

CHAPTER 98-15

House Bill No. 791

An act relating to municipal water and sewer utilities; amending s. 180.191, F.S.; eliminating limitations on utility rates charged outside municipal boundaries in certain municipalities in home rule charter counties; providing an effective date.

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

Section 1. 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) 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 shall not 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) Whenever any municipality has engaged, or there are reasonable grounds to believe that any municipality is about to engage, in any act or practice prohibited by subsection (1) ~~or subsection (5)~~, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person or persons aggrieved.

(3) This section shall apply to municipally owned water and sewer utilities within the confines of a single county and may apply, pursuant to interlocal agreement, to municipally owned water and sewer utilities beyond the confines of a single county.

~~(4) This section shall not apply to a municipality in a county operating under a home rule charter if that county has in operation under the charter an agency regulating water and sewer systems except as provided in subsection (5).~~

~~(5)(a) Any municipality operating a municipally owned water and sewer utility and providing water and sewer service outside the boundaries of the municipality, which municipality is eligible for and specifically exercises the exemption from county rate regulation as provided for in paragraph (b), shall charge consumers outside the boundaries the same just and equitable rates, fees, and charges as consumers inside the municipal boundaries.~~

~~(b) The provisions of this section shall be applicable within a county that was regulating water and sewer rates on or before May 1, 1988, with respect to any municipality operating a municipally owned water and sewer utility outside the boundaries of the municipality, provided that:~~

~~1. The municipality was providing water and sewer service to any consumers outside its municipal boundaries before May 1, 1988;~~

~~2. The governing body of the municipality adopts an ordinance, under the authority of this section, modifying the current water and sewer system rate structure in such manner as may be necessary to bring the method of rate determination into compliance with the provisions of this subsection and declaring the municipality's exemption, to take effect upon the effective date of said ordinance, from county agency regulation of water and sewer rates, fees, and charges; and~~

~~3. The municipality remains in compliance with the provisions of this subsection.~~

~~Nothing in this subsection shall be construed to require eligible municipalities to so exempt themselves from county rate regulation or to subject municipal water or sewer utility rates, fees, and charges for services rendered within the boundaries of a municipality to regulation by a county agency, and any such rates, fees, and charges shall remain a matter of municipal determination in accordance with law.~~

~~(4)(6) In any action commenced pursuant to this section, the court in its discretion may allow the prevailing party treble damages and, in addition, a reasonable attorney's fee as part of the cost.~~

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

Became a law without the Governor's approval April 22, 1998.

Filed in Office Secretary of State April 21, 1998.