
# Energy, Communications & Cybersecurity Subcommittee

**Friday, January 19, 2024**
**12:30 PM - 3:30 PM**
**Reed Hall (102 HOB)**

## Meeting Packet

**Paul Renner**
**Speaker**

**Mike Giallombardo**
**Chair**

# The Florida House of Representatives

**Commerce Committee**

**Energy, Communications & Cybersecurity Subcommittee**

**Paul Renner**
**Speaker**

**Mike Giallombardo**
**Chair**

## Meeting Agenda

Friday, January 19, 2024
12:30 pm – 3:30 pm
Reed Hall (102 HOB)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):
- HB 769 Assessment of Renewable Energy Source Devices by Bankson
- HB 1147 Broadband by Tomkow
- HB 1277 Municipal Utilities by Busatta Cabrera

V. Closing Remarks

VI. Adjournment

**HB 769**

# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 769 Assessment of Renewable Energy Source Devices
**SPONSOR(S):** Bankson
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Energy, Communications & Cybersecurity Subcommittee | | Phelps | Keating |
| 2) Ways & Means Committee | | | |
| 3) Commerce Committee | | | |

## SUMMARY ANALYSIS

The Florida Constitution authorizes local governments to impose ad valorem taxes on real property and tangible personal property and to assess such property for tax purposes. The Florida Constitution also authorizes the Legislature to implement limitations and exemptions to ad valorem taxes. Specifically, the Constitution authorizes the Legislature to implement limitations and exemptions to ad valorem taxes for the assessment of solar or renewable energy source devices in determining the assessed value of real property and tangible personal property.

The Legislature has implemented this authority by prohibiting a property appraiser who is determining the assessed value of real property from considering any increase in the just value of residential property attributable to the installation of a renewable energy source device, or 80 percent of the just value of non-residential property attributable to the installation of a renewable energy source device. Current law also provides an ad valorem tax assessment limitation of 80 percent of the assessed value of a renewable energy source device that is considered tangible personal property.

The bill expands the ad valorem tax assessment limitation for solar and renewable energy source devices to include infrastructure and equipment used in the collection, transmission, storage, or usage of energy derived from biogas for conversion into renewable natural gas. In order to qualify for the ad valorem tax exemption, the equipment must convert biogas into renewable natural gas suitable for pipeline injection.

The bill does not appear to impact state government revenues or state and local government expenditures. The bill may have a negative impact on local government revenues as it appears to reduce the allowable assessment of existing RNG facilities for ad valorem tax purposes. The Revenue Estimating Conference is scheduled to meet Friday, January 19, 2024, to estimate the impact of the bill.

The bill takes effect upon becoming law.

**This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.**

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Present Situation**

The Florida Constitution authorizes local governments to impose ad valorem taxes on real property and tangible personal property[1] and to assess such property for tax purposes.[2] The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.[3] The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes.[4] Under Florida law, "just valuation" is synonymous with "fair market value," and is defined as what a willing buyer would pay a willing seller for property in an arm's length transaction.[5]

The Florida Constitution also provides for specified assessment limitations, property classifications, and exemptions for ad valorem taxes.[6] Among the limitations and exemptions is authorization for the Legislature to:

- Prohibit a property appraiser from considering the installation of a solar or renewable energy source device in determining the assessed value of real property for the purpose of ad valorem taxation;[7] and
- Exempt from ad valorem taxation the assessed value of such devices subject to tangible personal property tax.[8]

The Legislature has passed laws implementing this authority as discussed below.[9]

*Limitations on Assessment of Real Property*

Current law prohibits a property appraiser who is determining the assessed value of real property from considering any increase in the just value of residential property or 80 percent of the just value of non-residential property attributable to the installation of a renewable energy source device.[10] This law applies to a renewable energy source device installed on or after January 1, 2013, on new and existing residential real property, and to a renewable energy source device installed on or after January 1, 2018, to all other real property.[11] The statute defines the term "renewable energy source device" to mean any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

- Solar energy collectors, photovoltaic modules, and inverters;
- Storage tanks and other storage systems, excluding swimming pools used as storage tanks;

[1] Fla. Const. art. VII, s.9.
[2] Fla. Const. art. VII, s.4.
[3] Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.
[4] Fla. Const. art. VII, s. 4.
[5] S. 193.011, F.S. *See also, Walter v. Shuler*, 176 So. 2d 81, 85-86 (Fla. 1965).
[6] Fla. Const. art. VII, ss. 3, 4, and 6.
[7] Fla. Const. art. VII, s.4(i)2.
[8] Fla. Const. art. VII, s.3(e)2.
[9] *See* s. 193.624, F.S. (prohibiting the assessment of solar or renewable energy source device in determining the value of real property); s. 196.182, F.S. (exempting eighty percent of the assessed value of a renewable energy source device that is considered TPP).
[10] S. 193.624(2), F.S.
[11] S. 193.624(3), F.S.

- Rockbeds;
- Thermostats and other control devices;
- Heat exchange devices;
- Pumps and fans;
- Roof ponds;
- Freestanding thermal containers;
- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type;
- Windmills and wind turbines;
- Wind-driven generators;
- Power conditioning and storage devices that use wind energy to generate electricity or
- mechanical forms of energy; and
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.[12]

*Limitations on Assessment of Tangible Personal Property*

Tangible personal property (TPP) taxes apply to persons conducting business operations. Anyone who owns TPP and has a proprietorship, partnership, corporation, who leases, lends, or rents property, or who is a self-employed agent or contractor, must file a TPP return to the property appraiser by April 1 each year.[13] Each tangible personal property tax return is eligible for an exemption from ad valorem taxation of up to $25,000 of assessed value.[14] A single return must be filed for each site in the county where the owner of tangible personal property transacts business.[15]

Current law provides an ad valorem tax assessment limitation of 80 percent of the assessed value of a renewable energy source device that is considered TPP, so long as the renewable energy source device[16]:

- Is installed on real property on or after January 1, 2018;
- Was installed before January 1, 2018, to supply a municipal electric utility located within a consolidated government; or
- Was installed after August 30, 2016, on municipal land as part of a project incorporating other renewable energy source devices under common ownership on municipal land for the sole purpose of supplying a municipal electric utility with specified megawatts of power.

This assessment limitation does not apply to a renewable energy source device installed as part of a project planned for a location in a fiscally constrained county.[17]

*Biogas*

Renewable Natural Gas (RNG) is biogas[18] that has been upgraded or refined for use in place of fossil natural gas. Under Florida Law, RNG is defined as "anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater which may be used as

[12] S. 193.624(1), F.S.
[13] S. 193.062, F.S.; *see also* FLA. DEP'T OF REVENUE, *Tangible Personal Property*, https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx (last visited Jan. 18, 2024).
[14] S. 196.183(1), F.S.
[15] S. 196.183(1), F.S.
[16] S. 196.182(1), F.S.
[17] S. 196.182(2), F.S. Section 218.67(1), F.S. defines a fiscally constrained county as a county entirely within a rural area of opportunity designated by the Governor or a county for which the value of a mill will raise no more than $5 million in revenue.
[18] Section 366.91(2)(a), F.S. defines biogas as "a mixture of gases produced by the biological decomposition of organic materials which is largely comprised of carbon dioxide, hydrocarbons, and methane gas."

a transportation fuel or for electric generation or is of a quality capable of being injected into a natural gas pipeline."[19]

Sources of biogas that are later refined to produce RNG include organic waste from food, agriculture, wastewater treatment and landfills.[20] In order to complete the process of converting biogas into RNG, facilities capture the biogas, "clean" it to pipeline standards, and then inject it into the pipeline for customer use.[21] At least three facilities in Florida are converting biogas into RNG,[22] with more in development.[23]

**Effect of Proposed Changes**

The bill expands the ad valorem tax assessment limitations for solar and renewable energy source devices to include facilities used to capture and convert biogas to RNG. Specifically, it expands the the definition of "renewable energy source device" to include equipment that collects, transmits, stores or uses energy derived from biogas. Under the bill, such equipment includes pipes, equipment, construction materials, structural support, interconnection, and any other machinery used in the production storage, compression, transportation, processing, and conversion of biogas from landfill waste, livestock farm waste, food waste, or treated wastewater into renewable natural gas suitable for pipeline injection.

The expanded limitations appear to affect existing facilities and facilities under construction, along with future facilities.

The bill takes effect upon becoming law.

B. SECTION DIRECTORY:

**Section 1**. Amends s. 193.624, F.S., relating to renewable energy source devices.

**Section 2.** Provides that the bill takes effect upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state government revenues. The Revenue Estimating Conference is scheduled to meet Friday, January 19, 2024, to estimate the impact of the bill.

[19] S. 366.91(2)(f), F.S.; *see also* s. 212.08(5)(v)1., F.S.
[20] U.S. Environmental Protection Agency, *An Overview of Renewable Natural Gas from Biogas*, *available at* https://www.epa.gov/sites/default/files/2020-07/documents/lmop_rng_document.pdf (last visited Jan. 16, 2024).
[21] Presentation on Florida's Energy Future (Liquefied Natural Gas, Renewable Natural Gas, and Small Modular Reactors), Tampa Electric Company (Dec. 6, 2023), slide 5, available at https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3226&Session=2024&DocumentType=Meeting+Packets&FileName=ecc+12-6-23.pdf (last visited Jan. 16, 2024).
[22] *Id*. at slide 10, 12-16.
[23] Nasdaq, *Chesapeake Utilities Corporation to Develop its First RNG Facility in Florida* (Feb. 21, 2023), https://www.nasdaq.com/press-release/chesapeake-utilities-corporation-to-develop-its-first-rng-facility-in-florida-2023-02 (last visited Jan. 16, 2024) (Chesapeake Utilities Corporation is installing a dairy manure renewable natural gas facility in Madison County, Florida).

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have a negative impact on local government revenues as it appears to reduce the allowable assessment of existing RNG facilities. The Revenue Estimating Conference is scheduled to meet Friday, January 19, 2024, to estimate the impact of the bill.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Lower ad valorem taxes for taxpayers who install RNG facilities may facilitate private capital investment into developing RNG production.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Article VII, section 18, of the Florida Constitution, may apply because this bill reduces local government authority to raise revenue by reducing ad valorem tax bases compared to that which would exist under current law. An exemption may apply if the fiscal impact is insignificant. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to assessment of renewable energy source devices; amending s. 193.624, F.S.; revising the definition of the term "renewable energy source device"; providing an effective date.

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

Section 1. Subsection (1) of section 193.624, Florida Statutes, is amended to read:

193.624 Assessment of renewable energy source devices.—

(1) As used in this section, the term "renewable energy source device" means any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits or biogas:

(a) Solar energy collectors, photovoltaic modules, and inverters.

(b) Storage tanks and other storage systems, excluding swimming pools used as storage tanks.

(c) Rockbeds.

(d) Thermostats and other control devices.

(e) Heat exchange devices.

(f) Pumps and fans.

(g) Roof ponds.

(h) Freestanding thermal containers.

(i) Pipes, ducts, wiring, structural supports, refrigerant handling systems, and other components used as integral parts of such systems; however, such equipment does not include conventional backup systems of any type or any equipment or structure that would be required in the absence of the renewable energy source device.

(j) Windmills and wind turbines.

(k) Wind-driven generators.

(l) Power conditioning and storage devices that store or use solar energy, wind energy, or energy derived from geothermal deposits to generate electricity or mechanical forms of energy.

(m) Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

(n) Pipes, equipment, construction materials, structural support, interconnection, and any other machinery used in the production, storage, compression, transportation, processing, and conversion of biogas from landfill waste, livestock farm waste, food waste, or treated wastewater into renewable natural gas suitable for pipeline injection.

The term does not include equipment that is on the distribution or transmission side of the point at which a renewable energy source device is interconnected to an electric utility's distribution grid or transmission lines.

Section 2. This act shall take effect upon becoming a law.

# Energy, Communications & Cybersecurity Subcommittee
# HB 769 by Rep. Bankson
# Assessment of Renewable Energy Source Devices

## AMENDMENT SUMMARY
## January 19, 2024

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**Amendment 1 by Bankson (lines 40-50):**

- Specifies that “structural facilities” used in the production, storage, compression, transportation, processing, and conversion of biogas into renewable natural gas are considered a renewable energy source device.
- Clarifies that livestock farm waste used to produce biogas includes manure.
- Clarifies that equipment on the distribution or transmission side of the point at which a renewable energy source device is interconnected to a natural gas pipeline or distribution is not a renewable energy source device.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

| | |
|---|---|
| ADOPTED | __ (Y/N) |
| ADOPTED AS AMENDED | __ (Y/N) |
| ADOPTED W/O OBJECTION | __ (Y/N) |
| FAILED TO ADOPT | __ (Y/N) |
| WITHDRAWN | __ (Y/N) |
| OTHER | _____ |

Committee/Subcommittee hearing bill: Energy, Communications & Cybersecurity Subcommittee

Representative Bankson offered the following:

**Amendment**

Remove lines 40-50 and insert:

(n) Pipes, equipment, structural facilities, structural support, interconnection, and any other machinery used in the production, storage, compression, transportation, processing, and conversion of biogas from landfill waste, livestock farm waste including manure, food waste, or treated wastewater into renewable natural gas suitable for pipeline injection.

The term does not include equipment that is on the distribution or transmission side of the point at which a renewable energy source device is interconnected to an electric utility's

distribution grid or transmission lines or a natural gas pipeline or distribution system.

**HB 1147**

# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1147 Broadband
**SPONSOR(S):** Tomkow
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1218

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Energy, Communications & Cybersecurity Subcommittee | | Phelps | Keating |
| 2) Ways & Means Committee | | | |
| 3) Commerce Committee | | | |

## SUMMARY ANALYSIS

Broadband Internet service has become an essential component of daily life, yet some parts of Florida lack access to this service. Communities that lack broadband access can have difficulty attracting new capital investment. To help address this issue, the Legislature, among other things, implemented a promotional rate for the attachment of broadband facilities to poles owned by municipal electric utilities. The promotional rate requires municipal electrical utilities to offer broadband Internet service providers a discounted rate of $1 per attachment per year for any new pole attachment necessary to make broadband service available to an unserved or underserved consumer within the utility's territory. The promotional rate expires on July 1, 2024.

The bill extends the expiration date of the promotional rate from July 1, 2024, to December 31, 2028.

The bill does not appear to impact state government revenues or expenditures. The bill may have a negative impact on local government revenues as a result of the discounted pole attachment charges, though the impact will be dependent on utilization of the program by broadband providers. The discounted pole attachment charges may provide an incentive to broadband Internet service providers for additional investment in broadband infrastructure to reach unserved areas and unserved customers in this state.

The bill provides an effective date of June 30, 2024.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Current Situation**

*Regulation of Pole Attachments*

The term pole attachment refers to the process by which communications services providers can place communications infrastructure on existing electric utility poles. This reduces the number of poles that must be built to accommodate utility and communications services, while reducing costs to users of both services by allowing providers to share costs. Rules governing pole attachments seek to balance the desire to maximize value for users of both electric and communications services with concerns unique to electric utility poles, such as safety and reliability.[1] The space requested for a pole attachment is typically one foot.

Pole attachments, originally by mutual agreement but later by federal statute and regulation, provide non-pole-owning cable and telecommunications service providers with access to a utility's distribution poles, conduits, and right-of-way (ROW) for:

- Installing fiber, coaxial cable or wires, and other equipment;
- Building an interconnected network; and
- Reaching customers.[2]

Congress began regulating pole attachments[3] in 1978.[4] The Telecommunications Act of 1996[5] (the Act) expanded pole attachment rights to telecommunications[6] carriers. The Act requires utilities[7] to provide nondiscriminatory access to cable television systems and telecommunications carriers. The Act also authorizes the Federal Communications Commission[8] (FCC) to regulate the rates, terms, and conditions of attachments by cable television operators to the poles, conduit, or ROW owned or controlled by utilities in the absence of parallel state regulation.[9] The Legislation withheld from FCC jurisdiction the authority to regulate attachments where the utility is a railroad, cooperatively organized, or owned by a government entity.[10] Thus, federal pole attachment regulations apply only to investor-owned electric utilities (IOUs). Municipal and cooperative electric utilities are specifically exempted from federal pole attachment regulations.

The Act permits utilities to deny access where there is insufficient capacity and for reasons of safety, reliability or generally applicable engineering purposes. In addition to establishing a right of access, the

[1] American Public Power Association, *Issue Brief: Preserving the Municipal Exemption from Federal Pole Attachment Regulations* (June 2023) https://www.publicpower.org/policy/preserving-municipal-exemption-federal-pole-attachment-regulations (last visited Jan. 11, 2024).
[2] Evari GIS Consulting, *Joint Use Pole Audit*, *available at* https://www.evarigisconsulting.com/joint-use-pole-audit (last visited Jan. 12, 2024).
[3] 47 U.S.C. § 224(a)(4), defines ''pole attachment'' as "any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility."
[4] The Pole Attachment Act of 1978 granted utility pole access to cable companies, and was designed to promote utility competition and service to the public. Communications Act Amendments of 1978, Pub. L. No. 95-234. (Feb. 21, 1978).
[5] Telecommunications Act of 1996, Pub. LA. No. 104-104, 110 Stat. 56 (1996).
[6] The term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. 47 U.S.C. § 153(50).
[7] "Utility'' is defined as as "any person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications. Such term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State." 47 U.S.C. § 224(a)(1).
[8] The FCC regulates interstate and international communications by radio, television, wire, satellite and cable in all 50 states, the District of Columbia and U.S. territories. An independent U.S. government agency overseen by Congress, the FCC is the United States' primary authority for communications law, regulation and technological innovation. FCC, *What We Do*, https://www.fcc.gov/about-fcc/what-we-do (last visited Jan. 11, 2024).
[9] 47 U.S.C. § 224.
[10] *In the Matter of Implementation of Section 224 of the Act- A Nat'l Broadband Plan for Our Future*, 26 F.C.C. Rcd. 5240, 5245–46 (2011).

Act provides a rate methodology for "attachments used by telecommunications carriers to provide telecommunications services"[11] in addition to the existing methodology for attachments "used by a cable television system solely to provide cable service.[12]

Federal law broadly preempts the regulation of telecommunications services.[13] However, federal law allows states to exercise reverse preemption over the FCC's jurisdiction of communications infrastructure access,[14] meaning that once a state adopts its own utility pole access rules, the FCC loses jurisdiction over pole attachments to the extent that the state regulates such matters.[15]

In 2021, Florida exercised its power under the Act to assert reverse preemption over the FCC's regulation of pole attachments, directing the Florida Public Service Commission (PSC) to regulate and enforce rates, charges, terms, and conditions for pole attachments, and to ensure that they are just and reasonable. In 2023, with the passage and enactment of HB 1221, this authority was expanded to the regulation of attachments to poles owned by rural electrical cooperatives engaged in the provision of broadband services.[16] Presently, s. 366.04(8), F.S., regulates pole attachments for public utilities and such rural electric cooperatives.[17] The PSC does not, however, regulate pole attachments for poles owned by municipal utilities.

*Attachment of Broadband Facilities to Municipal Electric Utility Poles*

The Legislature passed CS/CS/HB 1239 in 2021, creating s. 288.9963, F.S., and providing terms for the attachment of certain broadband facilities to poles owned by municipal electric utilities.

Under this law, a broadband provider[18] is currently entitled to receive a promotional rate of $1 per wireline attachment[19] per pole per year for any new attachment necessary to make broadband service[20] available to an unserved[21] or underserved[22] end user within a municipal electric utility service territory.[23]

A broadband provider who wishes to make wireline attachments subject to this promotional rate must[24]:

- Submit an application, including a route map, to the municipal electric utility specifying which wireline attachments on which utility poles are necessary to extend broadband service to unserved and underserved end users;
- Include with this application the information necessary to identify which unserved or underserved end users within the municipal electric utility's service territory will gain access to broadband service; and
- Provide a copy of both of the above to the Florida Office of Broadband.

A broadband provider making a wireline attachment application under the promotional rate must make a reasonable effort to make broadband service available to the unserved or underserved customers

[11] 47 U.S.C. § 224(e).
[12] 47 U.S.C. § 224(d).
[13] "No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. § 253(a).
[14] 47 U.S.C. § 224(c)(1).
[15] Catherine J.K. Sandoval, *Contested Places, Utility Pole Spaces: A Competition and Safety Framework for Analyzing Utility Pole Association Rules, Roles, and Risks*, 69 Cath. U. L. Rev. 473, 486–87 (2020).
[16] Chapter 2023-199, Laws of Fla.
[17] Section 364.391, F.S., provides that if a rural electric cooperative engages in the provision of broadband, all poles owned by that cooperative are subject to regulation under s. 366.04(8), F.S., on the same basis as if such cooperative were a public utility under that subsection. Sections 366.04(9) and 366.97, F.S., also provide pole attachment regulations relating to poles owned by public utilities.
[18] "Broadband provider" means a person or entity who provides fixed broadband Internet service. S. 288.9963(2)(a), F.S.
[19] "Wireline attachment" means a wire or cable and associated equipment affixed to a utility pole in the communications space of the pole. S. 288.9963(2)(f), F.S.
[20] "Broadband service" means a service that provides high-speed access to the Internet at a rate of at least 25 megabits per second in the downstream direction and at least 3 megabits per second in the upstream direction. S. 288.9963(2)(b), F.S.
[21] "Unserved" means that there is no retail access to the Internet at speeds of at least 10 megabits per seconds for downloading and 1 megabits per second for uploading. S. 288.9963(2)(e), F.S.
[22] "Underserved" means there is no retail access to the Internet at speeds of at least 25 megabits per seconds for downloading and 3 megabits per second for uploading. S. 288.9963(2)(d), F.S.
[23] S. 288.9963(3), F.S.
[24] S. 288.9963(3)(a), F.S.

identified in the application. A provider who fails to do so within 12 months may be required to pay the prevailing rate for those attachments that failed to make broadband service available to the intended customers to the municipal electric utility.

The promotional rate expires on July 1, 2024.[25]

**Effect of the Bill**

The bill extends the expiration date of the $1 promotional rate from July 1, 2024, to December 31, 2028. The bill also extends the $1 promotional rate for any currently existing wireline attachments made under the promotional rate program from July 1, 2024, to December 31, 2028.

The bill provides an effect date of June 30, 2024.

B. SECTION DIRECTORY:

**Section 1.** Amends s. 288.9963(3)(e), relating to promotional rates.

**Section 2.** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill may have a negative impact on local government revenues as a result of the discounted pole attachment charges. Any impact is dependent on utilization of the program by broadband providers.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Broadband Internet providers will benefit from discounted rates for certain attachments made to municipal electric utility poles over the next four years. These savings may provide incentives for additional investment in broadband infrastructure to reach unserved areas and unserved customers in this state. This may result in increased economic activity in areas that currently lack access to broadband Internet service.

D. FISCAL COMMENTS:

None.

[25] S. 288.9963(3)(e), F.S.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to broadband; amending s. 288.9963, F.S.; extending the expiration date of a certain promotional rate; providing an effective date.

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

Section 1. Paragraph (e) of subsection (3) of section 288.9963, Florida Statutes, is amended to read:

288.9963 Attachment of broadband facilities to municipal electric utility poles.—

(3) Beginning July 1, 2021, a broadband provider shall receive a promotional rate of $1 per wireline attachment per pole per year for any new attachment necessary to make broadband service available to an unserved or underserved end user within a municipal electric utility service territory for the time period specified in this subsection.

(e) The promotional rate of $1 per wireline attachment per pole per year applies to all pole attachments made pursuant to this subsection until December 31, 2028 ~~July 1, 2024~~.

Section 2. This act shall take effect June 30, 2024.

# HB 1277

# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1277 Municipal Utilities
**SPONSOR(S):** Busatta Cabrera
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1510

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Energy, Communications & Cybersecurity Subcommittee | | Bauldree | Keating |
| 2) Local Administration, Federal Affairs & Special Districts Subcommittee | | | |
| 3) Commerce Committee | | | |

## SUMMARY ANALYSIS

Pursuant to s. 2(b), Art. VIII of the State Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services. Municipalities may provide utilities to citizens and entities within the municipality's corporate boundaries, in unincorporated areas, and even in other municipalities.

Many municipalities own and operate electric and natural gas utilities. Municipalities are also authorized by general law to provide water and sewer utility services. A municipality that operates a water or sewer utility outside of its municipal boundaries may impose higher rates, fees, and charges on consumers receiving service outside of its corporate boundaries as compared to the rates, fees, and charges imposed on consumers within its boundaries. Municipalities routinely transfer a portion of their utility earnings to their general funds for non-utility purposes, though the amounts and percentages vary widely among municipalities.

The bill places limits on the portion of municipal utility revenues that may be used to fund or finance a municipality's non-utility related general government functions. In doing so, the bill limits the rate of transfer for municipal electric, natural gas, and water or wastewater utilities. Under the bill, the greater the proportion of customers outside of the city boundaries that a municipal utility serves, the less the municipal utility may transfer. However, if a municipal utility is governed by a utility authority board that provides for representation of retail customers located outside the municipal boundaries approximately proportionate to the percentage of such customers, then transfers of revenue are not subject to a reduced cap.

The bill removes a provision allowing water or sewer utilities to add, for consumers outside of its boundaries, a surcharge of up to 25 percent of the rates, fees, and charges imposed on consumers within its boundaries. Furthermore, the bill changes the limit on the rates, fees, and charges such utility can impose on customers outside of municipal boundaries to no more than 25 percent above the total amount the municipal water or sewer utility charges customers within the municipal boundaries, provided rates for outside customers are set in a public hearing using the same methods as rates for other customers.

The bill limits the rates, fees, and charges that a municipal water or sewer utility that provides service to consumers within the boundaries of a separate municipality, using a water treatment plant or sewer treatment plant located within the boundaries of that separate municipality, by requiring that such charges are no more that the rates, fees, and charges imposed on consumers inside its own municipal boundaries.

The bill does not impact state government revenues or state or local government expenditures. The bill may have a negative fiscal impact on certain local revenues. *See* Fiscal Analysis & Economic Impact Statement.

The bill provides an effective date of July 1, 2025.

**This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.**

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Present Situation**

Local Government Utility Services

Pursuant to s. 2(b), Art. VIII of the State Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services. Municipalities may exercise any power for municipal purposes, except when expressly prohibited by law.[1] The legislative body of each municipality has the power to enact legislation on any subject upon which the state Legislature may act with certain exceptions.[2] Under their home rule power and as otherwise provided or limited by law or agreement, municipalities may provide utilities to citizens and entities within the municipality's corporate boundaries, in unincorporated areas, and even in other municipalities.

Many municipalities own and operate electric utilities and natural gas utilities and govern the operation of those utilities through ordinance, code, or policies. Currently, there are 33 municipal electric utilities in the state.[3] Municipal electric and natural gas utility rates are not directly regulated by the Florida Public Service Commission (PSC), however, the PSC does have jurisdiction over municipal electric utilities for matters related to rate structure, power plant transmission line site certification, general reporting jurisdiction, service territory and territory disputes, energy efficiency reporting, ten year site plans, reporting on system hardening and resiliency, reporting on net metering, audits related to regulatory assessment fees, monitoring renewable energy, reporting on facilities inspection and vegetation management, and grid bill jurisdiction.[4]

Municipalities are authorized by general law to provide water and sewer utility services.[5] With respect to public works projects, including water and sewer utility services,[6] municipalities may extend and execute their corporate powers outside of their corporate limits as "desirable or necessary for the promotion of the public health, safety and welfare."[7] A municipality may not extend or apply these corporate powers within the corporate limits of another municipality.[8] However, it may permit any other municipality and the owners of lands outside its corporate limits or within the limits of another municipality to connect with its water and sewer utility facilities and use its services upon agreed terms

and conditions.[9] An informal study conducted in 2014 indicated that approximately 250 municipalities provide water service and approximately 220 municipalities provide wastewater service. Of these

[1] Section 166.021(2), F.S., provides that any activity or power which may be exercised by the state or its political subdivisions is considered a municipal purpose.
[2] Pursuant to s. 166.021(3), F.S., a municipality may not enact legislation on the following: the subjects of annexation, merger, and exercise of extraterritorial power, which require general law or special law; any subject expressly prohibited by the constitution; any subject expressly preempted to state or county government by the constitution or by general law; and any subject preempted to a county pursuant to a county charter adopted under the authority of the State constitution.
[3] Presentation on *Florida Public Power*, Florida Municipal Electric Association (Feb. 9, 2023), slide 2, available at https://www.myfloridahouse.gov/Sections/Documents/publications.aspx?CommitteeId=3226&PublicationType=Committees&DocumentType=Meeting%20Packets&SessionId=99 (last visited Jan. 16, 2024)
[4] *Id*. at slide 3.
[5] Pursuant to s. 180.06, F.S., a municipality may "provide water and alternative water supplies;" "provide for the collection and disposal of sewage, including wastewater reuse, and other liquid wastes;" and "construct reservoirs, sewerage systems, trunk sewers, intercepting sewers, pumping stations, wells, siphons, intakes, pipelines, distribution systems, purification works, collection systems, treatment and disposal works" to accomplish these purposes.
[6] Other public works projects authorized under s. 180.06, F.S., include alternative water supplies, maintenance of water flow and bodies of water for sanitary purposes, garbage collection and disposal, airports, hospitals, jails, golf courses, gas plants and distribution systems, and related facilities.
[7] S. 180.02(2), F.S.
[8] *Id.*
[9] S. 180.19, F.S.

municipalities, the study found that approximately 140 provide water and/or waste water services to customers outside of their municipal boundaries, which may include customers in unincorporated areas of counties or in other municipalities.[10] These utility systems are exempt from PSC jurisdiction.

A municipality that operates a water or sewer utility outside of its municipal boundaries may impose higher rates, fees, and charges on consumers receiving service outside of its corporate boundaries as compared to the rates, fees, and charges imposed on consumers within its boundaries. The municipality can accomplish this in two ways:

- First, for consumers outside of its boundaries, it may add a surcharge of up to 25 percent of the rates, fees, and charges imposed on consumers within its boundaries. This mechanism does not require a public hearing.[11]
- Second, it may set separate rates, fees, and charges for consumers outside its boundaries based on the same factors used to set rates for consumers within its boundaries. It may add a surcharge of up to 25 percent of these charges, provided that the total of all such rates, fees, and charges for service to consumers outside its boundaries may not exceed the total charges to consumers within its boundaries by more than 50 percent for corresponding service. Rates set in this manner require a public hearing at which all users served or to be served by the water or sewer utilities and all other interested persons will have an opportunity to be heard concerning the proposed rates.[12]

There is no central repository for information concerning municipal water or sewer service rates that identifies municipalities that impose higher rates on consumers outside of the municipal boundaries, the specific mechanism used by such municipalities to establish such rates, or the level of any additional charge or surcharge imposed.

Most municipal utility systems are governed by the municipality's governing body (i.e., the city commission). Six municipal electric utility systems in Florida are governed by separate utility boards, or "authorities," which are typically appointed by the municipality's governing body.[13] These utility authorities vary in structure, though the charter documents for each generally address the powers and duties of the authority (including terms related to rate-setting, financing, acquisitions, and eminent domain), the selection process for authority members (including qualifications and terms of office), the management and personnel of the authority, the transfer of revenues from utility operations to the municipality, and the degree of continuing oversight by the municipal governing body.

Current law authorizes municipalities to raise amounts of money which are necessary for the conduct of the municipal government. A municipality may do so by taxation and licenses authorized by Florida's constitution or general law, or by user charges or fees authorized by ordinance.[14] Municipalities routinely transfer a portion of their utility earnings to their general funds for non-utility purposes, though the amounts and percentages may vary widely among municipalities.[15] These transfers may be limited in some circumstances by ordinance, but they are not governed by state law.

[10] Analysis of House Bill 813 (2014), Florida House of Representatives.
[11] S. 180.191(1)(a), F.S.
[12] S. 180.191(1)(b), F.S.
[13] The Keys Energy Services Utility Board is the only utility authority in the state with elected board members. Key West has an elected board, with 2 of the 5 members from outside the city limits. Presentation on *Florida Public Power*, Florida Municipal Electric Association *supra* n. 3, slide 8.
[14] S. 166.201, F.S.
[15] Presentation on *Florida Public Power*, Florida Municipal Electric Association *supra* n. 3, slide 6.

**Effect of the Bill**

The bill places limits on the portion of municipal utility revenues that may be used to fund or finance a municipality's non-utility related general government functions. In doing so, the bill limits the rate of transfer for municipal electric, natural gas, and water or wastewater utilities. Under the bill, the greater the proportion of customers outside of the city boundaries that a municipal utility serves, the less the municipal utility may transfer.

Under the bill, revenues transferred to fund or finance non-utility governmental functions, which were generated by a municipal electric utility, may not exceed a rate equal to the amount derived by applying the average of the midpoints of the rates of return on equity approved by the PSC for each investor-owned electric utility in the state.

Similarly, the bill limits revenues transferred to fund or finance non-utility governmental functions, which were generated by a municipal natural gas utility by capping the transfer at a rate equal to the amount derived by applying the average of the midpoints of the rates of return on equity approved by the PSC for each investor-owned natural gas utility in the state.

Under the bill, revenues generated from a municipal water or wastewater utility may only be transferred at a rate equal to the amount derived by applying the rate of return on equity established by the PSC under s. 367.081(4)(f), F.S.[16]

The bill provides for reduction to these transfer caps based on the percentage of utility customers outside the city boundaries, as measured by total meters served. Under the bill, if more than:

- 15 percent of a municipal utility's customers are located outside of municipal boundaries, then the transfer rate applied to utility revenues will be reduced by 150 basis points.[17]
- 30 percent of a municipal utility's customers are located outside of municipal boundaries, then the transfer rate applied to utility revenues will be reduced by 300 basis points.
- 45 percent of a municipal utility's customers are located outside of municipal boundaries, then the transfer rate applied to utility revenues will be reduced by 450 basis points.

However, if a municipal utility is governed by a utility authority board that, through the election of voting members from outside the municipal boundaries, provides for representation of retail customers located outside the municipal boundaries approximately proportionate to the percentage of such customers, as measured by total meters served, then transfers of revenue are not subject to the above reductions.

The bill removes the provision allowing water or sewer utilities to add, for consumers outside of its boundaries, a surcharge of up to 25 percent of the rates, fees, and charges imposed on consumers within its boundaries. Furthermore, the bill changes the limit on the rates, fees, and charges such utility can impose on customers outside of municipal boundaries to no more than 25 percent above the total amount the municipal water or sewer utility charges customers within the municipal boundaries, provided rates for outside customers are set in a public hearing using the same methods as rates for other customers.

The bill limits the rates, fees, and charges that a municipal water or sewer utility that provides service to consumers within the boundaries of a separate municipality, using a water treatment plant or sewer treatment plant located within the boundaries of that separate municipality, by requiring that such charges are no more than the rates, fees, and charges imposed on consumers inside its own municipal boundaries.

[16] Section 367.081, F.S., permits the PSC to establish a leverage formula that reasonably reflect the range of returns on common equity for an average water or wastewater utility and which must be used to calculate the last authorized rate of return on equity for any utility which otherwise would have no established rate of return on equity.

[17] Basis points are commonly used to measure interest rates and percentages in finance, showing the change in the value or rate of a financial instrument, such as 1% change equals a change of 100 basis points and 0.01% change equals one basis point. Jason Fernando, *Basis Point (BPS) Explained for Interest Rates and Investments* (Oct. 31, 2023), Investopedia, https://www.investopedia.com/terms/b/basispoint.asp (last visited Jan. 17, 2024).

The bill provides an effective date of July 1, 2025.

B. SECTION DIRECTORY:

**Section 1:** Amends s. 166.201, F.S., relating to taxes and charges.

**Section 2:** Amends s. 180.191, F.S., relating to limitation on rates charged consumer outside city limits.

**Section 3:** Provides an effective date of July 1, 2025.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill will likely have a negative fiscal impact on local governments which own and operate water or wastewater utilities, as it reduces the maximum amount that municipal water and sewer utilities can charge customers outside the municipal boundaries.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in cost savings to municipal water and sewer utility customers located outside of municipal boundaries. A municipal water or sewer utility may increase rates for other customers to mitigate revenue impacts.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because this bill reduces the maximum amount that municipal water and sewer utilities can charge customers outside the municipal boundaries. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to municipal utilities; amending s. 166.201, F.S.; authorizing a municipality to fund or finance general government functions with a portion of revenues from utility operations; establishing limits on utility revenue transfers for municipal utilities; amending s. 180.191, F.S.; modifying provisions relating to permissible rates, fees, and charges imposed by municipal water and sewer utilities on customers located outside the municipal boundaries; providing an effective date.

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

Section 1. Section 166.201, Florida Statutes, is amended to read:

166.201 Taxes and charges.—

(1) A municipality may raise, by taxation and licenses authorized by the constitution or general law, or by user charges or fees authorized by ordinance, amounts of money which are necessary for the conduct of municipal government and may enforce their receipt and collection in the manner prescribed by ordinance not inconsistent with law.

(2)(a) A municipality that owns and operates an electric, natural gas, water, or wastewater utility may fund or finance

general government functions using a portion of the revenues generated from rates, fees, and charges for the provision of such utility service. The portion of utility revenues that may be used during a fiscal year to fund or finance general government functions, after payment of all utility expenses, may not exceed:

1. For revenues generated from electric utility operations, a transfer rate equal to the amount derived by applying the average of the midpoints of the rates of return on equity approved by the Public Service Commission for each investor-owned electric utility in the state to the municipal electric utility's revenues.

2. For revenues generated from natural gas utility operations, a transfer rate equal to the amount derived by applying the average of the midpoints of the rates of return on equity approved by the Public Service Commission for each investor-owned natural gas utility in the state to the municipal natural gas utility's revenues.

3. For revenues generated from water or wastewater operations, a transfer rate equal to the amount derived by applying the rate of return on equity established by the Public Service Commission under s. 367.081(4)(f) to the revenues of the municipal water or wastewater utility.

(b) Except as provided in paragraph (c), the transfer rate applied to municipal utility revenues under subparagraphs (a)1.-

3. shall be reduced as follows:

1. If more than 15 percent of a municipal utility's retail customers, as measured by total meters served, are located outside the municipal boundaries, the transfer rate applied to utility revenues shall be reduced by 150 basis points.

2. If more than 30 percent of a municipal utility's retail customers, as measured by total meters served, are located outside the municipal boundaries, the transfer rate applied to utility revenues shall be reduced by 300 basis points.

3. If more than 45 percent of a municipal utility's retail customers, as measured by total meters served, are located outside the municipal boundaries, the transfer rate applied to utility revenues shall be reduced by 450 basis points.

(c) The reductions specified in paragraph (b) do not apply to a municipal utility service if the utility service is governed by a utility authority board that, through the election of voting members from outside the municipal boundaries, provides for representation of retail customers located outside the municipal boundaries approximately proportionate to the percentage of such customers, as measured by total meters served, that receive service from the utility.

Section 2. Subsection (1) of section 180.191, Florida Statutes, is amended to read:

180.191 Limitation on rates charged consumer outside city limits.—

(1) Any municipality within the state operating a water or sewer utility outside of the boundaries of such municipality shall charge consumers outside the boundaries rates, fees, and charges determined in one of the following manners:

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

(b)1. It may charge rates, fees, and charges that are just and equitable and which are based on the same factors used in fixing the rates, fees, and charges for consumers inside the municipal boundaries. ~~In addition thereto, the municipality may add a surcharge not to exceed 25 percent of such rates, fees, and charges for said services to consumers outside the boundaries. However, the total of all~~ Such rates, fees, and charges for the services to consumers outside the boundaries may ~~shall~~ not exceed 25 ~~be more than 50~~ percent ~~in excess~~ of the total amount the municipality charges consumers served within the municipality for corresponding service. No such rates, fees, and charges shall be fixed until after a public hearing at which all of the users of the water or sewer systems; owners, tenants, or occupants of property served or to be served thereby; and all

others interested shall have an opportunity to be heard concerning the proposed rates, fees, and charges. Any change or revision of such rates, fees, or charges may be made in the same manner as such rates, fees, or charges were originally established, but if such change or revision is to be made substantially pro rata as to all classes of service, both inside and outside the municipality, no hearing or notice shall be required.

2. Any municipality within the state operating a water or sewer utility that provides service to consumers within the boundaries of a separate municipality through the use of a water treatment plant or sewer treatment plant located within the boundaries of that separate municipality may charge consumers in the separate municipality no more than the rates, fees, and charges imposed on consumers inside its own municipal boundaries.

Section 3. This act shall take effect July 1, 2025.

# Energy, Communications & Cybersecurity Subcommittee
# HB 1277 by Rep. Busatta Cabrera
# Municipal Utilities

## AMENDMENT SUMMARY
## January 19, 2024

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**Amendment 1 by Busatta Cabrera (strike-all):**

- Provides that a new, extended, renewed, or materially amended agreement for the provision of municipal utility service at retail to customers located in another municipality or in an unincorporated area must be written and may not become effective before a public meeting is held in the service area for the purpose of providing certain information and soliciting public input on matters related to the agreement.
- Requires annual customer meetings to be held in such service areas for the purpose of soliciting public input on utility-related matters.
- Requires that these meetings be held in conjunction with specified governing bodies for the areas in which service is provided.
- Provides that a municipality that generates revenue from the provision of utility service to customers located in another municipality or in an unincorporated area may not use more than 10 percent of the gross revenues generated from such services to fund or finance general government functions.
    - Removes provisions that limit transfers from municipal utility revenues based on rates of return on equity approved by the Public Service Commission for investor-owned utilities and based on the proportion of customers served beyond municipal boundaries.
- Requires annual data reporting regarding the provision of municipal utility service to customers located in another municipality or in an unincorporated area.
- Retains provisions that reduce the maximum rate differential between municipal water and sewer utility customers located within and outside the municipal boundaries.
- Retains provisions that prohibit the imposition of a surcharge on customers located in certain other municipalities.

COMMITTEE/SUBCOMMITTEE ACTION

| | |
|---|---|
| ADOPTED | ___ (Y/N) |
| ADOPTED AS AMENDED | ___ (Y/N) |
| ADOPTED W/O OBJECTION | ___ (Y/N) |
| FAILED TO ADOPT | ___ (Y/N) |
| WITHDRAWN | ___ (Y/N) |
| OTHER | _____ |

Committee/Subcommittee hearing bill: Energy, Communications & Cybersecurity Subcommittee

Representative Busatta Cabrera offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Section 180.19, Florida Statutes, is amended to read:

180.19 Use by other municipalities and by individuals outside corporate limits.—

(1) A municipality which constructs any works as are authorized by this chapter, may permit any other municipality and the owners or association of owners of lots or lands outside of its corporate limits or within the limits of any other municipality, to connect with or use the utilities mentioned in this chapter upon such terms and conditions as may be agreed

between such municipalities, and the owners or association of owners of such outside lots or lands.

(2) Any private company or corporation organized to accomplish the purposes set forth in this chapter, which has been granted a privilege or franchise by a municipality, may permit the owners or association of owners of lots or lands outside of the boundaries of said municipality granting said privilege or franchise, or other municipality, to connect with and use the utility operated by the said private company or corporation upon such terms as may be agreed between the said private company or corporation and the owners or association of owners of said lots or lands or the said municipality.

(3)(a) A new agreement, or an extension, renewal, or material amendment of an existing agreement, to provide electric, natural gas, water, or sewer utility service at retail pursuant to subsection (1) must be written and may not become effective before the municipality that provides service or intends to provide the service, in conjunction with the governing body of each municipality and unincorporated area served or to be served, has conducted a public meeting within each municipality and unincorporated area served or to be served for purposes of providing information and soliciting public input on:

1. The nature of the service to be provided or changes to the service being provided;

2. The rates, fees, and charges to be imposed for the services provided or intended to be provided, including any differential with the rates, fees, and charges imposed for the same service on customers located within the boundaries of the serving municipality, the basis for the differential, and the length of time that the differential is expected to exist;

3. The extent to which revenues generated from the provision of the service will be used to fund or finance non-utility government functions or services; and

4. Any other matters deemed relevant by the parties to the agreement.

(b) Rates, fees, and charges imposed for water or sewer utility service provided pursuant to subsection (1) shall comply with s. 180.191.

(c) Each municipality that provides electric, natural gas, water, or sewer utility service pursuant to subsection (1), in conjunction with the governing body of each municipality and unincorporated area in which it provides service, must annually conduct a customer meeting within each such municipality and unincorporated area for purposes of soliciting public input on utility-related matters, including rates and service.

(d) For purposes of this subsection, "governing body" refers to each:

1. Governing body of a municipality in which service is provided or proposed to be extended.

2. Board of county commissioners of a county in which service is provided or proposed to be extended, if service is provided or will be extended in an unincorporated area within the county.

(4) A municipality that generates revenue from the provision of electric, natural gas, water, or sewer utility service pursuant to subsection (1) may not use more than 10 percent of the gross revenues generated from such services to fund or finance general government functions.

(5) By November 1, 2024, and annually thereafter, each municipality that provides electric, natural gas, water, or sewer utility service pursuant to subsection (1) must provide a report to the Florida Public Service Commission that identifies, for each type of utility service provided by the municipality:

1. The number and percentage of customers that receive utility service provided by the municipality at a location outside the boundaries of the municipality;

2. The volume and percentage of sales made to such customers, and the gross revenues generated from such sales; and

3. Whether the rates, fees, and charges imposed on customers that receive service at a location outside the municipality’s boundaries are different than the rates, fees, and charges imposed on customers within the boundaries of the municipality, and, if so, the amount and percentage of the differential.

The commission shall compile this information and submit a report of this information to the Speaker of the House of Representatives, the Senate President, and the Governor by January 31, 2025, and annually thereafter. This paragraph does not modify or extend the authority of the commission otherwise provided by law with respect to any municipal utility that is required to comply with this paragraph.

Section 2. Subsection (1) of section 180.191, Florida Statutes, is amended, and a new subsection (5) is added to that section, to read:

180.191 Limitation on rates charged consumer outside city limits.—

(1) Any municipality within the state operating a water or sewer utility outside of the boundaries of such municipality shall charge consumers outside the boundaries rates, fees, and charges determined in one of the following manners:

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

(b)1. It may charge rates, fees, and charges that are just and equitable and which are based on the same factors used in fixing the rates, fees, and charges for consumers inside the municipal boundaries. ~~In addition thereto, the municipality may add a surcharge not to exceed 25 percent of such rates, fees, and charges for said services to consumers outside the boundaries. However, the total of all~~ Such rates, fees, and charges for the services to consumers outside the boundaries may ~~shall~~ not exceed 25 ~~be more than 50~~ percent ~~in excess~~ of the total amount the municipality charges consumers served within the municipality for corresponding service. No such rates, fees, and charges shall be fixed until after a public hearing at which all of the users of the water or sewer systems; owners, tenants, or occupants of property served or to be served thereby; and all others interested shall have an opportunity to be heard concerning the proposed rates, fees, and charges. Any change or revision of such rates, fees, or charges may be made in the same manner as such rates, fees, or charges were originally established, but if such change or revision is to be made substantially pro rata as to all classes of service, both inside and outside the municipality, no hearing or notice shall be required.

2. Any municipality within the state operating a water or sewer utility that provides service to consumers within the boundaries of a separate municipality through the use of a water

treatment plant or sewer treatment plant located within the boundaries of that separate municipality may charge consumers in the separate municipality no more than the rates, fees, and charges imposed on consumers inside its own municipal boundaries.

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**T I T L E A M E N D M E N T**

Remove everything before the enacting clause and insert:
An act relating to municipal utilities; amending s. 180.19, F.S.; requiring certain public meetings as a condition precedent to the effectiveness of a new or extended agreement under which a municipality will provide specified utility services in other municipalities or unincorporated areas; specifying the matters to be addressed in such public meetings; requiring such agreements to be written; requiring annual customer meetings; defining "governing body" for specified purposes; limiting the portion of certain utility revenues that a municipality may use to fund or finance general government functions; requiring municipalities that provide specified utility services to report certain information to the Public Service Commission on an annual basis; requiring the commission to compile and provide a report of this information; providing construction; amending s. 180.191, F.S.; modifying provisions relating to permissible rates, fees, and charges imposed by municipal water and sewer

utilities on customers located outside the municipal boundaries; providing an effective date.