

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1589 City of Key West, Monroe County

**SPONSOR(S):** Mooney

**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	17 Y, 0 N	Darden	Miller
2) Tourism, Infrastructure & Energy Subcommittee	15 Y, 0 N	Willson	Keating
3) State Affairs Committee	21 Y, 0 N	Darden	Williamson

### SUMMARY ANALYSIS

Keys Energy Services is a municipal electric utility owned by the City of Key West. Keys Energy Services was purchased by the City in 1943 and provides power to over 28,000 customers. The utility is governed by the Utility Board of the City of Key West (Board), a five-member body elected by the qualified electors of the City and customers of Keys Energy Services who live outside of the municipal boundaries of the City.

The bill revises the special act governing the Board by:

- Modifying election qualification and administration procedures for candidates for the Board;
- Prohibiting the use of the words “Keys Energy Services” or the logo of the Board in any campaign materials;
- Clarifying the date newly elected members of the Board take office;
- Providing that a member of the Board forfeits his or her office if the member no longer resides within the Board's designated service territory;
- Revising procedures for the purchase of commodities or contractual services under the provisions of local, state, and federal purchasing contracts without following competitive procurement requirements; and
- Requiring any sale, transfer, or other disposition of ownership interest in any utility operated by the Board to be approved by at least four members of the Board and 65 percent of Monroe County voters who live in the utility's designated service area voting in a referendum held during a regular municipal general election.

According to the Economic Impact Statement filed for the bill, the bill is not expected to have a fiscal impact.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

Keys Energy Services is a municipal electric utility owned by the City of Key West.<sup>1</sup> Purchased by the City in 1943, Keys Energy Services provides power to more than 28,000 customers. Initially providing electric service in the City of Key West with locally generated power, the utility expanded service to the Seven-Mile Bridge area in 1953. A transmission line to connect the Keys Energy Services service area to the mainland was completed in 1987, providing for reduced costs.

Keys Energy Services is controlled by the Utility Board of the City of Key West.<sup>2</sup> The board has the “full, complete[,] and exclusive power” to “manage, operate, maintain, control, extend, and extend beyond the limits of the City of Key West, Florida” the electric power utility owned by the City, as well as a non-exclusive right to operate other utilities, including cable and telecommunications services. The Board has the power to exercise eminent domain, but not for providing cable television or telecommunications services.

The Board consists of five members elected by the qualified electors of the City of Key West and those customers of Keys Energy Services who live outside the municipal boundaries of the City.<sup>3</sup> Elections for the Board are non-partisan and members serve four-year terms.<sup>4</sup> Candidates for the Board must reside in the designated service areas they seek to represent and must pay a fee of \$100 to the Monroe County Supervisor of Elections.<sup>5</sup> Elections for the Board are conducted during the primary election, with the top two candidates competing in a runoff held during the general election (unless a candidate receives a majority of the vote during the primary election).<sup>6</sup> Newly elected members of the Board take office on the day after the canvas of the vote and declaration of the result is complete. The Board selects one of its members as its chairperson during the Board’s organizational meeting.<sup>7</sup>

A seat on the Board may become vacant upon the death, resignation, removal from office, or forfeiture of office by a Board member.<sup>8</sup> A member is considered to have forfeited his or her office if:

- The member lacks any qualification for the office prescribed by law during his or her term of office;
- The member violates any express prohibition of the special act creating the Board;
- The member is convicted of a crime involving moral turpitude; or
- The member fails to attend three consecutive regular meetings of the Board without being excused.

Purchases of commodities or contractual services made by the utility under the provisions of a local, state, or federal purchasing contract are exempt from competitive procurement requirements if:

- The terms and conditions of the original contract or approval of a renewal or extension by the federal, state, or local government or electric cooperative are satisfactory to the Board;
- The contract or renewal was approved within 24 months prior to the proposed purchase of the commodities or contractual services by the Board;
- The purchasing agent has performed an informal solicitation to determine if the prices in the original contract are fair and reasonable; and

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<sup>1</sup> *About Keys*, Keys Energy Services, <https://www.keysenergy.com/about-keys/> (last accessed Mar. 9, 2021).

<sup>2</sup> Ch. 69-1191, s. 1, Laws of Fla.

<sup>3</sup> *Id.*

<sup>4</sup> Ch. 69-1191, ss. 2 and 3, Laws of Fla.

<sup>5</sup> Ch. 69-1191, s. 2, Laws of Fla.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Ch. 69-1191, s. 6, Laws of Fla.

- The Board authorizes such procurement when the cost of commodities and contractual services exceeds the amounts established by a resolution adopted by the Board.<sup>9</sup>

### **Effect of Proposed Changes**

The bill revises the qualification procedures for candidates for the Board by clarifying that the \$100 fee paid to the Monroe County Supervisor of Elections is a qualifying fee, requiring each candidate to also pay an “election assessment” of \$1, moving the deadline for receipt of these fees from 5 p.m. on the last day of qualification to noon of that day, and removing the requirement that a candidate for the Board list his or her occupation in the statement of candidacy.

The bill prohibits candidates for the Board from using the words “Keys Energy Services” or the logo of the Board in any campaign materials.

The bill removes the ability of a candidate to submit an identifying name where the candidate has the same or a similar surname to another candidate on the ballot. The bill also removes provisions concerning the ability of the candidate to appoint poll watchers.

The bill provides that newly elected members to the Board take office at noon of the day after the certification of the election result. If a candidate is elected during the primary election, the bill provides that the candidate takes office upon certification of the primary result.

The bill states that a member of the Board forfeits the office if the member fails to reside either within the City of Key West or in the portion of Monroe County southwest of the northeasternmost end of the Seven Mile Bridge.

The bill revises the purchase of commodities or contractual services under the provisions of local, state, and federal purchasing contracts without following competitive procurement requirements. Instead of requiring a specific period, the purchase may proceed if the original contract or renewal or extension was in effect for an acceptable period, as determined by the Board by resolution, before the proposed purchase of the commodity or service and if the purchasing agent performed an informal solicitation to determine if the prices under the original contract or renewal or extension are fair and reasonable.

The bill requires any sale, transfer, or other disposition of any ownership interest in any utility operated by the Board to be by a resolution approved by at least four of the members of the Board and approved by 65 percent of Monroe County voters who live in the utility’s designated service area voting in a referendum held during a regular municipal general election.

According to the Economic Impact Statement filed for the bill, the bill is not expected to have a fiscal impact.

#### **B. SECTION DIRECTORY:**

Section 1: Amends ch. 69-1191, Laws of Fla., as amended by chs. 2001-297, 2007-286, and 2017-204, Laws of Fla., relating to the Utility Board of the City of Key West.

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

### **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 20, 2021

WHERE?                      The *Key West Citizen*, a daily newspaper of general circulation published in Monroe County, Florida.

B. REFERENDUM(S) REQUIRED?    Yes     No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED?    Yes     No

D. ECONOMIC IMPACT STATEMENT FILED?    Yes     No

### **III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.