TECH-02 PRIVATE UTILITY/WATER PROVIDERS
STAFF ANALYSIS

PROPOSAL INFORMATION			
SUBMITTING COUNTY:	Putnam		
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FAC COMMITTEE:	TECH	**CROSS-CLAIMS:**	
FAC STAFF:	Peter	**DATE:**	October 19th, 2026

This staff analysis is based on the proposal as submitted and does not reflect an adopted position of the Florida Association of Counties.

POLICY PROPOSAL:

Support policy to ensure/protect the public and local governments when private water systems are created, operated, and potentially fail or go defunct.

I. SUMMARY:

Putnam County asks FAC to support policy protecting the public and local governments when private water systems are created, operated, and fail or go defunct. The concern is that when a private system fails, the county is left to keep water flowing to residents, with few tools to prevent the failure or recover its costs. The proposal outlines a proposed broad framework in three areas: proactive monitoring (systemic audits and asset management and reserve requirements), emergency intervention (receivership and temporary step-in authority with immunity), and cost recovery (lien authority and bonding or escrow requirements). The proposal also seeks a layered legal foundation across federal, state, and local government, along with emergency water planning, regional task forces, supply diversification, and emergency funding pools. Current law already requires a county to petition for a receiver when a regulated utility is abandoned, but it does not address cost recovery or financial assurance.

II. PRESENT SITUATION:

Under current law, private water systems are overseen by several agencies. The Department of Environmental Protection or the Department of Health regulates water quality, depending on the system's size, while the Public Service Commission or the county regulates rates and service. Some smaller systems are exempt from the PSC'S regulation entirely under s. 367.022, F.S.

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The proposal raises concern that this oversight does not adequately protect the public or local governments when a private system fails or goes defunct. When that happens, residents can lose reliable water service, and the county is often left to step in. The proposal points to risks across a system's life, from how it is created and operated to what happens when it fails, and calls for stronger tools to monitor these systems, intervene in an emergency, and recover costs. Current law addresses one part of this problem. When an owner or operator decides to abandon a system, s. 367.165, F.S., requires 60 days' notice to the county and the Public Service Commission. The county must then petition the circuit court to appoint a receiver, which may be the county itself, to keep the system running until it can be sold or transferred.

While this mechanism keeps water flowing, it does not protect the county that steps in. Because private systems are not required to post bonds or maintain reserves, there is often no money set aside when a system fails. The county or receiver has no lien to recover its operating and repair costs, and it must run the system under existing rates that may not cover those repairs. The law also offers no clear way for a county to intervene before a failing system is formally abandoned, and the process may not reach systems exempt from chapter 367, F.S. In the end, the cost of a private owner's failure risks falling on the county and its taxpayers.

III. EFFECT OF THE PROPOSAL:

The proposal sets out a broad framework for protecting the public and local governments when private water systems fail. Its background groups ideas into three areas. The first is proactive monitoring, through systemic audits and asset management and reserve requirements. The second is emergency intervention, through receivership and temporary step-in authority with immunity. The third is cost recovery, through lien authority and bonding or escrow requirements.

The proposal also seeks a layered legal foundation spanning three levels of government. At the federal level, it relies on oversight under the U.S. Safe Drinking Water Act. At the state level, it calls for codified procedures to declare water emergencies, allocate resources, and override local limitations. At the local level, it calls for authority to activate emergency water supply plans, coordinate with neighboring jurisdictions, and manage temporary water sources. It also adds wider concepts, including emergency water planning, regional task forces, supply diversification, public communication, and emergency funding pools.

Taken together, these ideas cross federal, state, and local authority and would require separate changes to chapters 367, 381, and 403, F.S. Some already exist in part, such as receivership under s. 367.165, F.S. Possible changes would build on the existing abandonment and receivership process in s. 367.165, F.S., such as a cost-recovery lien for counties or receivers, or a bonding requirement for private systems.

IV. COUNTY IMPACT:

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This proposal would give counties the tools to protect residents and recover their costs when a private water system fails. Systemic audits and asset management requirements would help identify struggling systems before they fail. A cost-recovery lien would let a county or receiver recover what it spends from the system owner, and bonding, escrow, or reserve requirements would ensure money is available when a system fails rather than drawing on the general fund. Clearer step-in authority, paired with immunity, would allow counties to act before a failing system becomes a public health emergency without taking on liability for problems they did not create. The proposal's broader concepts, including emergency water supply plans, coordination with neighboring jurisdictions, temporary water sources, regional task forces, and emergency funding pools, would also help counties restore service quickly when a system goes down.

Protective of Home Rule: Yes.

V. FISCAL IMPACT:

- Positive but indeterminate. Cost-recovery and financial assurance provisions would shift intervention costs from counties to system owners.
- No Revenue Estimating Conference estimate exists.

Unfunded Mandate (Art. VII, s. 18, Fla. Const.): No.

VI. LEGISLATIVE & FAC HISTORY:

- Under chapter 367, F.S., an owner may not abandon a utility without giving 60 days' notice to the county and the Public Service Commission. The county must then petition the circuit court to appoint a receiver (s. 367.165, F.S.). This section applies in every county, while the Commission's rate and service regulation applies only in counties that have opted into its jurisdiction (s. 367.171, F.S.). Certain systems are exempt from chapter 367, F.S., under s. 367.022, F.S.
- Florida Safe Drinking Water Act (ss. 403.850–403.864, F.S.) authorizes the Department of Environmental Protection to enforce drinking water standards for public water systems. The Drinking Water State Revolving Loan Fund (s. 403.8532, F.S.) provides financial assistance for public water system improvements.
- The Department of Health supervises private and certain public water systems under s. 381.0062, F.S., including limited-use community and commercial systems. Construction, setback, and operating standards for those systems are set in chapter 64E-8, F.A.C.
- Under the Florida Water Resources Act of 1972, chapter 373, F.S., water management districts regulate water withdrawals through consumptive use permits.

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- Chapter 720, F.S., authorizes associations to maintain common-area infrastructure, including shared utilities, and to collect assessments. Association-operated water systems remain subject to Department of Health and Department of Environmental Protection requirements.
- Past FAC statements: N/A
- Guiding Principles coverage: N/A
- BoCC action: the submission describes BoCC support as a "placeholder for discussion purposes."

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