

BILL

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1 A bill to be entitled
 2 An act relating to ; providing an effective date.

3
 4 Be It Enacted by the Legislature of the State of Florida:

5
 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
 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.

BILL

ORIGINAL

YEAR

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
 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

BILL

ORIGINAL

YEAR

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.

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

BILL

ORIGINAL

YEAR

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
 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.

BILL

ORIGINAL

YEAR

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,
 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

BILL

ORIGINAL

YEAR

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
 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,

BILL

ORIGINAL

YEAR

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
 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

BILL

ORIGINAL

YEAR

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
 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, ~~and~~
 195 | whether the property is within or outside the jurisdiction of
 196 | members of the entity. The exemption provided in this paragraph
 197 | is not affected by the separate legal entity entering into
 198 | agreements with private firms or entities to provide for the
 199 | management, operation, or improvement of the utilities owned by
 200 | the separate legal entity. The bonds, notes, and other

BILL

ORIGINAL

YEAR

201 obligations of an entity, their transfer, and the income
 202 therefrom, including any profits made on the sale thereof, are
 203 at all times free from taxation of any kind by the state or by
 204 any political subdivision or other agency or instrumentality
 205 thereof. The exemption granted in this subparagraph is not
 206 applicable to any tax imposed by chapter 220 on interest,
 207 income, or profits on debt obligations owned by corporations.

208 Section 2. This act shall take effect July 1, 2018.