

By Senator Jones

40-519A-01

See HB 763

1 A bill to be entitled

2 An act relating to Monroe County; amending

3 chapter 69-1191, Laws of Florida, as amended;

4 revising provisions relating to the Utility

5 Board of the City of Key West; authorizing the

6 board to sell tangible personal property

7 related to its utility services under certain

8 circumstances; providing for salaries of board

9 members to be set by resolution; authorizing

10 the board to extend beyond the limits of Monroe

11 County any public utilities under its

12 jurisdiction under certain circumstances;

13 providing for issuance of refunding revenue

14 bonds by the board; authorizing the board to

15 issue commercial paper notes and variable rate

16 bonds and enter into interest rate swap

17 transactions; revising notice provisions

18 relating to sale of bonds; providing for sale

19 of bonds at competitive or negotiated sale

20 rather than public sale; revising eligibility

21 requirements for a special utility rate;

22 authorizing the board to make expenditures for

23 advertising the utility system; authorizing the

24 board to expend funds for emergency purchases;

25 changing a time period for delivery of annual

26 audits to the City Commission of the City of

27 Key West; providing an effective date.

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

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1 Section 1. Sections 1, 8, 11, and 13 of chapter
2 69-1191, Laws of Florida, as amended, and section 17 of
3 chapter 69-1191, Laws of Florida, are amended to read:
4 Section 1. There is hereby created the Utility Board
5 of the City of Key West, Florida, to be composed of five (5)
6 members as particularly hereinafter set forth. Such Utility
7 Board created by this act shall be and is hereby made the
8 successor to the Utility Board of the City of Key West,
9 Florida, heretofore created and existing by and under the
10 provisions of chapter 65-1770, Laws of Florida, and acts
11 amendatory thereto. The full, complete and exclusive power
12 and right to manage, operate, maintain, control, extend,
13 extend beyond the limits of the City of Key West, Florida, ~~in~~
14 ~~Monroe County, Florida,~~ improve, finance and re-finance the
15 electric public utility now owned by the City of Key West,
16 Florida, and the nonexclusive right to build, construct,
17 operate, and acquire other public utilities, by purchase,
18 gift, grant, lease, rental or otherwise, from time to time,
19 from the United States Government, its departments, agencies,
20 bureaus and commissions, and from the State of Florida and any
21 of its political subdivisions, and corporations which are
22 publicly or privately owned or operated, and by the right of
23 eminent domain, shall be carried on by such Utility Board
24 composed of five (5) members, all of whom shall be elected by
25 the qualified electors of the City of Key West, Florida, at
26 large, as hereinafter set forth. Furthermore, said Utility
27 Board shall have the power and right to sell at retail or
28 wholesale certain tangible personal property related to its
29 utility services, including, but not limited to, generators,
30 protection and conservation equipment, and appliances.The
31 term "public utility," as used herein, shall include, but not

1 be limited to, cable and telecommunication facilities. Nothing
2 herein shall grant the right of eminent domain as to cable or
3 telecommunication facilities. The name of the Utility Board
4 shall be "Utility Board of the City of Key West, Florida," and
5 said board shall function and operate as hereinafter provided.
6 Said Utility Board shall have the right to sue and be sued,
7 may adopt and use a seal and change it at pleasure, and may
8 use in the conduct of its business the trade name of "City
9 Electric System," the use of which heretofore by its
10 predecessor board is approved, confirmed and validated;
11 further, said Utility Board may change such trade name and
12 from time to time adopt such trade names as it deems expedient
13 and proper in the conduct of its business, operations and
14 activities.

15 Section 8. The Chairman of the Utility Board shall
16 receive a monthly salary as compensation for his services in
17 an amount set by majority vote of the board, pursuant to
18 resolution not to exceed \$700 per month. The other members of
19 the board shall receive a monthly salary as compensation for
20 their services in an amount set by majority vote of the board,
21 pursuant to resolution not to exceed \$600 per month. All
22 compensations set forth herein shall be payable as an
23 operating expense of the electric public utility.

24 Section 11. The Utility Board of the City of Key West,
25 Florida, shall have the full, complete and exclusive power and
26 right to manage, operate, maintain, control, extend, extend
27 beyond the limits of the City of Key West, Florida, in Monroe
28 County, Florida, the electric public utility owned by said
29 city, including the maintenance, operation, extension and
30 improvement thereof, and including all lines, poles, wires,
31 pipes, mains and all additions to and extensions of the same,

1 and all buildings, stations, substations, machinery,
2 appliances, land and property, real, personal and mixed, used
3 or intended for use in or in connection with said electric
4 public utility, and the Utility Board shall have all of the
5 powers in connection with such other public utilities
6 hereafter constructed or acquired by said board that are
7 granted by this act to said board with respect to the electric
8 public utility now owned by said city. The Board shall have
9 the power and right to extend its utilities services beyond
10 the limits of Monroe County, Florida. As it relates to the
11 extension of services of the electric public utility, the
12 power to extend services beyond the limits of Monroe County,
13 Florida, shall become effective only if the Legislature enacts
14 legislation permitting any person other than the Utility Board
15 to sell electric energy to customers of the Utility Board.The
16 said Utility Board shall have exclusive power and authority to
17 determine what improvements shall be made to all such public
18 utilities. The said Utility Board shall adopt annual budgets
19 and amend the same from time to time, but in so doing shall
20 conform to the requirements, if any, of any existing ordinance
21 or resolution authorizing the issuance of revenue bonds now
22 outstanding or hereafter issued against the income of the said
23 ~~electric public~~ Utility Board. Revenue bonds, ~~as~~ may be issued
24 ~~determined~~ by said the Utility Board ~~of the City of Key West,~~
25 ~~Florida,~~for the purpose of refunding outstanding revenue
26 bonds as well as for any other purposes which the Utility
27 Board of said city deems proper in the management, operation,
28 maintenance, control, improvement, extension, betterment,
29 financing and refinancing of the electric public utility owned
30 by the City of Key West, Florida, as well as for purposes of
31 acquisition, purchase, building and construction and operation

1 of additional public utilities which are deemed proper by said
2 Utility Board, and revenue bonds may also be issued against
3 the income of any additional public utilities so acquired, and
4 the granting of such authority to the Utility Board of the
5 City of Key West, Florida, to issue revenue bonds against
6 income of the electric public utility owned by said city, or
7 against the income of any additional public utilities
8 hereafter acquired by said Utility Board, is exclusive to said
9 board, and the governing body of said city shall not have the
10 right to issue any such bonds or otherwise incur any
11 indebtedness or obligations whereby the income of said
12 ~~electric public utilities owned by the Utility Board of the~~
13 City of Key West utility, or the income of any additional
14 public utilities, hereafter acquired by said Utility Board,
15 becomes charged for the payment thereof. The maturity dates
16 and rate of interest of any bonds issued hereunder shall be
17 determined and fixed by the Utility Board of the City of Key
18 West, Florida, and said board shall have the exclusive right
19 to sell said bonds at prices to be determined by said board.
20 The Utility Board of the City of Key West, Florida, is
21 authorized and empowered to adopt such resolutions as may be
22 necessary or advisable in connection with the authorization,
23 execution, ~~issuance, sale,~~ and delivery of the revenue bonds
24 authorized hereunder. Prior to the validation and issuance of
25 any bonds authorized hereunder, said board shall obtain the
26 approval of the City Commission of the City of Key West,
27 Florida, by appropriate ordinance. The Utility Board shall
28 further have the power to issue commercial paper notes and
29 variable rate bonds and to enter into interest rate swap
30 transactions as determined from time to time to be in the best
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1 interests of the ratepayers of the electric public utility of
2 the City.

3 ~~Prior to any sale of bonds, the Utility Board shall~~
4 ~~cause notice to be given by publication in some daily~~
5 ~~newspaper published and having a general circulation in the~~
6 ~~City of Key West, Florida, that said board will receive bids~~
7 ~~for the purchase of the bonds at the office of the Utility~~
8 ~~Board in said city. Said notice shall be published twice, and~~
9 ~~the first publication shall be given no less than fifteen (15)~~
10 ~~days prior to the date set for receiving the bids. Said notice~~
11 ~~shall specify the amount of the bonds offered for sale and~~
12 ~~shall state that the bids shall be sealed bids, shall give the~~
13 ~~schedule of the maturities of the proposed bonds and such~~
14 ~~other pertinent information as may be prescribed in the~~
15 ~~resolution authorizing the issuance of such bonds or any~~
16 ~~resolution subsequent thereto. Bidders may be invited to name~~
17 ~~the rate or rates of interest and invite bids thereon. In~~
18 ~~addition to publication of notice of the proposed sale, the~~
19 ~~Utility Board shall also give notice in writing of the~~
20 ~~proposed sale, enclosing a copy of such advertisement, to the~~
21 ~~Chairman of the Florida Development Commission, and to at~~
22 ~~least three (3) recognized bond dealers in the State, such~~
23 ~~notices to be given not less than ten (10) days prior to the~~
24 ~~bids.~~

25 ~~All Bonds and refunding bonds issued pursuant to this~~
26 ~~act may ~~shall~~ be sold at competitive or negotiated ~~public~~~~
27 ~~sale, provided any negotiated sale shall comply with section~~
28 ~~218.385, Florida Statutes and shall be awarded to the bidder~~
29 ~~whose bid produces the lowest net interest cost to the Utility~~
30 ~~Board. The net cost of bonds shall be determined by taking the~~
31 ~~aggregate amount of interest at the rate or rates specified in~~

1 ~~the bonds, computed from the date of the bonds to the date of~~
2 ~~the various stated maturities thereof, and deducting therefrom~~
3 ~~the amount of any premium offered in excess of the par value~~
4 ~~of the bonds or adding thereto the amount of any discount~~
5 ~~offered below the par value of the bonds, with interest~~
6 ~~computed on a three hundred sixty (360) day year basis. The~~
7 ~~Utility Board shall reserve the right to reject any or all~~
8 ~~bids.~~

9 Said Utility Board shall have the exclusive right and
10 power to buy, purchase, contract for exchange, lease and
11 convey by deed or such other lawful means as permitted by the
12 laws of Florida, whether special, local or general, without
13 the consent or approval of the City Commission or other
14 governing body of the City of Key West, Florida, or its
15 municipal successor, from time to time, any of the property,
16 real, personal or mixed, specified or referred to hereinbefore
17 in this act, for such price or prices and on such terms,
18 provisions and under such conditions as herein set forth at
19 the time or times it determines that such property, real,
20 personal or mixed, is excess to the needs of the electric
21 public utility, or such other public utilities the Utility
22 Board acquires. Said board shall have the full and complete
23 power and exclusive authority to accept gifts, contributions,
24 contributions in aid of construction, properties, whether
25 real, personal or mixed, from the United States Government or
26 any of its departments, bureaus, commissions or agencies, and
27 the said full and complete power and exclusive authority
28 hereinbefore provided shall also apply to the acceptance of
29 gifts, contributions, contributions in aid from the State of
30 Florida, or any of its political subdivisions, departments,
31 bureaus, commissions, or agencies, corporations, publicly or

1 privately owned or operated, private persons and individuals.
2 The Utility Board created by this act shall have the full and
3 complete power and exclusive authority to contract with the
4 United States Government, or any of its departments, bureaus,
5 commissions or agencies, other public utilities, the State of
6 Florida, or any of its political subdivisions, departments,
7 bureaus, commissions or agencies, corporations, either
8 publicly or privately owned and operated, private persons or
9 individuals, for the acquisition, purchase and operation of
10 other public utilities and said Utility Board may determine in
11 its judgment, and to purchase, contract for the sale, lease or
12 exchange of any products and services, materials and
13 commodities, by-products and water, steam or heat from all or
14 any of its activities or operations. The said Utility Board
15 shall have full and complete power and exclusive authority to
16 fix rates and charges for electricity and charges or prices
17 for any other real and personal property, products and
18 services, materials and commodities, by-products of and from
19 all or any of its activities or operations, furnished or sold
20 by said Utility Board, and to provide for the collection of
21 same. The Utility Board shall grant a special lower rate and
22 charge for electricity on the residential account of any
23 person who meets low income standards adopted by the Utility
24 Board, who has been a permanent resident of the geographical
25 service area covered by the Utility Board in furnishing
26 electricity in Monroe County, Florida, for three (3)
27 consecutive years prior to requesting such special lower rate
28 or charge and who is sixty-two (62)~~sixty (60)~~ years of age or
29 older or a totally and permanently disabled American veteran.
30 As used in this section "residential account" means an account
31 for a person residing in a house, mobile home, condominium,

1 apartment, or other housing unit. Submission of an affidavit
2 that the applicant claiming the special lower rate and charge
3 under this section has been a permanent resident of the
4 geographical service area heretofore mentioned for three (3)
5 years immediately preceding the date of application, and who
6 is sixty-two (62)~~sixty (60)~~ years of age or older or a
7 totally and permanently disabled American veteran, shall be
8 prima facie proof of such residence, disability, and age. The
9 affidavit shall include the annual income of the applicant.
10 All bills for electricity and electric service and for the
11 furnishing and sale of the products and services, materials
12 and commodities, by-products and water, steam or heat and
13 by-products of and from all or any activities or operations,
14 shall be collected and accounted for by said Utility Board,
15 and all disbursements in connection with the foregoing, shall
16 be ordered paid out only upon approval of said board; or
17 pursuant to policies adopted by said board or pursuant to
18 policies established by resolution adopted by the Utility
19 Board; and said board acting by, for, and in the name of the
20 City of Key West, Florida, a municipal corporation, and any
21 municipal successor thereto, existing under the laws of
22 Florida, shall have the vested rights which are herein
23 conferred of eminent domain, for the purpose of acquiring
24 lands and rights-of-way necessary and expedient for the
25 location, establishment, construction, maintenance and
26 operation of the works and projects authorized in this act,
27 and for the acquisition and construction of any and all kinds
28 and classes of real, personal or mixed property, tangible or
29 intangible, whatsoever, which shall be deemed necessary,
30 convenient or appropriate to accomplish the purposes and
31 objects authorized by this act, provided, however, said

1 Utility Board shall at all times be governed by and conform to
2 the provisions of any proceedings authorizing and providing
3 for the issuance of bonds, or other obligations of said city,
4 which by their terms are secured by or payable from the
5 revenues of the electric public utility, or the revenues of
6 any of the additional public utilities acquired by said
7 Utility Board.

8 The Utility Board is hereby authorized to purchase
9 advertising, including, but not limited to, advertising from
10 recognized, established advertising media, such as newspapers,
11 radio, and television, as a proper expenditure of the system.
12 The Utility Board may make expenditures that are reasonable
13 and necessary for advertising the Board's utility system or
14 systems, including advertising events and programs that are
15 sponsored by the Utility Board or in which the Utility Board
16 participates. Furthermore, nothing in this paragraph shall be
17 construed to prevent the Utility Board from sponsoring
18 charitable events or events that would benefit the Utility
19 Board or its utility system or systems. ~~The Utility Board~~
20 ~~shall not make contributions and donations and charge such~~
21 ~~contributions and donations to advertising the utility system.~~

22 Section 13. All construction, reconstruction, repairs
23 or work of any nature made by the Utility Board, where the
24 entire cost, value, or amount of such construction,
25 reconstruction, repairs or work, including the labor and
26 materials, shall exceed the amount as established by
27 resolution adopted by the Utility Board, except construction,
28 reconstruction, repairs, or work done by employees of the
29 Utility Board or by labor supplied under agreement with
30 federal government or state government, with supplies and
31 materials purchased hereinafter provided, shall be done only

1 under contract or contracts to be entered into by the Utility
2 Board with the lowest responsible bidder upon proper terms,
3 after due public notice has been given asking for competitive
4 bids as hereinafter provided. No contract shall be entered
5 into for construction or improvement or repair of the electric
6 system, or any part thereof, unless the contractor shall have
7 given an undertaking with a sufficient surety or sureties,
8 approved by the Utility Board, and in an amount fixed by said
9 board, for the faithful performance of the contract. All such
10 contracts shall provide among other things that the person or
11 corporation entering into such contract with the Utility Board
12 will pay for all materials furnished and services rendered for
13 the performance of the contract, and that any person or
14 corporation furnishing such materials or rendering such
15 services may maintain an action to recover for the same
16 against the obliger in the undertaking, as though such person
17 or corporation were named therein, provided the action is
18 brought within one (1) year after the time the cause of action
19 accrues. Nothing in this section shall be construed to limit
20 the power of authority to construct, repair or improve the
21 electric system, or any part thereof, or any addition,
22 betterment or extension thereto, directly by the officers,
23 agents and employees of the Utility Board, or otherwise than
24 by contract.

25 All supplies, equipment, machinery and materials
26 costing more than the amount as established by resolution
27 adopted by the Utility Board shall be purchased only after
28 advertisement as provided hereinafter. The Utility Board
29 shall accept the lowest bid or bids, kind, quality and
30 material being equal, but said board shall have the right to
31 reject any or all bids or select a single item from any bid.

1 The provision as to bidding shall not apply to the purchase of
2 patented and manufactured products offered for sale in a
3 noncompetitive market or solely by a manufacturer's authorized
4 dealer.

5 The term "advertisement" or "due public notice"
6 wherever used in this section shall mean a notice published at
7 least once a week for two (2) consecutive weeks before the
8 award of any contract, in a daily newspaper published and
9 having a general circulation in the City of Key West, Florida,
10 and in such other newspapers or publications as the Utility
11 Board shall deem advisable.

12 No member of the Utility Board or officer or employee
13 thereof shall either directly or indirectly be a party to, or
14 be in any manner interested in, any contract or agreement with
15 the Utility Board for any matter, cause or thing whatsoever in
16 which such member shall have a financial interest or by reason
17 whereof any liability or indebtedness shall in any way be
18 created against such board. If any contract or agreement shall
19 be made in violation of the provisions of this action, the
20 same shall be null and void, and no action shall be maintained
21 thereon against the Utility Board.

22 Subject to the aforesaid provisions, the Utility Board
23 may (but without intending by this provision to limit any
24 powers of said board) enter into and carry out such contract,
25 or establish or comply with such rules and regulations
26 concerning labor and materials and other related matters in
27 connection with any construction project, or portion thereof,
28 as the Utility Board may deem desirable; provided that the
29 provisions of this section shall not apply to any contract or
30 agreement between the Utility Board and any engineers,
31 architects, attorneys, or for other professional services, or

1 to any contract or agreement relating to fiscal advisors,
2 fiscal agents, or investment bankers, relating to the
3 financing of projects herein authorized.

4 Notwithstanding the aforesaid provisions, the Utility
5 Board may, in its reasonable discretion, authorize and permit
6 such expenditures of funds as necessary for making emergency
7 purchases or may delegate such authority to such employees and
8 officers of the utility system or systems.

9 Nothing in this section shall apply to the purchase of
10 fuel products or produced power on a single-lot basis when
11 such fuel or power is offered for sale to the Utility Board at
12 a below advertised price basis.

13 All purchases of commodities or contractual services
14 under the provisions of local, state, and federal purchasing
15 contracts shall be exempt from the competitive procurement
16 requirements, provided that the following criteria are all
17 satisfied:

18 (1) The terms and conditions of the original contract
19 by the federal, state or local government are satisfactory to
20 the Utility Board and such terms and conditions are expressly
21 extended to other municipalities pursuant to the bid
22 documents.

23 (2) The original contract by the federal, state or
24 local government was executed within twelve (12) months prior
25 to the proposed purchase of commodities or services by the
26 Utility Board.

27 (3) The purchasing agent has performed an informal
28 solicitation to determine if the prices of the original
29 contract are fair and reasonable, and to assure local vendors
30 have an opportunity to compete.

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1 (4) The Utility Board authorizes such procurement when
2 the cost of the commodities (materials) or contractual
3 services (labor and materials) exceeds the amounts as
4 established by resolution adopted by the Utility Board.

5 Section 17. The Utility Board of the City of Key West,
6 Florida, shall provide for an annual audit and be subject to
7 audit by the Legislative Auditor of the State of Florida, of
8 all utility board accounts, and said Board is hereby
9 authorized to pay the expenses thereof when required to do so
10 and may provide for such more frequent audits as it deems
11 necessary. A copy of the audit is to be delivered to the City
12 Commission of the City of Key West, Florida, within seven (7)
13 working days ~~twenty four(24) hours, holidays included,~~ after
14 the Utility Board receives its copy from the audit agency. The
15 Utility Board shall deliver to any other authorized agency, as
16 ~~they~~ may be required, additional copies of the audit. The
17 expenses of said audit shall be paid by the Utility Board of
18 the City of Key West, Florida.

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