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**DATE:** May 10, 2001

**\*\*AS PASSED BY THE LEGISLATURE\*\***

**CHAPTER #:** 2001-297, Laws of Florida

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
LOCAL GOVERNMENT & VETERANS AFFAIRS  
FINAL ANALYSIS – LOCAL LEGISLATION**

**BILL #:** HB 763

**RELATING TO:** Monroe Co./Key West Utility Board

**SPONSOR(S):** Representative Sorensen

**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS YEAS 6 NAYS 0
  - (2) UTILITIES & TELECOMMUNICATIONS YEAS 11 NAYS 0
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

This bill amends the Utility Board of the City of Key West, Florida, Act by authorizing the Board to sell tangible personal property related to utility services, at retail or wholesale, removing salary caps of board members, and containing a retail restructuring, reciprocity provision, which permits the Board to operate its public utilities extra-territorially beyond Monroe County, should legislation pass that provides for deregulation.

Additionally, this bill provides for the sale of bonds at competitive or negotiated sale, rather than public sale, increases from age sixty to age sixty-two the age limit for discounted utilities, and authorizes the Board to issue commercial paper notes and variable rate bonds, to enter into interest rate swap transactions, and to make emergency purchases.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**Public Service Commission**

The Public Service Commission (PSC) fully regulates the rates and services of the investor-owned utilities and has rate structure jurisdiction over municipal electric utilities and rural electric cooperatives. The PSC has general jurisdiction over all electric utilities; in the areas of public safety, territorial boundaries, conservation, power supply planning, and power plant and transmission line need determinations.

**Electric Industry in Florida**

Providers supply electricity either at the retail or wholesale level. The group of retail providers in Florida is made up of the following: five investor-owned utilities (Florida Power & Light, Florida Power Corporation, Tampa Electric Company, Gulf Power Company, and Florida Public Utilities), thirty-two municipal electric utilities, one improvement district, and sixteen rural electric cooperatives. Florida's wholesale providers consist of one municipal power agency, two rural electric cooperatives, one federal authority, fifty-nine non-utility generating facilities, and one merchant plant.

The Utility Board of the City of Key West, Florida, is classified as a retail provider, municipal electric utility. As such, it is not fully regulated by the PSC.

**Utility Board of the City of Key West**

The Utility Board of the City of Key West, Florida (Board) was established in 1969 by chapter 69-1191, Laws of Florida. The enabling act has been amended eight times, through Chapters 69-1192, 75-410, 75-412, 76-396, 84-457, 85-469, 95-509, and 99-484, L.O.F. Chapter 69-1192, as amended, provides that the Board has complete and exclusive power to manage, operate, maintain, and control the electric public utility owned by Key West. The Board is also authorized the non-exclusive right to operate cable and telecommunication facilities.

The Board consists of five members, chosen by city voters in staggered elections. Salary is capped at \$700 a month for the Chair of the Board and at \$600 a month for the remaining members.

The Board is limited to operating its public utilities within the jurisdictional boundaries of Monroe County and is limited to issuing revenue bonds.

Regarding the sale of bonds, the Board is restricted to selling bonds through the traditional competitive, sealed bid process. Provisions relating to the sale of bonds include a fixed notice process.

The minimum age limit for a customer's eligibility for discounted utilities is set at age sixty.

The Board is precluded from making certain contributions and donations.

The Board is required to submit a copy of its annual audit results to the City Commission within twenty-four hours, holidays included, after receipt from the auditing agency.

**C. EFFECT OF PROPOSED CHANGES:**

This bill authorizes the Board to sell tangible personal property under certain circumstances.

This bill places the Board in the proper posture, in anticipation of legislative deregulation, by permitting the Board to operate its public utilities extra-territorially on a retail basis, should this legislation pass. This type of language is commonly known as a retail restructuring, reciprocity provision.

This bill provides for the sale of bonds at competitive or negotiated sale, rather than public sale.

Under this bill, salary caps of board members are removed.

The age limit for discounted utilities is increased from age sixty to age sixty-two.

This bill authorizes the Board to additionally issue commercial paper notes and variable rate bonds, to enter into interest rate swap transactions, to sponsor charitable events that benefit the Board, and to make emergency purchases.

The due date for the Board to produce a copy of its annual audit to the City Commission is increased to seven working days.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Amends Chapter 69-1191, L.O.F., as amended, as follows:

Amends s.1, 69-1191, L.O.F., to provide:

- Deletes reference to Monroe County in provision addressing the Board's jurisdictional area of control;
- Enables the Board with the nonexclusive right to operate other public utilities;
- Endows the Board with the power to sell at retail or wholesale certain tangible personal property related to utility services, such as generators, protection and conservation equipment, and appliances;
- Removes current \$700 cap and \$600 cap, in section relating to the Chairman of the Utility Board's and other members' monthly salaries, respectively, and clarifies that all member salaries, including the Chair's, are to be set by resolution.

Amends s.11, 69-1191, L.O.F., to provide:

- Authorizes the Board with specific powers over certain public utilities constructed by the Board;
- Endows the Board with the power to extend its utilities services beyond Monroe County; specifically authorizes the extension of electric public utility services outside of the county only when the Legislature enacts legislation providing for deregulation that will impact the Board;
- Clarifies language relating to conforming to ordinances authorizing the issuance of bonds;
- Endows the Board with the power to issue commercial paper notes and variable rate bonds and to enter into interest rate swap transactions, when in the best interests of the ratepayers of the electric public utility of the City;
- Removes notice requirement, prior to a sale of bonds, and requires alternatively that notice comply with statute; additionally provides that bonds may be sold at competitive or negotiated sale, rather than requiring public sale;
- Raises age for a person to qualify for low-income status to sixty-two, from sixty years of age;
- Expands Board authority regarding choice of advertising mediums;
- Authorizes Board to make reasonable and necessary expenditures for advertising the Board's utility system; broadens the type of advertising events the Board can use expenditures for; authorizes the Board to sponsor charitable events and removes prohibition on Board contributions and donations.

Amends s. 13, 69-1191, L.O.F., to permit the Board, or its designee, to authorize reasonable expenditures of funds to make emergency purchases.

Amends s. 17, 69-1191, L.O.F., to extend the due date of the copy of the Board's annual audit to be delivered to the City Commission from twenty-four hours to seven working days.

**Section 2.** Provides for an effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN?

January 2, 2001

WHERE?

The Citizen (Key West)

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

According to the Economic Impact Statement, this bill will result in unquantifiable efficiencies for the Board.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rulemaking authority.

C. OTHER COMMENTS:

A proposed committee bill is being drafted by the House Committee on Utilities & Communications that will provide for deregulation of private utilities, at the wholesale level.

A spokesperson with the Key West Electric System expresses that the System supports this bill.

A representative with the Public Service Commission indicates that the Commission does not take a position on the bill.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON UTILITIES AND TELECOMMUNICATIONS:

Prepared by:

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Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON UTILITIES AND TELECOMMUNICATIONS:

Prepared by:

Patrick L. "Booter" Imhof

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**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:**

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