

House Bill No. 987

An act relating to Pasco County; providing legislative findings and intent with respect to monopoly water utilities; providing for a pilot project for Pasco County to facilitate county response to certain consumer complaints; permitting the chair of the board of county commissioners to establish a monopoly water utility ad hoc committee for a prescribed period; providing for the membership and duties of the committee; allowing the county commission to adopt additional technological standards to address issues relating to black water and rotten-egg odor in domestic plumbing; requiring that utilities receive notice of the standards and submit a compliance plan to the county; prohibiting the county commission from adopting standards that relate to the finances of a monopoly water utility or conflict with specified standards imposed by other regulatory bodies; providing procedures for challenging standards adopted by the county; providing for a monopoly water utility to recover certain costs of compliance with the county requirements; providing that this act supersedes conflicting provisions of ch. 367, F.S.; providing for future repeal; providing an effective date.

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

Section 1. Monopoly water utilities; legislative findings and intent; Pasco County pilot project; countywide standards for black water, rotten-egg odor, and customer service.—

(1) The Legislature recognizes that by extending the privilege of monopoly status to certain utilities, chapter 367, Florida Statutes, creates a class of captive customers who cannot choose to purchase service from an open market. Accordingly, the Legislature finds that it is a priority to ensure that drinking water delivered to captive customers meets appropriate quality standards. The Legislature further finds that there exists a variety of factors that affect the quality of the water delivered into customers' homes. It is the intent of the Legislature to establish a pilot program in Pasco County regarding monopoly water utilities which is intended to allow Pasco County the ability to respond to consumer complaints regarding black water, rotten-egg odor arising from local variations in raw water chemistry, and customer service. It is also the intent of the Legislature to maintain a statewide uniform system of regulation with respect to the establishment of water quality standards. Therefore, the Legislature recognizes that only the Public Service Commission, the Department of Environmental Protection, and the Environmental Protection Agency are authorized to establish statewide water quality criteria requirements. Nonetheless, it is recognized that technology may be available to assist in lessening black water and rotten-egg odor arising from local variations in raw water chemistry. It is also recognized that monopoly water utilities have established varying degrees of customer service programs that are designed to respond to consumer complaints regarding customer service.

(2) If Pasco County is receiving black water, rotten-egg odor, or other customer service complaints from a significant number of the customers serviced by any monopoly water utility, the chair of the county commission may establish a monopoly water utility ad hoc committee consisting of the chair of the county commission, two representatives from the monopoly water utility, two customer representatives, the county health officer, and two independent scientific experts in water chemistry. The committee shall be in existence for no more than 2 years, and its functions shall be:

(a) To review and evaluate customer service complaints and, if deemed necessary, recommend to the county commission the establishment of uniform customer service criteria to be applied by all monopoly water utilities.

(b) To review and evaluate black water and rotten-egg odor concerns expressed by customers serviced by a monopoly water utility if similar complaints have also been filed with the Public Service Commission.

(c) If deemed necessary, to recommend to the county commission the propriety of requiring new technology or new uniform minimum technology standards for use by monopoly water utilities in the treatment of black water and rotten-egg odor and the delivery of customer service. The ad hoc committee may evaluate a monopoly water utility's operational protocol only insofar as it relates to customer service and water quality issues related to local variations in water chemistry. The ad hoc committee may not recommend standards that deal with the financial aspects of a water utility or standards or criteria relating to water quality which would conflict with water quality standards presently imposed by the Public Service Commission, the Department of Environmental Protection, or the Environmental Protection Agency. However, the ad hoc committee may recommend the establishment of local technological standards or methods of processing relating to black water and rotten-egg odor or other minimum standards regarding general responsiveness to customer service complaints. Such technological standards relating to black water and rotten-egg odor must be economically, technologically, and environmentally feasible. The ad hoc committee shall consult with the Public Service Commission, the Department of Environmental Protection, or the Environmental Protection Agency, as necessary.

(3) On the recommendation of the ad hoc committee, the county commission may choose to adopt additional technological standards upon demonstration that there will be a substantial improvement in black water and rotten-egg odor conditions and such standards do not conflict with the permitting requirements of the Public Service Commission, the Department of Environmental Protection, or the Environmental Protection Agency. The county commission may also choose to adopt other minimum standards for customer service responsiveness. Upon the adoption of any such standards, each monopoly water utility shall be informed of those new standards and shall be given 3 months to submit to the county a plan for compliance with those standards. The county shall allow for a reasonable time to bring such systems into compliance with the new standards. Notwithstanding any other provisions of this act, the county commission may not adopt standards that deal with the financial aspects of a monopoly water utility or standards

or criteria relating to water quality as applied to a monopoly water utility which would either conflict with or be more stringent than water quality standards or criteria presently imposed by the Public Service Commission, the Department of Environmental Protection, or the Environmental Protection Agency. The county's decision to adopt any technological or customer service standards is agency action only for the purposes of this act and is subject to chapter 120, Florida Statutes. Any affected monopoly water utility, consumer, or state agency may challenge, pursuant to chapter 120, Florida Statutes, the county's decision to adopt such standards as not complying with the provisions contained in this act, and the county shall refer the petition to the Division of Administrative Hearings. Any decision of an administrative law judge is final agency action, subject to appeal pursuant to s. 120.68, Florida Statutes. If there is no challenge to the decision of the county commission to impose additional standards as provided for in this act, or if the county prevails in an administrative challenge to the proposed standards, the full amount of any reasonable and prudent costs incurred in complying with the county requirements and any legal or other costs incurred by the utility in participating in the process outlined in this section are recoverable by a monopoly water utility under s. 367.081(4)(b), Florida Statutes, if that monopoly water utility is regulated by the Public Service Commission.

(4) This act is intended to supersede the provisions of chapter 367, Florida Statutes, to the extent that such provisions are inconsistent with this act.

(5) This act shall expire July 1, 2005.

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

Approved by the Governor June 17, 2004.

Filed in Office Secretary of State June 17, 2004.