

Amendment No. 5

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	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

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1 Committee/Subcommittee hearing bill: Ways & Means Committee  
2 Representative Renner offered the following:

3  
4 **Amendment (with title amendment)**

5 Between lines 1853 and 1854, insert:

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

8 163.01 Florida Interlocal Cooperation Act of 1969.—  
9 (7)

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

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

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

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

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

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

41 d. "Utility" means a water or wastewater utility and

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

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

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

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

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

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92 generated from customers that are physically located within the  
93 jurisdictional or service delivery boundaries of the member,  
94 special district, or local government receiving the transfer of  
95 payment.

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

101 7. The entity may finance or refinance the acquisition,  
102 construction, expansion, and improvement of such facilities  
103 relating to a governmental function or purpose through the  
104 issuance of its bonds, notes, or other obligations under this  
105 section or as otherwise authorized by law. The entity has all  
106 the powers provided by the interlocal agreement under which it  
107 is created or which are necessary to finance, own, operate, or  
108 manage the public facility, including, without limitation, the  
109 power to establish rates, charges, and fees for products or  
110 services provided by it, the power to levy special assessments,  
111 the power to sell or finance all or a portion of such facility,  
112 and the power to contract with a public or private entity to  
113 manage and operate such facilities or to provide or receive  
114 facilities, services, or products. Except as may be limited by  
115 the interlocal agreement under which the entity is created, all  
116 of the privileges, benefits, powers, and terms of s. 125.01,

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117 relating to counties, and s. 166.021, relating to  
118 municipalities, are fully applicable to the entity. However,  
119 neither the entity nor any of its members on behalf of the  
120 entity may exercise the power of eminent domain over the  
121 facilities or property of any existing water or wastewater plant  
122 utility system, nor may the entity acquire title to any water or  
123 wastewater plant utility facilities, other facilities, or  
124 property which was acquired by the use of eminent domain after  
125 the effective date of this act. Bonds, notes, and other  
126 obligations issued by the entity are issued on behalf of the  
127 public agencies that are members of the entity.

128 8. Any entity created under this section may also issue  
129 bond anticipation notes in connection with the authorization,  
130 issuance, and sale of bonds. The bonds may be issued as serial  
131 bonds or as term bonds or both. Any entity may issue capital  
132 appreciation bonds or variable rate bonds. Any bonds, notes, or  
133 other obligations must be authorized by resolution of the  
134 governing body of the entity and bear the date or dates; mature  
135 at the time or times, not exceeding 40 years from their  
136 respective dates; bear interest at the rate or rates; be payable  
137 at the time or times; be in the denomination; be in the form;  
138 carry the registration privileges; be executed in the manner; be  
139 payable from the sources and in the medium or payment and at the  
140 place; and be subject to the terms of redemption, including  
141 redemption prior to maturity, as the resolution may provide. If

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

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167 resolution delegating to an officer, official, or agent the  
168 power to authorize the issuance and sale of the bonds, notes, or  
169 other obligations.

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

185 10. The accomplishment of the authorized purposes of a  
186 legal entity created under this paragraph is in all respects for  
187 the benefit of the people of the state, for the increase of  
188 their commerce and prosperity, and for the improvement of their  
189 health and living conditions. Since the legal entity will  
190 perform essential governmental functions for the public health,  
191 safety and welfare in accomplishing its purposes, the legal

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192 entity is not required to pay any taxes or assessments of any  
193 kind whatsoever upon any property acquired or used by it for  
194 such purposes or upon any revenues at any time received by it, whether the property is within or outside the jurisdiction of  
195 members of the entity. The exemption provided in this paragraph  
196 is not affected by the separate legal entity entering into  
197 agreements with private firms or entities to provide for the  
198 management, operation, or improvement of the utilities owned by  
199 the separate legal entity. The bonds, notes, and other  
200 obligations of an entity, their transfer, and the income  
201 therefrom, including any profits made on the sale thereof, are  
202 at all times free from taxation of any kind by the state or by  
203 any political subdivision or other agency or instrumentality  
204 thereof. The exemption granted in this subparagraph is not  
205 applicable to any tax imposed by chapter 220 on interest,  
206 income, or profits on debt obligations owned by corporations.  
207  
208  
209

210 -----  
211 **T I T L E A M E N D M E N T**

212 Remove line 148 and insert:

213 applicability; amending s. 163.01, F.S.; clarifying the tax  
214 treatment of property located within and outside the  
215 jurisdiction of a separate legal entity created under the

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216 Florida Interlocal Cooperation Act of 1969; providing an  
217 appropriation; providing

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