



FLORIDA GAS UTILITY
EXECUTIVE COMMITTEE SPECIAL MEETING
March 17, 2023 at 2:30 pm ECT
Virtual Meeting

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Dial-In: [\(872\) 240-3412](tel:8722403412); Access Code: 974-494-941

AGENDA

CALL TO ORDER

ROLL CALL/ESTABLISH QUORUM

SET AGENDA

ACTION ITEMS

- I. Current Legislation – Municipals serving outside City Limits; possible action on FGU activities and expenses

INFORMATIONAL ITEMS

OTHER BUSINESS

ADJOURN



ACTION ITEM # I

DATE: March 17, 2023

TO: Chair and Members of the Executive Committee

FROM: Thomas A. Geoffroy
General Manager & CEO

SUBJECT: Current Legislation – Municipals serving outside City Limits; possible action on FGU activities and expenses

Explanation:

The Florida Legislature is now currently in session. Specific bills have been introduced that may have negative impacts on Municipally-owned utility systems. Attached are HB 1331 and SB 1380 for your review. Staff intends to lead a discussion on the activity related to these bills and whether or not FGU should be more directly involved with these bills. Action may or may not be required, depending on the discussion that takes place.

Attachments:

1. HB 1331
2. SB 1380

1 A bill to be entitled
 2 An act relating to municipal utilities; creating s.
 3 166.281, F.S.; authorizing a municipality to impose
 4 and collect a surcharge on certain utility customers;
 5 requiring that such surcharges be based on the
 6 percentage of utility customers located outside the
 7 municipal boundaries; prohibiting such surcharges from
 8 exceeding a specified amount and from being used in an
 9 manner substantially similar to the levy of a public
 10 service tax; amending s. 366.02, F.S.; revising the
 11 definition of the term "public utility" to include a
 12 municipality supplying electricity or gas to any
 13 retail customer receiving service at a physical
 14 address located outside its corporate boundaries;
 15 amending s. 366.04, F.S.; requiring certain
 16 municipalities to be treated as public utilities;
 17 requiring the Florida Public Service Commission to
 18 adopt rules; amending s. 366.11, F.S.; conforming
 19 provisions to changes made by the act; creating s.
 20 366.16, F.S.; authorizing a municipality to transfer a
 21 portion of its public utility earnings to its general
 22 fund for specified purposes; setting forth the
 23 percentages of such transfers based on whether the
 24 public utilities are supplied to customers located
 25 within or outside the municipality; requiring that

26 such percentages be established or reestablished by
 27 local referendum, subject to majority vote;
 28 prohibiting a municipality from transferring a portion
 29 of its public utility earnings in certain instances;
 30 prohibiting the ability of a municipality to receive
 31 certain state funds if such a prohibited transfer is
 32 effected; amending s. 367.022, F.S.; subjecting water
 33 and wastewater utilities owned, operated, managed,
 34 controlled, or provided by municipalities to
 35 regulation by the commission; creating s. 367.192,
 36 F.S.; authorizing a municipality that owns, operates,
 37 manages, controls, or provides water or wastewater
 38 utilities to transfer a portion of its earnings to its
 39 general fund for specified purposes; setting forth the
 40 percentages of such transfers based on whether the
 41 public utilities are supplied to customers located
 42 within or outside the municipality; requiring that
 43 such percentages be established or reestablished by
 44 local referendum, subject to majority vote;
 45 prohibiting a municipality from transferring a portion
 46 of its water or wastewater utility earnings in certain
 47 instances; prohibiting the ability of a municipality
 48 to receive certain state funds if such a prohibited
 49 transfer is effected; providing an effective date.

50

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

52

53 Section 1. Section 166.281, Florida Statutes, is created
54 to read:

55 166.281 Surcharge on municipal utility customers located
56 outside municipal boundaries.-

57 (1) The governing authority of a municipality may impose
58 and collect a surcharge of up to 10 percent on municipal utility
59 customers located outside the municipal boundaries.

60 (2) A surcharge imposed and collected under this section
61 must be based on the percentage of municipal utility customers
62 located outside the municipal boundaries and may not exceed 10
63 percent.

64 (3) A municipal utility that imposes a surcharge
65 authorized by this section may not use the proceeds of such
66 surcharge in a manner that is substantially similar to the levy
67 of a public service tax by a municipality under s. 166.231.

68 Section 2. Subsection (8) of section 366.02, Florida
69 Statutes, is amended to read:

70 366.02 Definitions.—As used in this chapter:

71 (8) "Public utility" means every person, corporation,
72 partnership, association, or other legal entity and their
73 lessees, trustees, or receivers supplying electricity or gas
74 (natural, manufactured, or similar gaseous substance) to or for
75 the public within this state; but the term "public utility" does

76 not include either a cooperative now or hereafter organized and
 77 existing under the Rural Electric Cooperative Law of the state;
 78 a municipality or any agency thereof, except for a municipality
 79 or any agency thereof supplying electricity or gas (natural,
 80 manufactured, or similar gaseous substance) to any retail
 81 customer receiving service at a physical address located outside
 82 its corporate boundaries; any dependent or independent special
 83 natural gas district; any natural gas transmission pipeline
 84 company making only sales or transportation delivery of natural
 85 gas at wholesale and to direct industrial consumers; any entity
 86 selling or arranging for sales of natural gas which neither owns
 87 nor operates natural gas transmission or distribution facilities
 88 within the state; or a person supplying liquefied petroleum gas,
 89 in either liquid or gaseous form, irrespective of the method of
 90 distribution or delivery, or owning or operating facilities
 91 beyond the outlet of a meter through which natural gas is
 92 supplied for compression and delivery into motor vehicle fuel
 93 tanks or other transportation containers, unless such person
 94 also supplies electricity or manufactured or natural gas.

95 Section 3. Subsection (10) is added to section 366.04,
 96 Florida Statutes, to read:

97 366.04 Jurisdiction of commission.—

98 (10) A municipality or an agency thereof supplying
 99 electricity or natural or manufactured gas, or similar gaseous
 100 substance, to any retail customer receiving service at a

101 physical address located outside its corporate boundaries
 102 qualifies as a public utility and shall be regulated under this
 103 chapter. The commission shall adopt rules to implement this
 104 subsection.

105 Section 4. Subsection (1) of section 366.11, Florida
 106 Statutes, is amended to read:

107 366.11 Certain exemptions.—

108 (1) ~~No provision of~~ This chapter does not shall apply in
 109 any manner, other than as specified in ss. 366.04, 366.05(7) and
 110 (8), 366.051, 366.055, 366.093, 366.095, 366.14, 366.80-366.83,
 111 and 366.91, to utilities owned and operated by municipalities,
 112 except those defined as public utilities in s. 366.02 ~~whether~~
 113 ~~within or without any municipality,~~ or by cooperatives organized
 114 and existing under the Rural Electric Cooperative Law of the
 115 state, or to the sale of electricity, manufactured gas, or
 116 natural gas at wholesale by any public utility to, and the
 117 purchase by, any municipality or cooperative under and pursuant
 118 to any contracts now in effect or which may be entered into in
 119 the future, when such municipality or cooperative is engaged in
 120 the sale and distribution of electricity or manufactured or
 121 natural gas, or to the rates provided for in such contracts.

122 Section 5. Section 366.16, Florida Statutes, is created to
 123 read:

124 366.16 Public utility earnings transfers by a
 125 municipality; percentage of transfers; prohibition.—

126 (1) A municipality or an agency thereof that is regulated
 127 by this chapter pursuant to s. 366.04 may transfer a portion of
 128 its public utility earnings to the general fund of the
 129 municipality for public utility purposes.

130 (2) If the public utilities are supplied to customers
 131 located within the municipality, the percentage of transfers
 132 authorized by subsection (1) shall be in a fixed amount. The
 133 amount shall be:

134 (a) Stated as a percentage of the municipality's or
 135 agency's general fund that may be supported by transfers; or

136 (b) Stated as a percentage of public utility revenues that
 137 may be transferred.

138 (3) If the public utilities are supplied to customers
 139 located outside the municipality, the percentage of transfers
 140 authorized by subsection (1) shall be in a variable amount. The
 141 amount shall be based on the percentage of customers located
 142 outside the municipal boundaries and shall decrease as the
 143 percentage of customers located outside the municipal boundaries
 144 increases.

145 (4) The amount of percentage of transfers authorized by
 146 subsection (1) shall be established or reestablished by local
 147 referendum, subject to majority vote of customers located within
 148 and outside a municipality voting in the referendum.

149 (5) A municipality or an agency thereof that is regulated
 150 by this chapter pursuant to s. 366.04 may not transfer a portion

151 of its public utility earnings to the general fund of the
 152 municipality or agency thereof for nonpublic utility purposes. A
 153 municipality that transfers a portion of its public utility
 154 earnings to the general fund of the municipality for nonpublic
 155 utility purposes may not receive state funds for infrastructure
 156 projects under chapter 216.

157 Section 6. Subsection (2) of section 367.022, Florida
 158 Statutes, is amended to read:

159 367.022 Exemptions.—The following are not subject to
 160 regulation by the commission as a utility nor are they subject
 161 to the provisions of this chapter, except as expressly provided:

162 (2) Systems owned, operated, managed, or controlled by
 163 governmental authorities, including water or wastewater
 164 facilities operated by private firms under water or wastewater
 165 facility privatization contracts as defined in s. 153.91, and
 166 nonprofit corporations formed for the purpose of acting on
 167 behalf of a political subdivision with respect to a water or
 168 wastewater facility, except for municipalities that own,
 169 operate, manage, control, or provide water or wastewater
 170 utilities.

171 Section 7. Section 367.192, Florida Statutes, is created
 172 to read:

173 367.192 Water or wastewater utility earnings transfers by
 174 a municipality; percentage of transfers; prohibition.—

175 (1) A municipality that owns, operates, manages, controls,

176 or provides water or wastewater utilities may transfer a portion
 177 of its water or wastewater utility earnings to the general fund
 178 of the municipality for water or wastewater utility purposes.

179 (2) If the water or wastewater utilities are supplied to
 180 customers located within the municipality, the percentage of
 181 transfers authorized by subsection (1) shall be in a fixed
 182 amount. The amount shall be:

183 (a) Stated as a percentage of the municipality's general
 184 fund that may be supported by transfers; or

185 (b) Stated as a percentage of public utility revenues that
 186 may be transferred.

187 (3) If the water or wastewater utilities are supplied to
 188 customers located outside the municipality, the percentage of
 189 transfers authorized by subsection (1) shall be in a variable
 190 amount. The amount shall be based on the percentage of customers
 191 located outside the municipal boundaries and shall decrease as
 192 the percentage of customers located outside the municipal
 193 boundaries increases.

194 (4) The amount of percentage of transfers authorized by
 195 subsection (1) shall be established or reestablished by local
 196 referendum, subject to majority vote of customers located within
 197 and outside the municipality voting in the referendum.

198 (5) A municipality that owns, operates, manages, controls,
 199 or provides water or wastewater utilities may not transfer a
 200 portion of its public utility earnings to the general fund of

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201 | such municipality for purposes not related to water or
202 | wastewater utilities. A municipality that transfers a portion of
203 | the public utility earnings to the general fund of the
204 | municipality for purposes not related to water or wastewater
205 | utilities may not receive state funds for water-related projects
206 | under chapter 373 or chapter 403.

207 | Section 8. This act shall take effect July 1, 2023.

By Senator Martin

33-01359-23

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1 A bill to be entitled
 2 An act relating to municipal electric utilities;
 3 amending s. 366.02, F.S.; revising the definition of
 4 the term "public utility" to include a municipality
 5 supplying electricity to any electric retail customer
 6 receiving service at a physical address located
 7 outside its corporate boundaries; amending s. 366.04,
 8 F.S.; requiring certain municipalities to be treated
 9 as public utilities for a specified timeframe;
 10 requiring the Florida Public Service Commission to
 11 adopt rules; amending s. 366.11, F.S.; conforming
 12 provisions to changes made by the act; providing an
 13 effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Subsection (8) of section 366.02, Florida
 18 Statutes, is amended to read:

19 366.02 Definitions.—As used in this chapter:

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

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

44 Section 2. Subsection (10) is added to section 366.04,
45 Florida Statutes, to read:

46 366.04 Jurisdiction of commission.—

47 (10) A municipality or any agency thereof supplying
48 electricity to any electric retail customer receiving service at
49 a physical address located outside its corporate boundaries
50 qualifies as a public utility and shall be regulated under this
51 chapter for a minimum of 5 years. The commission shall adopt
52 rules to implement this subsection.

53 Section 3. Subsection (1) of section 366.11, Florida
54 Statutes, is amended to read:

55 366.11 Certain exemptions.—

56 (1) ~~No provision of~~ This chapter does not shall apply in
57 any manner, other than as specified in ss. 366.04, 366.05(7) and
58 (8), 366.051, 366.055, 366.093, 366.095, 366.14, 366.80-366.83,

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59 and 366.91, to utilities owned and operated by municipalities,
60 except those defined as public utilities in s. 366.02 ~~whether~~
61 ~~within or without any municipality,~~ or by cooperatives organized
62 and existing under the Rural Electric Cooperative Law of the
63 state, or to the sale of electricity, manufactured gas, or
64 natural gas at wholesale by any public utility to, and the
65 purchase by, any municipality or cooperative under and pursuant
66 to any contracts now in effect or which may be entered into in
67 the future, when such municipality or cooperative is engaged in
68 the sale and distribution of electricity or manufactured or
69 natural gas, or to the rates provided for in such contracts.

70 Section 4. This act shall take effect July 1, 2023.