legislature of the State of Florida is vested with inherent power to prevent unjust discrimination and excessive charges by persons engaged in common carriage and providing other service of a public nature. Thus, the Legislature has inherent authority to create and empower a public utilities commission and impose upon it responsibility and authority for regulation of water and sewer utilities in certain areas of this state.

(3)(b) In consideration of the variance of powers, duties, responsibilities, population, size of municipalities of the several counties and that every county varies from every other county and thereby affects the functions, duties, and responsibilities required of its county officers and the scope of responsibilities which each county may, at this time, undertake, the Counties of Alachua, Baker, Bay, Bradford, Calhoun, Charlotte, Citrus, Collier, Columbia, Dade, DeSoto, Dixie, Escambia, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Hillsborough, Holmes, Indian River, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Manatee, Marion, Martin, Monroe, Okaloosa, Okeechobee, Polk, St. Johns, Sarasota, Seminole, Sumter, Suwannee, Taylor, Union, Wakulla and Washington are excluded from the provisions of this chapter until such time as the board of county commissioners of such counties, acting pursuant to the provisions of subsection (1), shall make this chapter applicable to such county or until the Legislature shall, by appropriate act, remove one or more such counties from this exclusion.

(4) As of the day a utility is no longer regulated by the commission under this chapter, each such utility engaged in the operation or construction of a system shall be entitled to receive a certificate from the county in which it is located and operating for each area for which such utility held a certificate from the commission on the day it becomes subject to regulation by the county. The utility will make application by filing with the governing body of the county:

- (a) A map of its existing system or system under construction;
- (b) A certified copy of the certificate issued by the commission, including a legal description of the area for which the certificate was issued;
- (c) A tariff, listing all rates and charges then in effect, which shall remain in effect until thereafter lawfully changed;
- (d) A copy of the utility's operating regulations and procedures then in effect which shall remain in effect until thereafter lawfully changed; and

(e) The utility's then current rate base which shall then continue to be that utility's rate base until thereafter lawfully changed.

(5) Upon a utility becoming subject to regulation by a county, all cases in which the utility is a party then pending before the commission, or in any court by appeal from any order of the commission, shall remain within the jurisdiction of the commission or court until disposed of in accordance with the law in effect on the day such case was filed by any party with the commission or initiated by the commission, whether or not the parties or the subject of any such case relates to a utility in a county wherein this chapter no longer applies.

(6) Any county in which utilities as herein defined were regulated by the commission on or after January 1, 1980, which subsequently cease to be so regulated, shall within 90 days of said cessation of commission regulation, adopt and follow as minimum standards of regulation, the provisions of s. 367.081, except for s. 367.081(4)(a), and s. 367.082, except that the word "commission" shall be read as "the governing body of such county" where the context implies or admits. The authorized rate of return shall be no less than the weighted cost of the utility's capital, including debt and equity.

Section 23. Section 367.191, Florida Statutes, is created to read:

367.191 Abandonment.—It is the intent of the Legislature that water or sewer service to the customers of a utility shall not be interrupted by the abandonment or placement into receivership of the utility. To that end:

(1) No person, lessee, trustee, or receiver owning, operating, managing, or controlling a utility shall abandon the utility without giving 30 days' prior notice to the county or counties in which the utility is located and to the commission. Anyone who violates the provisions of this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each day of such abandonment shall constitute a separate offense. In addition, such act is a violation of this chapter, and the commission may impose upon the utility a penalty for each such offense of not more than \$5,000 or may amend, suspend, or revoke its certificate; each day of such abandonment without prior notice shall constitute a separate offense.

(2) After receiving such notice, the county, or counties acting jointly if more than one county is affected, shall petition the circuit court of the judicial circuit where such utility is domiciled to appoint a receiver, which may be the governing body of a political subdivision or any other person deemed appropriate. The receiver shall operate the utility from the date of abandonment until such time as the receiver disposes of the property of the utility in a manner designed to continue the efficient and effective operation of utility service.

(3) The notification to the commission under subsection (1) shall be sufficient cause for revocation, suspension, or amendment of the certificate of the utility as of the date of abandonment. The receiver operating such utility shall be considered to hold a temporary authorization from the commission, and the approved rates of the utility shall be deemed to be the interim rates of the receiver until modified by the commission.

Section 24. All certificates and authorizations valid on the effective date of this act shall remain in full force and effect. Henceforth all certificates and authorizations shall be applied for and renewed in accordance with this act.

Section 25. Notwithstanding the provisions of the Regulatory Reform Act of 1976, as amended, sections 367.011, 367.021, 367.022, 367.031, 367.041, 367.051, 367.061, 367.071, 367.081, 367.091, 367.101, 367.111, 367.121, 367.122, 367.123, 367.141, 367.151, 367.161, and 367.171, Florida Statutes, shall not stand repealed on July 1, 1980, as scheduled by such act, but said sections, as amended, are hereby revived and readopted.

Section 26. Chapter 367, Florida Statutes, shall stand repealed on July 1, 1986, and shall be reviewed by the Legislature pursuant to the Regulatory Reform Act of 1976, as amended.

Section 27. This act shall take effect on July 1, 1980, except that, if this act becomes a law after such date, it shall operate retroactively to such date.

Mr. Sheldon moved the adoption of the amendment, which was adopted.

Representative Sheldon offered the following title amendment:

Amendment 2—Strike the title and insert: A bill to be entitled An act relating to the Water and Sewer System Regulatory Law; reviving, readopting, and amending ss. 367.011, 367.021, 367.022, 367.031, 367.041, 367.051, 367.061, 367.071, 367.081, 367.091, 367.101, 367.111, 367.121, 367.122, 367.123, 367.141, 367.151, 367.161, and 367.171, Florida Statutes; clarifying legislative intent; providing definitions; modifying exemptions; modifying the certification requirement; modifying provisions relating to application for a certificate; modifying provisions relating to issuance of a certificate; modifying provisions relating to extension of service and amendment of certificate; modifying provisions relating to sale or transfer of certificates, facilities, or organizational control; providing for establishment of rate base upon sale or transfer; modifying provisions relating to fixing and changing of rates and relating to rates for new classes of service; providing for the setting by rule, of standards for service availability charges and conditions; authorizing the Public Service Commission to amend or revoke a certificate; clarifying meaning of "safe, efficient and sufficient service"; modifying the powers of the commission; authorizing the commission to order certain interconnections of service or facilities and to approve plant capacity charges, wholesale service charges, or rates; providing for examination and testing of certain equipment; authorizing the commission to require a utility to provide service for resale repealing s. 367.131, Florida Statutes, relating to judicial review providing for application fees to be set by rule; modifying provisions relating to gross receipts tax; modifying provision relating to violations; providing penalties; authorizing board of county commissioners to rescind jurisdictional resolutions; providing for filing of financial information; providing for setting and approving rates; creating s. 367.0225, Florida Statutes; providing for determination of official filing dates; creating s. 367.082, Florida Statutes; providing for interim rates; creating s. 367.191, Florida Statutes; providing for abandonment of a utility and for placement of a utility in receivership; providing for the validity of existing certificates and authorizations; providing for repeal and legislative review of the act; providing a retroactive effective date.

Mr. Sheldon moved the adoption of the amendment, which was adopted.

Representative Upchurch offered the following amendment:

Amendment 3—On page 29, line 11, strike all of said line and insert: *resolution or ordinance rescind any prior resolution or ordinance imposing commission*

Mr. Upchurch moved the adoption of the amendment, which was adopted.

On motion by Mr. Sheldon, the rules were waived and CS for SB 297, as amended, was read the third time by title. On passage the vote was:

Yeas—94

The Chair	Fontana	Jennings	McPherson
Allen	Foster	Johnson, A. E.	Meek
Bankhead	Fox	Johnson, B. L.	Melby
Barrett	Gardner	Johnson, R. C.	Mica
Bell	Gersten	Jones, C. F.	Mills
Boles	Girardeau	Jones, D. L.	Mitchell
Brantley	Gordon	Kelly	Moffitt
Burnsed	Grant	Kershaw	Morgan
Burrall	Gustafson	Kirkwood	Myers
Campbell	Haben	Kiser	Nergard
Carlton	Hagler	Kutun	Nuckolls
Conway	Hattaway	Lewis, J. W.	Ogden
Cox	Hawkins, L. R.	Lewis, T. F.	O'Malley
Crotty	Hawkins, M. E.	Liberti	Patterson
Danson	Hazouri	Lockward	Plummer
Dunbar	Healey	Malloy	Price
Eckhart	Hector	Mann	Ready
Ewing	Hieber	Margolis	Robinson
Flinn	Hodges	Martin	Rosen
Flynn	Hollingsworth	Martinez	Ryals

Sample	Thompson	Warner	Williams
Sheldon	Tygart	Watt	Woodruff
Smith, C. R.	Upchurch	Weinstock	Young
Smith, L. J.	Ward		

Nays—1

Shackelford

Votes after roll call:

Yeas—J. H. Smith, Spaet, Reynolds, Lippman, Lehman, Silver, Dyer, Evans

Nays—Carpenter

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

Consideration of HR 1838

On motions by Ms. Gordon, the rules were waived and—

By Representative Gordon—

HR 1838—A resolution honoring Seth Gadinsky.

WHEREAS, Mr. Seth Gadinsky, in his teen-age years felt a deep interest in Florida's governmental process, which interest was fostered by his mother, State Representative Elaine Gordon, and

WHEREAS, he further developed his political interest and education by serving as both a Page and a Messenger in the Florida House of Representatives, and

WHEREAS, by his outstanding citizenship, devotion to his religion, and dedication to his education, he was chosen as a delegate from the State of Florida to Boys' State in Washington, D. C., and

WHEREAS, Mr. Seth Gadinsky entered Tufts University, Medford, Massachusetts in the fall of September, 1976, and during his four years as a student at the University demonstrated a high degree of academic achievement as did his sister, Pam, who is a member of Blue Key of the University of Florida, and his brother, Brian, who graduated from Syracuse University, cum laude, and

WHEREAS, he ranked first in the 1980 class of the School of Civil Engineering, and

WHEREAS, he was selected for membership in Tau Beta Pi Fraternity, an honorary national engineering society, and

WHEREAS, on May 25, 1980, he graduated from Tufts University summa cum laude with a Bachelor of Science Degree in Civil Engineering, NOW, THEREFORE,

*Be It Resolved by the House of Representatives of the State of Florida:*

That the Florida House of Representatives recognizes Mr. Seth Gadinsky and expresses its pride in him as a symbol of the product of the youth of Florida, honors his academic accomplishments, and extends to him its warmest and best wishes for continued success in his future endeavors.

BE IT FURTHER RESOLVED that a copy of this resolution, duly attested, be presented to Mr. Gadinsky as evidence of the good wishes of the Florida House of Representatives.

—was taken up, read the first time by title, the second time in full, and adopted. On motion by Mr. Mann, the resolution was ordered spread upon the Journal.

HB 1773—A bill to be entitled An act relating to financial institutions; creating a new chapter 658, Florida Statutes; providing purpose and application of chapter; providing definitions; providing general supervisory powers of the Department of Banking and Finance; providing liability; providing for investigations by the department of violations; providing for hearings; providing for the issuance of complaints and cease and desist orders; providing for the removal of certain employees of financial institutions; requiring periodic departmental examination of institutions; requiring internal audits and reports and providing a penalty; providing for the Financial Institu-

tion's Regulatory Trust Fund and deposit of fees into such fund; requiring a department annual report on state financial institutions; limiting public access to certain department records; allowing disclosure under certain circumstances; providing a penalty for disclosure of confidential information; providing competitive equality of institutions with federally organized or chartered financial institutions; amending ss. 119.07(3)(b) and 680.104(2)(f) and (j), Florida Statutes, correcting cross references; providing an effective date.

—was read the second time by title.

Representative Moffitt offered the following amendment:

Amendment 1—On page 16, line 19, after "only" insert "by"

Mr. Moffitt moved the adoption of the amendment, which was adopted.

Representative Moffitt offered the following amendment:

Amendment 2—On page 22, line 3, after "chapter" insert: and the financial institutions codes

Mr. Moffitt moved the adoption of the amendment, which was adopted.

Representative Moffitt offered the following amendment:

Amendment 3—On page 23, line 21, strike "January 1, 1981" and insert: July 1, 1981

Mr. Moffitt moved the adoption of the amendment, which was adopted.

On motion by Mr. Moffitt, the rules were waived and HB 1773, as amended, was read the third time by title. On passage, the vote was:

Yeas—103

The Chair	Fontana	Kershaw	Price
Allen	Foster	Kirkwood	Ready
Bankhead	Fox	Kiser	Reynolds
Barrett	Gallagher	Kutun	Richmond
Bell	Gardner	Lehman	Robinson
Boles	Gersten	Lewis, J. W.	Rosen
Brantley	Gordon	Lewis, T. F.	Ryals
Burnsed	Grant	Liberti	Sadowski
Burrall	Gustafson	Lippman	Sample
Bush	Haben	Mann	Shackelford
Campbell	Hagler	Margolis	Sheldon
Carlton	Hall	Martin	Silver
Carpenter	Hawkins, L. R.	Martinez	Smith, C. R.
Conway	Hazouri	McPherson	Smith, J. H.
Cox	Healey	Melby	Smith, L. J.
Crotty	Hector	Mica	Spaet
Danson	Hieber	Mills	Thomas
Davis	Hodes	Mitchell	Thompson
Deratany	Hollingsworth	Moffitt	Tygart
Dunbar	Jennings	Morgan	Upchurch
Dyer	Johnson, A. E.	Myers	Ward
Easley	Johnson, B. L.	Nergard	Warner
Eckhart	Johnson, R. C.	Nuckolls	Watt
Evans	Jones, C. F.	Ogden	Weinstock
Ewing	Jones, D. L.	O'Malley	Young
Flynn	Kelly	Patterson	

Nays—None

Votes after roll call:

Yeas—Patchett, Malloy, Lockward, Meek, Woodruff

So the bill passed, as amended.

Subsequently, on motion by Mr. Moffitt, the House reconsidered the vote by which HB 1773 passed.

Representative Silver offered the following amendment:

Amendment 4—On page 23, line 21, strike "July 1, 1981" and insert: July 1, 1980

Mr. Silver moved the adoption of the amendment, which was adopted by two-thirds vote.

C O P

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TWELFTH REGULAR SESSION  
UNDER THE CONSTITUTION AS REVISED IN 1968  
APRIL 8 THROUGH JUNE 7, 1980

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EXHIBIT 4

On motions by Senator Holloway, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

CS for CS for SB 299 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Mr. President	Frank	McClain	Stuart
Anderson	Gordon	McKnight	Thomas
Barron	Gorman	Myers	Tobiassen
Beard	Grizzle	Neal	Trask
Carlucci	Henderson	Peterson	Vogt
Chamberlin	Hill	Poole	Ware
Childers, D.	Holloway	Scarborough	Williamson
Childers, W. D.	Jenne	Scott	Winn
Dunn	Johnston	Skinner	
Fechtcl	Maxwell	Steinberg	

Nays—None

Vote after roll call:

Yea—Hair

*The Honorable Philip D. Lewis, President*

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By the Committee on Natural Resources and Conservation—

CS for SB 297—A bill to be entitled An act relating to the Water and Sewer System Regulatory Law; reviving, readopting, and amending ss. 367.011, 367.021, 367.022, 367.031, 367.041, 367.051, 367.061, 367.071, 367.081, 367.091, 367.101, 367.111, 367.121, 367.122, 367.123, 367.141, 367.151, 367.161, and 367.171, Florida Statutes; clarifying legislative intent; providing definitions; modifying exemptions; modifying the certification requirement; modifying provisions relating to application for a certificate; modifying provisions relating to issuance of a certificate; modifying provisions relating to extension of service and amendment of certificate; modifying provisions relating to sale or transfer of certificates, facilities, or organizational control; providing for establishment of rate base upon sale or transfer; modifying provisions relating to fixing and changing of rates and relating to rates for new classes of service; providing for the setting, by rule, of standards for service availability charges and conditions; authorizing the Public Service Commission to amend or revoke a certificate; clarifying meaning of "safe, efficient, and sufficient service"; modifying the powers of the commission; authorizing the commission to order certain interconnections of service or facilities and to approve plan capacity charges, wholesale service charges, or rates; providing for examination and testing of certain equipment; authorizing the commission to require a utility to provide service for resale; repealing s. 367.131, Florida Statutes; relating to judicial review; providing for application fees to be set by rule; modifying provisions relating to gross receipts tax; modifying provisions relating to violations; providing penalties; authorizing boards of county commissioners to rescind jurisdictional resolutions; providing for filing of financial information; providing for setting and approving rates; excluding certain counties from the purview of the chapter and including others; creating s. 367.0225, Florida Statutes; providing for determination of official filing dates; creating s. 367.082, Florida Statutes; providing for interim rates; creating s. 367.191, Florida Statutes; providing for abandonment of a utility and for placement of a utility in receivership; providing for the validity of existing certificates and authorizations; providing for repeal and legislative review of the act; providing a retroactive effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

Amendment 1—On page 2, line 29, strike everything after the enacting clause and insert:

Section 1. Section 367.011, Florida Statutes, is amended to read:

367.011 Jurisdiction; legislative intent.—

(1) This chapter ~~shall be known and~~ may be cited as the "Water and Sewer System Regulatory Law."

(2) The Florida Public Service Commission shall have exclusive jurisdiction over each utility with respect to its authority, service, rates, and issuance and sale of its securities maturing more than 12 months after date of issue, except as provided in this chapter.

(3) The regulation of utilities is declared to be in the public interest, and this law is an exercise of the police power of the state for the protection of the public health, safety, and welfare. The provisions of this chapter shall be liberally construed for the accomplishment of this purpose.

(4) This chapter shall supersede all other laws on the same subject, and subsequent inconsistent laws shall supersede this chapter only to the extent that they do so by express reference. This chapter shall not impair or take away vested rights other than procedural rights or benefits.

Section 2. Section 367.021, Florida Statutes, is amended to read:

367.021 Definitions.—As used in this chapter the following words or terms shall have the meanings indicated:

(1) "Commission" means the Florida Public Service Commission.

(2) "Certificate" means a document issued by ~~written authority from~~ the commission authorizing ~~to~~ a utility to provide service in a specific territory.

(3) "Utility" means water or sewer utility and, except as provided in s. 367.022, includes every person, lessee, trustee or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or sewer service to the public for compensation.

(4) "System" means facilities and property used or useful in providing service and, upon a finding by the commission, may include a combination of functionally related facilities and property.

(5) "Governmental agency" means a political subdivision authorized to provide water or sewer service.

(6) "Territory" means the geographical area described in a certificate, which may be within or without the boundaries of an incorporated municipality, and may include areas in more than one county.

(7) "Official date of filing" means the date upon which it has been determined, pursuant to s. 367.0225, by the commission or its designee that the utility has filed with the clerk the minimum filing requirements as established by rule of the commission.

(8) "Corporate undertaking" means the unqualified guarantee of a utility to pay a refund and any interest connected therewith which may be ordered by the commission at such time as the obligation becomes fixed and final.

Section 3. Section 367.022, Florida Statutes, is amended to read:

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

- (1) The sale, distribution, or furnishing of bottled water;
- (2) Systems owned, operated, managed, or controlled by governmental agencies;
- (3) Manufacturers providing service solely in connection with their operations;
- (4) Public lodging establishments providing service solely in connection with service to their guests;
- (5) Landlords providing service to their tenants without specific compensation for the service;
- (6) Systems with the capacity or proposed capacity designed to serve or serving 100 or fewer persons or less; and
- (7) Nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives; and
- (8) Any person who resells water or sewer service at a rate or charge which does not exceed the actual purchase price of same, if such person files at least annually with the commission a list of charges and rates for all water service sold, the source and actual purchase price of same, and any other information required by the commission to justify the exemption; but such person is subject to the provisions of s. 367.122.

Section 4. Section 367.0225, Florida Statutes, is created to read:

367.0225 Determination of official date of filing.—Within 30 days after receipt of an application, rate request, or other written document for which an official date of filing is to be established, the commission or its designee shall either determine the official date of filing or issue a statement of deficiencies to the applicant, specifically listing why said applicant has failed to meet the minimum filing requirements. Such statement of deficiencies shall be binding upon the commission to the extent that once the deficiencies in the statement are satisfied, the official date of filing shall be promptly established as provided herein. Thereafter, within 15 days after the applicant indicates to the commission that it believes that it has met the minimum filing requirements, the commission or its designee shall either determine the official date of filing or issue another statement of deficiencies, specifically listing why the requirements have not been met, in which case this procedure shall be repeated until the applicant meets the minimum filing requirements and the official date of filing is established. When the commission initiates a proceeding, the official date of filing shall be the date upon which the order initiating the proceeding is issued.

Section 5. Section 367.031, Florida Statutes, is amended to read:

367.031 Certificate.—Prior to the issuance to a utility of a permit by the Department of Environmental Regulation for the construction of a new water or sewer facility, the ~~Each~~ utility shall obtain a certificate authorizing it to provide service.

Section 6. Section 367.041, Florida Statutes, is amended to read:

367.041 Application.—Each applicant for a certificate shall:

- (1) Provide information required by rule or order of the commission, which may include a detailed inquiry into the ability of the applicant to provide service, the territory and facilities involved, the need for service in the territory involved, and the existence or nonexistence of service from other sources within geographical proximity to the territory applied for;
- (2) File with the commission schedules showing all rates, classifications, and charges for service of every kind furnished by it and all rules, regulations, and contracts relating thereto;
- (3) File the application fee required by s. 367.141;
- (4) Submit an affidavit that the applicant has caused notice of its intention to file an application, to be given:
  - (a) By mail or personal delivery to the governing body of the county or city affected, to the public counsel, and to the commission;+
  - (b) To such other persons and in such other manner prescribed by commission rule.

1. To each utility serving, as disclosed by the records of the commission, within 10 miles of the applied for territory, which has registered pursuant to the provisions of s. 367.17(1)(a); and

2. To the county commissions of the counties affected; and

(b) By publishing an advertisement each week, for 3 consecutive weeks, in a newspaper of general circulation in the territory involved.

Notice to be given shall be styled "Application For A Water Certificate," "Application For A Sewer Certificate," or "Application For A Water and Sewer Certificate," as the case may be, and shall include the name and address of the applicant together with a commonly understood description of the territory for which application is to be made.

Notice shall must be given no later more than 30 days prior to the filing of the application.

Section 7. Section 367.051, Florida Statutes, is amended to read:

367.051 Issuance of certificate.—

(1) If within 20 days following the official date of filing of the application, the commission does not receive written objection to the application, the commission may dispose of the application, without hearing. If the applicant is dissatisfied with the disposition, he shall be entitled to a proceeding under s. 120.57.

(2) If, within 20 days following the official date of filing, the commission receives from the public counsel or a governmental agency, or from a utility or consumer who would be substantially affected by the requested certification, a written objection requesting a proceeding pursuant to s. 120.57, the commission shall order such proceeding conducted in or near the territory applied for, if feasible. If any consumer, utility, or governmental agency or the public counsel requests a public hearing on the application, such hearing shall, if feasible, be held in or near the territory applied for, and the transcript thereof and any material submitted at or prior to the hearing shall be considered as part of the record of the application and any proceeding related thereto. Notwithstanding any provision to the contrary in chapter 120, if within 20 days following the filing of the application the commission receives a written prima facie valid objection to the application from a consumer, utility, or governmental agency in the territory involved, the commission shall hold a public hearing in or near such territory, with notice of the hearing to be given to the applicant and parties objecting.

(3) In either event, The commission may grant a certificate, in whole or in part or with modifications in the public interest, but may in no event grant authority greater than that requested in the application or amendments thereto and noticed under s. 367.041, or it may deny a certificate. The commission shall not grant a certificate for a proposed system, or for the extension of an existing system, which will be in competition with, or duplication of, any other system or portion of a system, unless it shall first determine that such other system or portion thereof is inadequate to meet the reasonable needs of the public or that the person operating the system is unable or refuses or neglects to provide reasonably adequate service.

(4) Revocation, suspension, transfer, or amendment of a certificate shall be subject to the provisions of this section and s. 367.041, except that the commission shall give notice as required in s. 367.041 when it initiates such action.

Section 8. Section 367.061, Florida Statutes, is amended to read:

367.061 Extension of certificate.—

(1) A utility may extend its service outside of the territory described in its certificate, if the extension does not involve territory described in an organizationally unrelated utility's certificate, served by a governmental agency, or receiving similar service from any other utility or governmental agency.

(2) Proposed extensions of service other than as authorized in subsection (1) shall not be commenced until the utility first obtains for such extensions an amended certificate in accordance with s. 367.041.

(3) A utility proposing to extend service in accordance with subsection (1) shall cause notice to be given at least 30 days prior to commencing of construction of the proposed extension, in the manner provided by s. 367.041(4).

(a) If within 50 days following the date notice was first given the commission does not receive written objection to the extension, the utility may provide service in the territory for which notice was given.

(b) If objection is received, the matter will be disposed of in accordance with s. 367.051(2) and (3).

(4) An application to amend a certificate may be made at any time within 1 year following notice as required in subsection (3), unless for good cause the commission extends such time for application but no later than April 1 of the year following the extension. The application shall contain a description of all additional territory served. The commission shall issue an amended certificate describing all territory which it had theretofore been authorized to serve, together with the additional territory served by such extension.

~~(5) Notices will be styled "Application For Amendment of Certificate No. ...."~~

~~(5)(6)~~ Applications made pursuant to this section shall be accompanied by a fee as provided by s. 367.141.

Section 9. Section 367.071, Florida Statutes, is amended to read:

#### 367.071 Transfer.—

(1) No utility shall sell, assign, or transfer its certificate, facilities or any portion thereof, or majority organizational control without determination and approval of the commission that the proposed sale, assignment, or transfer is in the public interest.

(2) Applications for proposed sale, assignment, or transfer shall be made in the same manner as provided by s. 367.041, except that:

~~(a) The notice shall be styled "Application For Transfer Of Certificate No. ...." and~~

~~(b) The application shall be accompanied by a fee as provided by s. 367.141. No fee is required to be paid by a governmental agency that is buyer, assignee, or transferee.~~

(3) Applications shall be disposed of as provided in s. 367.051, except that:

(a) The sale or transfer of certificates or facilities to a governmental agency shall be approved as a matter of right; provided that the government agency shall, prior to taking any official action, obtain from the commission with respect to the authority or facilities to be sold or transferred the most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.

(b) When paragraph (a) of this subsection does not apply, the commission shall amend the certificates as necessary to reflect the change resulting from the sale, assignment, or transfer.

(4) The commission, by order, shall establish the rate base for a utility or its facilities or property when the commission approves a sale, assignment, or transfer thereof, except for any sale, assignment, or transfer to a governmental agency.

Section 10. Section 367.081, Florida Statutes, is amended to read:

#### 367.081 Rates; procedure for fixing and changing.—

(1) Except as provided in subsection (4) rates and charges being charged and collected by a utility shall be changed only by approval of the commission.

(2) The commission shall, either upon request or upon its own motion, fix rates which are just, reasonable, compensatory, and not unfairly unjustly discriminatory. In all such proceedings, the commission shall consider the value and quality of the service and the cost of providing the service, which shall include, but not be limited to, debt interest, the utility's requirements for working capital, maintenance, depreciation, tax, and operating expenses incurred in the operation of all property used and useful in the public service, and a fair return on the utility's investment in property used and useful in the public service. However, the commission shall not allow the inclusion

utility during a rate proceeding, and accumulated depreciation on such contributions-in-aid-of-construction shall not be used to reduce the rate base, nor shall depreciation on such contributed assets be considered a cost of providing utility service. Contributions-in-aid-of-construction shall include any amount or item of money, services, or property received by a utility, from any person or governmental agency, any portion of which is provided at no cost to the utility and which represents a donation or contribution to the capital of the utility and which is utilized to offset the acquisition, improvement, or construction costs of the utility's property, facilities, or equipment used to provide utility services to the public. The commission shall also consider the utility's investment in property required by duly authorized governmental authority to be constructed in the public interest within a reasonable time in the future, not to exceed 24 months.

(3) The commission, in fixing rates, may determine the prudent cost of providing service during the period of time the rates will be in effect following the entry of a final order relating to the utility's rate request and may use such costs to determine the revenue requirements that will allow the utility to earn a fair rate of return on its rate base. The commission shall grant to any utility which receives all of its utility service from a governmental agency and redistributes that service to its utility customers an increase or decrease in rates for service, without hearing, upon verified notice that the rates charged by the governmental agency have changed. The new rates authorized shall reflect the amount of the change of the rates imposed upon the utility by the governmental agency. Provisions of this subsection shall not prevent a utility which receives its service from a governmental agency from seeking changes in rates pursuant to the provisions of subsection (2).

(4)(a) On or before March 31 of each year, the commission by order shall establish a price increase or decrease index for major categories of operating costs incurred by utilities subject to its jurisdiction reflecting the percentage of increase or decrease in such costs from the most recent 12-month historical data available. The commission by rule shall establish the procedure to be used in determining such indices and a procedure by which a utility, without further action by the commission, or the commission on its own motion may implement an increase or decrease in its rates based upon the application of the indices to the amount of the utility's major categories of operating costs incurred during the immediately preceding calendar year, except to the extent of any disallowances or adjustments for those expenses of that utility in its most recent rate proceeding before the commission. The rules shall provide that upon a finding of good cause including inadequate service, the commission may order a utility to refrain from implementing a rate increase hereunder unless implemented under a bond or corporate undertaking in the same manner as interim rates may be implemented under s. 367.082. No utility may use this procedure to increase any operating cost for which an adjustment has been or could be made under subsection (4)(b).

(b) The approved rates of any utility which receives all or any portion of its utility service from a governmental agency or from a water or sewer utility regulated by the commission and which redistributes that service to its utility customers shall be automatically increased or decreased without hearing, upon verified notice to the commission 30 days prior to its implementation of the increase or decrease that the rates charged by the governmental agency or other utility have changed. The approved rates of any utility which is subject to an increase or decrease in the rates that it is charged for electric power or the amount of ad valorem taxes assessed against its property shall be increased or decreased by the utility, without action by the commission upon verified notice to the commission 30 days prior to its implementation of the increase or decrease that the rates charged by the supplier of the electric power or the taxes imposed by the governmental body have changed. The new rates authorized shall reflect the amount of the change of the ad valorem taxes or rates imposed upon the utility by the governmental agency, other utility, or supplier of electric power. Provisions of this subsection shall not prevent a utility from seeking changes in rates pursuant to the provisions of subsection (2).

(c) Before implementing a change in rates under this subsection the utility shall file an affirmation under oath as to the accuracy of the figures and calculations upon which the change in rates is based and that the change will not cause

return. Whoever makes a false statement in the affirmation required hereunder which he does not believe to be true in regard to any material matter shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If, within 24 months of an adjustment in the rates as authorized by this subsection, the commission shall find that a utility did thereby exceed the range of its last authorized rate of return, it may order the utility to refund the difference to the rate payers. This provision shall not be construed to require a bond or corporate undertaking not otherwise required.

(e) Notwithstanding anything herein to the contrary, no utility may adjust its rates under this subsection more than two times in any 12-month period.

(f) The commission shall by order each year establish a minimal authorized rate of return on common equity which shall reasonably reflect the minimum return on equity for an average water or sewer utility and which, for purposes of this section, shall be the last authorized rate of return for any utility which otherwise would have no established rate of return. Said minimal return on common equity shall not apply to any utility once an overall rate of return has been established for said utility in a proceeding before the commission, nor shall it apply in any proceeding which will result in the establishment of an authorized rate of return.

(5)(4) Applications for rate changes shall be accompanied by a fee as provided by s. 367.141, except that no fee shall be required for applications for rate changes made pursuant to subsection (4)(2).

(6)(5) The commission may withhold consent to the operation of any rate request or any portion thereof by filing an order to that effect with the commission clerk within 60 days after the date of filing of the rate request, or within a shorter period of time established by rule of the commission. The order shall state a reason or statement of good cause for the withholding of consent. The commission shall provide a copy of the order to the utility and all interested persons who have requested notice. Such consent shall not be withheld for a period longer than 8 months following the date of filing. The new rates or any portion not consented to shall go into effect under a bond or corporate undertaking subject to refund at the expiration of such period upon notice to the commission. The commission shall determine whether the corporate undertaking may be filed in lieu of the bond. The utility shall keep accurate, detailed accounts of all amounts received because of such rates becoming effective under bond or corporate undertaking subject to refund, specifying by whom and in whose behalf such amounts were paid. In its final order relating to such rate request, the commission shall direct the utility to refund such portion of the increased rates which are found not to be justified and which are collected during the time periods specified. The commission shall provide for the disposition of any funds not refunded, but in no event shall such funds accrue to the benefit of the utility. The commission shall take final action on the docket and enter its final order within 12 months of the official date of filing. Pending a final order by the commission in any rate proceeding under this section, the commission may withhold consent to the operation of all or any portion of the new rate schedules, delivering to the utility requesting such increase, within 20 days, a reason or written statement of good cause for withholding its consent. Such consent shall not be withheld for a period longer than 8 months from the date of filing the new schedules. The new rates or any portion not consented to shall go into effect under bond at the end of such period, but the commission shall by order require such utility to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts were paid, and upon completion of hearing and final decision in such proceeding shall by further order require such utility to refund with interest at a fair rate, to be determined by the commission in such manner as it may direct, such portion of the increased rate or charge as by its decision shall be found not justified. Any portion of such refund not thus refunded to patrons or customers of the utility shall be refunded or disposed of by the utility as the commission may direct; however, no such funds shall accrue to the benefit of the utility.

(6) In no instance is any regulated company allowed to put suspended rates into effect more than one time in any 12-month period.

Section 11. Section 367.082, Florida Statutes, is created to read:

367.082 Interim rates; procedure.—

(1) The commission may during any proceeding for a change of rates, upon its own motion, or petition from any party or by a tariff filing of a utility or a regulated company, authorize the collection of interim rates until the effective date of the final order. Such interim rates may be based upon a test period different from the test period used in the request for permanent rate relief. To establish a prima facie entitlement for interim relief, the commission, the petitioning party, the utility, or the regulated company shall demonstrate that the utility or the regulated company is earning outside the range of reasonableness on rate of return previously authorized by the commission. This determination shall be based upon the rate of return calculated in accordance with paragraph (a) or (b) of subsection (5).

(2)(a) In a proceeding for an interim increase in rates, the commission shall authorize within 60 days of the filing for such relief, the collection of rates sufficient to earn a rate of return at the minimum of the range of the last authorized rate of return. The difference between the interim rates and the previously authorized rates shall be collected under bond or corporate undertaking subject to refund with interest at a rate ordered by the commission.

(b) In a proceeding for an interim decrease in rates, the commission shall authorize within 60 days of the filing for such relief the continued collection of the previously authorized rates; however, revenues collected under those rates sufficient to reduce the achieved rate of return to the maximum of the last authorized rate of return shall be placed under bond or corporate undertaking subject to refund with interest at a rate ordered by the commission.

(c) The commission shall determine whether corporate undertaking may be filed in lieu of the bond.

(3) In granting such relief, the commission may, in an expedited hearing but within 60 days of the commencement of the proceeding, upon petition or upon its own motion, preclude the recovery of any extraordinary or imprudently incurred expenditures, or for good cause shown, increase the amount of the bond or corporate undertaking.

(4) Any refund ordered by the commission shall be calculated to reduce the utility's or the regulated company's rate of return during the pendency of the proceeding to the same level within the range of the newly authorized rate of return which is found fair and reasonable on a prospective basis but the refund shall not be in excess of the amount of the revenues collected subject to refund and in accordance with paragraph (b) of subsection (2). In addition, the commission may require interest on the refund at a rate established by the commission.

(5) The commission in setting interim rates or setting revenues subject to refund shall determine the deficiency or excess by applying:

(a) The rate of return for the utility or the regulated company for the most recent 12-month period which shall be calculated by applying appropriate adjustments consistent with those which were used in the utility's or the regulated company's most recent rate case, and annualizing any rate changes occurring during such period but based upon an average investment rate base; or

(b) The rate of return calculated in accordance with paragraph (a) but based upon an end of period investment rate base.

(6) Nothing in this section shall be construed to prohibit the commission from authorizing interim rates for a utility which does not have an authorized rate of return previously established by the commission.

Section 12. Section 367.091, Florida Statutes, is amended to read:

367.091 Rates; new class of service.—If any request for service of a utility shall be for a new class of service not previously approved provided for in the filings required by s. 367.041(2), the utility may furnish the new class of service and fix and charge just, reasonable, and compensatory rates or charges therefor. A schedule of rates or charges so fixed shall be filed

with the commission within 10 days after the service is furnished. The commission may approve such rates or charges as filed or may approve such other rates or charges for the new class of service which it finds are just, reasonable, and compensatory.

Section 13. Section 367.101, Florida Statutes, is amended to read:

367.101 Charges for service availability.—

(1) *The commission, by rule, may set standards for service availability charges and service availability conditions. Charges and conditions made by a utility shall be just and reasonable. The commission shall, upon request or upon its own motion, investigate agreements or proposals for charges and conditions to be made by a utility for service availability. The commission shall set just and reasonable charges and conditions for service availability.*

(2) *Applications for approval of charges and conditions for service availability shall be accompanied by a fee as provided by s. 367.141.*

Section 14. Section 367.111, Florida Statutes, is amended to read:

367.111 Service.—

(1) Each utility shall provide service to the territory described in its certificate within a reasonable time. If the commission finds that any utility has failed to provide service to any person reasonably entitled thereto, or finds that extension of service to any such person could be accomplished only at an unreasonable cost and that addition of the deleted territory to that of another utility company is economical and feasible, it may amend the certificate to delete the territory not served or not properly served by the utility, or it may rescind the certificate. *If utility service has not been provided to any part of the territory which a utility is authorized to serve, whether or not there has been a demand for such service, within 5 years after the date of authorization for service to such part, such authorization may be reviewed and amended or revoked by the commission.*

(2) Each utility shall provide to each person reasonably entitled thereto such safe, efficient, and sufficient service as is prescribed by the Florida Safe Drinking Water Act and the Florida Air and Water Pollution Control Act, or rules adopted pursuant thereto, or, if applicable, chapter 17-22, Florida Administrative Code chapter 10D-4, Florida Administrative Code for Water Systems, and chapter 17-4, Florida Administrative Code for Sewer Systems, but such service shall not be less safe, less efficient, or less and sufficient than is consistent with the approved engineering design of the system and the reasonable and proper operation of the utility in the public interest.

Section 15. Section 367.121, Florida Statutes, is amended to read:

367.121 Powers of commission.—

(1) In the exercise of its jurisdiction, the commission shall have power:

(a) To prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and to prescribe service rules and regulations to be observed by each utility, except to the extent such authority is expressly given to another state agency;

(b) To prescribe, by rule, uniform system and classification of accounts for all utilities, which rules, among other things, shall establish adequate, fair, and reasonable depreciation rates and charges;

(c) To require such regular or emergency reports from a utility, including but not limited to financial reports, as the commission deems necessary, provided that if the commission finds a financial report to be incomplete, incorrect or inconsistent with the uniform system and classification of accounts, it may require a new report or a supplemental report, either of which the commission may require to be certified by an independent certified public accountant licensed under chapter 473 the filing by each utility of periodic reports and all other reasonably necessary information;

(d) To require repairs, improvements, additions, and extensions to any facility, or to require the construction of a

*new facility, if reasonably necessary to provide adequate and proper service to any person entitled to service or if reasonably necessary to provide any prescribed quality of service; the plant and equipment of any utility reasonably necessary to promote the convenience and welfare of the public and secure sufficient service or facilities for those reasonably entitled thereto in the territory, except that no utility shall be required to extend its service outside the geographic territory described in its certificate its territory, or make additions to its plant or equipment to serve outside such its territory, unless the commission shall first finds that the utility is financially able to make such additional investment without impairing its capacity to serve its existing customers enter an order based upon findings establishing the financial ability of the utility to make such additional investment without impairing its capacity to serve its existing customers and its ability to operate efficiently;*

(e) To employ and fix the compensation for such examiners and technical, legal, and clerical employees as it deems necessary to carry out the provisions of this chapter;

(f) To adopt, by affirmative vote of a majority of the commission, ~~prescribe all rules and regulations~~ reasonably necessary and appropriate for the administration and enforcement of this chapter; ~~and~~

(g) To exercise all judicial powers, issue all writs, and do all things necessary or convenient to the full and complete exercise of its jurisdiction and the enforcement of its orders and requirements; *and*.

(h) *To order interconnections of service or facilities between utilities, and to approve any plant capacity charges or wholesale service charges or rates related thereto, provided that the commission first finds that the utility is financially able to make such additional investment as is required without impairing its capacity to serve its existing customers.*

(2) The commission or its duly authorized representatives may, during all reasonable hours, enter upon any premises occupied by any utility and set up and use thereon any all necessary apparatus and appliance appliances for the purpose of making investigations, inspections, examinations, and tests and exercising any power conferred by this chapter. Such utility shall have the right to be notified of and be represented at the making of such investigations, inspections, examinations, and tests.

Section 16. Section 367.122, Florida Statutes, is amended to read:

367.122 Examination and testing of meters appliances.—

(1) The commission may provide for the examination and testing of all meters appliances used for measuring any product or service of a utility.

(2) Any customer or user may have any such meter appliance tested by the utility upon payment of the fee fixed by the commission.

(3) The commission shall establish reasonable fees to be paid for testing such meters appliances on the request of the customers. The fee shall be paid by the customer or user at the time of his request. However, the fee shall be paid by the utility and repaid to the customer or user if the meter appliance is found defective or incorrect to the disadvantage of the customer or user in excess of the degree or amount of tolerance customarily allowed for such meters appliances, or as may be provided for in rules and regulations of the commission. No fee may be charged for any such testing done by the commission or its representatives.

(4) The commission may purchase materials, apparatus, and standard measuring instruments for such examinations and tests.

Section 17. Section 367.123, Florida Statutes, is amended to read:

367.123 Service for resale.—The commission may ~~shall not~~ require a utility to provide service for resale, ~~but~~ *Provided, however, before requiring the performance of services the commission shall first find that the utility is financially able to make such additional investment as is required without impairing its capacity to serve its existing customers.* Any utility which provides service for resale shall provide such service

upon terms and conditions established by the commission, and no utility shall discontinue such service without the approval of the commission. *In the event a governmental agency voluntarily enters into an agreement for resale, such agreement shall provide that the service will not be discontinued without 90 days' notice being given to the purchaser prior to discontinuing such service. Nothing contained herein shall be construed to prohibit the governmental agency from requiring adequate security being given to such agency to insure payments required in the agreement.*

Section 18. Section 367.131, Florida Statutes, is hereby repealed.

Section 19. Section 367.141, Florida Statutes, is amended to read:

367.141 Fees.—Applications by utilities, made pursuant to the provisions of s. ~~ss.~~ 367.041, s. 367.061, s. 367.071, and s. 367.081, s. 367.101, or s. 367.171, shall be accompanied by a fee, to be set by commission rule and to be based upon the existing or proposed capacity of the system or extension, with the following limitations as follows:

(1) From 1 to 249 persons, \$50;

(2) From 250 to 499 persons, \$75;

(1)(3) From 500 to 999 persons, not more than \$150;

(4) From 1,000 to 1,499 persons, \$275;

(5) From 1,500 to 2,499 persons, \$600;

(2)(6) From 1,000 2,500 to 4,999 persons, not more than \$900;

(3)(7) From 5,000 to 9,999 persons, not more than \$1,500;

(4)(8) Ten thousand or more persons, not more than \$2,250. Such fees shall be placed in the Public Service Regulatory Trust Fund under the provisions of chapter 350.

Section 20. Section 367.151, Florida Statutes, is amended to read:

367.151 Gross receipts tax.—Each utility shall pay to the commission a regulatory fee in the amount of 2.5 percent of its gross operating revenues derived from intrastate business pursuant to s. 350.78. Each governmental agency to which ownership or control of a utility is transferred shall not be liable for any fees owed the commission by the utility as of the date of transfer, on or before March 15 in every year, report to the commission, under oath of one of its officers, the total amount of the gross receipts derived by it in the immediately preceding period of January 1 to December 31, inclusive, from utility business done within this state. Each utility whose ownership or system is transferred in any manner to a governmental agency shall, within 30 days of the date of transfer, report the total amount of gross receipts derived by it during the period from January 1 to the date of transfer. In either event, at the time of so reporting, each utility shall pay to the commission a gross receipts tax in the amount of 2.5 percent of such gross receipts. However, whenever a purchase at wholesale is made of any water or sewer service and a tax is paid or payable thereon by the selling a utility and the such utility purchasing such water or sewer service resells the same directly to customers, the purchasing such utility shall be entitled to, and shall receive, credit on such taxes as may be due by it under this section to the extent of the tax paid or payable upon such water or sewer service by the utility person, firm, or corporation from whom such purchase was made. If any utility fails to make such report and pay such tax, the commission, after giving at least 5 days' written notice to the utility, shall estimate the amount of such gross receipts from such information as it may be able to obtain from any source, add 10 percent of the amount of such tax as a penalty, and proceed to collect such tax and penalty, together with all costs of collection thereof, in the same manner as other delinquent taxes are collected. However, no penalty shall be added to the tax in the event a return is made and the amount of the tax is paid before the expiration of the time fixed in the notice given by the commission. All such tax payments and penalties shall be placed in the Florida Public Service Regulatory Trust Fund, as established under the provisions of chapter 350. The commission may audit such reports, and, upon demand, every utility shall submit all of its records, papers, books, and accounts to the commission or its representatives for audit.

Section 21. Section 367.161, Florida Statutes, is amended to read:

367.161 ~~Incrimination, violations, Penalties.—~~

(1) A person called upon to testify before the commission or one of its examiners shall not be excused from answering on the ground or claim that his testimony would tend to incriminate him; but no person having so testified shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may have testified or produced documentary evidence. However, a person so testifying shall be exempted from prosecution or punishment for perjury in so testifying.

(2) If any utility, by any authorized officer, agent, or employee, shall knowingly refuses refuse to comply with, or will fully violates violate, any provision of this chapter or any lawful rate, rule or regulation, order of, direction, demand, or requirement prescribed by the commission, such utility shall incur a penalty for each such offense of not more than \$5,000 to be fixed, imposed, and collected by the commission. However any penalty assessed by the commission for violation of s. 367.111(2) shall be reduced by any penalty assessed by any other state agency for the same violation. Each day that said refusal or violation continues shall constitute a separate offense. Each penalty shall be a lien upon the real and personal property of the utility, enforceable by the commission as statutory liens under chapter 85. The proceeds from the enforcement of any such lien shall be deposited in the general revenue fund of the state.

Section 22. Section 367.171, Florida Statutes, is amended to read:

367.171 Effectiveness of this chapter.—

(1) The provisions of this chapter shall become effective in a county of this state upon the adoption of a resolution by the board of county commissioners of such county, or, in counties operating under a countywide charter, by the appropriate board, declaring that such county is subject to the provisions of this chapter. Any board of county commissioners adopting such resolution shall immediately notify the commission of its adoption and submit the resolution to the commission. A county, after 4 continuous years under the commission's jurisdiction, may by resolution or ordinance rescind any prior resolution or ordinance imposing commission jurisdiction and thereby exclude itself from the provisions of this chapter, except the county may not exclude itself from the provisions of this section.

(2)(a) Within 30 days after this chapter becomes applicable to a county, each utility shall register by filing with the commission a written statement setting forth the full legal name of the utility, its mailing address, and a brief description of its area of service.

(b) On the day this chapter becomes applicable to any county, any utility engaged in the operation or construction of a system shall be entitled to receive a certificate for the area served by such utility on the day this chapter becomes applicable to it if, within 90 days, the utility will make application by filing with the commission:

1. A map of its existing system or system under construction; and
2. A description of the area served by the system; and
3. A tariff listing all rates and charges and such other financial information as may be required by the commission.

Such application shall be accompanied by a fee as provided by s. 367.141.

(c) Before the commission issues a certificate under paragraph (b), it shall establish the amount of money prudently invested in property of the utility which property is used and useful in the public service, shall establish other elements of the rate base, and shall set and approve rates pursuant to s. 367.081.

(2)(a) In consideration of the advisory opinion of the Supreme Court of Florida to the Governor on May 14, 1960, responding to the Governor's request for the court's opinion upon a question affecting the executive powers and duties, as authorized by s. 1(e), Art. IV, State Constitution, the court found, inter alia, that the Legislature of the State of Florida is vested with inherent power to prevent unjust discrimination

and excessive charges by persons engaged in common carriage and providing other service of a public nature. Thus, the Legislature has inherent authority to create and empower a public utilities commission and impose upon it responsibility and authority for regulation of water and sewer utilities in certain areas of this state.

(3)(b) In consideration of the variance of powers, duties, responsibilities, population, size of municipalities of the several counties and that every county varies from every other county and thereby affects the functions, duties, and responsibilities required of its county officers and the scope of responsibilities which each county may, at this time, undertake, the Counties of Alachua, Baker, Bay, Bradford, Calhoun, Charlotte, Citrus, Collier, Columbia, Dade, DeSoto, Dixie, Escambia, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Hillsborough, Holmes, Indian River, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Manatee, Marion, Martin, Monroe, Okaloosa, Okeechobee, Polk, St. Johns, Sarasota, Seminole, Sumter, Suwannee, Taylor, Union, Wakulla and Washington are excluded from the provisions of this chapter until such time as the board of county commissioners of such counties, acting pursuant to the provisions of subsection (1), shall make this chapter applicable to such county or until the Legislature shall, by appropriate act, remove one or more such counties from this exclusion.

(4) As of the day a utility is no longer regulated by the commission under this chapter, each such utility engaged in the operation or construction of a system shall be entitled to receive a certificate from the county in which it is located and operating for each area for which such utility held a certificate from the commission on the day it becomes subject to regulation by the county. The utility will make application by filing with the governing body of the county:

(a) A map of its existing system or system under construction;

(b) A certified copy of the certificate issued by the commission, including a legal description of the area for which the certificate was issued;

(c) A tariff, listing all rates and charges then in effect, which shall remain in effect until thereafter lawfully changed;

(d) A copy of the utility's operating regulations and procedures then in effect which shall remain in effect until thereafter lawfully changed; and

(e) The utility's then current rate base which shall then continue to be that utility's rate base until thereafter lawfully changed.

(5) Upon a utility becoming subject to regulation by a county, all cases in which the utility is a party then pending before the commission, or in any court by appeal from any order of the commission, shall remain within the jurisdiction of the commission or court until disposed of in accordance with the law in effect on the day such case was filed by any party with the commission or initiated by the commission, whether or not the parties or the subject of any such case relates to a utility in a county wherein this chapter no longer applies.

(6) Any county in which utilities as herein defined were regulated by the commission on or after January 1, 1980, which subsequently cease to be so regulated, shall within 90 days of said cessation of commission regulation, adopt and follow as minimum standards of regulation, the provisions of s. 367.081, except for s. 367.081(4)(a), and s. 367.082, except that the word "commission" shall be read as "the governing body of such county" where the context implies or admits. The authorized rate of return shall be no less than the weighted cost of the utility's capital, including debt and equity.

Section 23. Section 367.191, Florida Statutes, is created to read:

367.191 Abandonment.—It is the intent of the Legislature that water or sewer service to the customers of a utility shall not be interrupted by the abandonment or placement into receivership of the utility. To that end:

(1) No person, lessee, trustee, or receiver owning, operating, managing, or controlling a utility shall abandon the utility without giving 30 days' prior notice to the county or counties

in which the utility is located and to the commission. Anyone who violates the provisions of this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each day of such abandonment shall constitute a separate offense. In addition, such act is a violation of this chapter, and the commission may impose upon the utility a penalty for each such offense of not more than \$5,000 or may amend, suspend, or revoke its certificate; each day of such abandonment without prior notice shall constitute a separate offense.

(2) After receiving such notice, the county, or counties acting jointly if more than one county is affected, shall petition the circuit court of the judicial circuit where such utility is domiciled to appoint a receiver, which may be the governing body of a political subdivision or any other person deemed appropriate. The receiver shall operate the utility from the date of abandonment until such time as the receiver disposes of the property of the utility in a manner designed to continue the efficient and effective operation of utility service.

(3) The notification to the commission under subsection (1) shall be sufficient cause for revocation, suspension, or amendment of the certificate of the utility as of the date of abandonment. The receiver operating such utility shall be considered to hold a temporary authorization from the commission, and the approved rates of the utility shall be deemed to be the interim rates of the receiver until modified by the commission.

Section 24. All certificates and authorizations valid on the effective date of this act shall remain in full force and effect. Henceforth all certificates and authorizations shall be applied for and renewed in accordance with this act.

Section 25. Notwithstanding the provisions of the Regulatory Reform Act of 1976, as amended, sections 367.011, 367.021, 367.022, 367.031, 367.041, 367.051, 367.061, 367.071, 367.081, 367.091, 367.101, 367.111, 367.121, 367.122, 367.123, 367.141, 367.151, 367.161, and 367.171, Florida Statutes, shall not stand repealed on July 1, 1980, as scheduled by such act, but said sections, as amended, are hereby revived and readopted.

Section 26. Chapter 367, Florida Statutes, shall stand repealed on July 1, 1986, and shall be reviewed by the Legislature pursuant to the Regulatory Reform Act of 1976, as amended.

Section 27. This act shall take effect on July 1, 1980, except that, if this act becomes a law after such date, it shall operate retroactively to such date.

Amendment 2—On page 1, strike entire title and insert:

A bill to be entitled An act relating to the Water and Sewer System Regulatory Law; reviving, readopting, and amending ss. 367.011, 367.021, 367.022, 367.031, 367.041, 367.051, 367.061, 367.071, 367.081, 367.091, 367.101, 367.111, 367.121, 367.122, 367.123, 367.141, 367.151, 367.161, and 367.171, Florida Statutes; clarifying legislative intent; providing definitions; modifying exemptions; modifying the certification requirement; modifying provisions relating to application for a certificate; modifying provisions relating to issuance of a certificate; modifying provisions relating to extension of service and amendment of certificate; modifying provisions relating to sale or transfer of certificates, facilities, or organizational control; providing for establishment of rate base upon sale or transfer; modifying provisions relating to fixing and changing of rates and relating to rates for new classes of service; providing for the setting, by rule, of standards for service availability charges and conditions; authorizing the Public Service Commission to amend or revoke a certificate; clarifying meaning of "safe, efficient, and sufficient service"; modifying the powers of the commission; authorizing the commission to order certain interconnections of service or facilities and to approve plant capacity charges, wholesale service charges, or rates; providing for examination and testing of certain equipment; authorizing the commission to require a utility to provide service for resale; repealing s. 367.131, Florida Statutes, relating to judicial review; providing for application fees to be set by rule; modifying provisions relating to gross receipts tax; modifying provisions relating to violations; providing penalties; authorizing boards of county commissioners to rescind jurisdictional resolutions; providing for filing of financial information; providing for setting and approving rates; creating s. 367.0225, Florida Statutes; providing for deter-

mination of official filing dates; creating s. 367.082, Florida Statutes; providing for interim rates; creating s. 367.191, Florida Statutes; providing for abandonment of a utility and for placement of a utility in receivership; providing for the validity of existing certificates and authorizations; providing for repeal and legislative review of the act; providing a retroactive effective date.

On motions by Senator Vogt, the Senate concurred in the House amendments.

CS for SB 297 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Mr. President	Frank	Maxwell	Steinberg
Anderson	Gordon	McClain	Stuart
Barron	Gorman	McKnight	Thomas
Beard	Grizzle	Myers	Tobiassen
Carlucci	Hair	Neal	Trask
Chamberlin	Henderson	Peterson	Vogt
Childers, D.	Hill	Poole	Ware
Childers, W. D.	Holloway	Scarborough	Williamson
Dunn	Jenne	Scott	Winn
Fechtcl	Johnston	Skinner	

Nays—None

The bill was ordered engrossed and then enrolled.

Messages from the House containing Senate Bills 348, 347, 343, 333, and 346 and 349 were referred to the Committee on Commerce.

*The Honorable Philip D. Lewis, President*

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By Senator Stuart—

SB 721—A bill to be entitled An act relating to unemployment compensation; creating part I of chapter 443, Florida Statutes, "General Provisions," consisting of ss. 443.011, 443.021, 443.031, 443.041, 443.051, 443.061, and 443.071, Florida Statutes, relating to short title, declaration of public policy, rule of liberal construction, waiver of rights, fees, and privileged communications, benefits not alienable, saving clause, and penalties; creating part II of chapter 443, Florida Statutes, "Definitions," consisting of s. 443.081, Florida Statutes, defining terms for purposes of the chapter; creating part III of chapter 443, Florida Statutes, "Individual Benefits and Eligibility," consisting of s. 443.091, 443.101, and 443.111, Florida Statutes, relating to benefit eligibility conditions, disqualification for benefits, and payment of benefits; creating part IV of chapter 443, Florida Statutes, "Employer Coverage and Contributions," consisting of ss. 443.121, 443.131, and 443.141, Florida Statutes, relating to employing units affected, contributions, and collection of contributions; creating part V of chapter 443, Florida Statutes, "Claims Procedures and Appeals," consisting of s. 443.151, Florida Statutes, relating to procedure concerning claims; creating part VI of chapter 443, Florida Statutes, "Administration," consisting of ss. 443.161, 443.171, 443.181, 443.191, 443.201, 443.211, and 443.221, Florida Statutes, relating to administrative organization, powers, duties and rules of the Division of Employment Security of the Department of Labor and Employment Security, the Florida State Employment Service, the Unemployment Compensation Trust Fund, nonliability of the state, the Employment Security Administration Trust Fund, and reciprocal arrangements with other states or with the Federal Government; amending ss. 20.171(5)(f) and (l), 120.57(1)(a), and 215.22(10) and (11), Florida Statutes, to conform cross references; repealing all of present chapter 443, Florida Statutes, relating to unemployment compensation; providing an effective date.

—and requests the concurrence of the Senate.

*Allen Morris, Clerk*

Amendment 1—On page 133, line 17, insert: Section 9. The renumbering and reorganization of chapter 443 accomplished by this act shall not be construed to alter, amend, or repeal any substantive amendments to existing chapter 443, Florida Stat-

utes, enacted during the 1980 Legislative Session. The Division of Statutory Revision of the Joint Legislative Management Committee is directed to incorporate any substantive amendments to existing chapter 443, Florida Statutes, into the renumbering and reorganization accomplished by this act.

Renumber subsequent sections.

Amendment 2—On page 2, line 18 in title, insert: directing the Division of Statutory Revision to incorporate substantive amendments into the renumbered and reorganized act;

On motions by Senator Stuart, the Senate concurred in the House amendments.

SB 721 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Frank	McClain	Thomas
Anderson	Gordon	McKnight	Tobiassen
Barron	Gorman	Myers	Trask
Beard	Grizzle	Neal	Vogt
Carlucci	Henderson	Peterson	Ware
Chamberlin	Hill	Poole	Winn
Childers, D.	Jenne	Scott	
Childers, W. D.	Johnston	Steinberg	
Fechtcl	Maxwell	Stuart	

Nays—None

Votes after roll call:

Yea—Hair, Holloway

The bill was ordered engrossed and then enrolled.

SPECIAL ORDER

CS for CS for SB 1104, by the Committee on Ways and Means, was read the first time by title and CS for SB 1104 and SB 1104 were laid on the table.

On motions by Senator Peterson, by two-thirds vote HB 1796 was withdrawn from the Committees on Education and Ways and Means.

On motion by Senator Peterson, without objection, HB 1796 was substituted for CS for CS for SB 1104.

Further consideration of HB 1796 was deferred.

HB 161—A bill to be entitled An act relating to the Beverage Law; amending ss. 561.15(1), 562.11 and 562.111, Florida Statutes; prohibiting the consumption or possession of alcoholic beverages by persons under age 19 and the selling or serving of alcoholic beverages to such persons; providing that such persons shall not be licensed under the Beverage Law; amending s. 743.07(1), Florida Statutes, relating to rights of persons 18 and older, to provide an exemption for the Beverage Law; providing an effective date.

—was read the second time by title.

Senator Chamberlin moved the following amendment which was adopted:

Amendment 1—On page 2, line 20, after the word "license" insert: , identification card with photograph as issued by the Division of Motor Vehicles pursuant to s. 322.051 or other comparable identification which bears a photograph and which was issued by an agency of the Federal Government or of any state government,

Senator Chamberlin moved the following amendment which failed:

Amendment 2—On page 2, line 5, after "premises" insert: , except that nothing herein contained shall preclude any establishment licensed by the Division of Alcoholic Beverages and Tobacco which license authorizes the vendor to sell alcoholic beverages for consumption on the premises only from the sale, preparation, or service of alcoholic beverages on the licensed premises to any person 18 years of age or older.