

By Senator Jones

40-1511A-98

See HB

1                                   A bill to be entitled  
2           An act relating to Monroe County; amending  
3           chapter 76-441, Laws of Florida, as amended,  
4           relating to the Florida Keys Aqueduct  
5           Authority; providing for certain matters  
6           regarding the construction, acquisition, and  
7           maintaining of a wastewater system for the  
8           collection, treatment, and disposal of  
9           wastewater in Monroe County; providing for  
10          certain matters with respect to the purchase of  
11          property by the Florida Keys Aqueduct  
12          Authority; providing for notification to the  
13          public of the availability of the Florida Keys  
14          Aqueduct Authority's annual audit; amending  
15          certain provisions relating to the issuance of  
16          bonds; providing an effective date.

17

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

19

20           Section 1. Section 1 of chapter 76-441, Laws of  
21          Florida, as amended by chapter 77-605, Laws of Florida, is  
22          amended to read:

23           Section 1. Creation of Authority; boundaries  
24          defined.--As of September 15, 1976,the Florida Keys Aqueduct  
25          Authority, an independent special district, was ~~is~~ recreated  
26          and thereafter was ~~shall be~~ the successor agency to the  
27          Florida Keys Aqueduct Authority which was ~~is~~ abolished by  
28          chapter 76-441, Laws of Florida ~~this act~~. The Florida Keys  
29          Aqueduct Authority is not being recreated by this act or for  
30          purposes of s. 189.404, Florida Statutes.The primary purpose  
31          and function of this Authority shall be to obtain, supply, and

1 distribute an adequate water supply for the Florida Keys and  
2 to collect, treat, and dispose of wastewater in the Florida  
3 Keys. The geographic jurisdiction of the Authority shall be  
4 as provided in this act. The Florida Keys Aqueduct Authority  
5 shall be an autonomous public body corporate and politic and  
6 have perpetual existence. All lawful debts, bonds,  
7 obligations, contracts, franchises, promissory notes, audits,  
8 minutes, resolutions, and other undertakings of the Florida  
9 Keys Aqueduct Authority are hereby validated and shall  
10 continue to be valid and binding on the Florida Keys Aqueduct  
11 Authority in accordance with their respective terms,  
12 conditions, covenants, and tenor. Any proceedings heretofore  
13 begun by the Florida Keys Aqueduct Authority for the  
14 construction of any improvements, works, or facilities; for  
15 the assessment of benefits and damages or for the borrowing of  
16 money shall not be impaired or voided by this act but may be  
17 continued and completed in the name of the Florida Keys  
18 Aqueduct Authority. The Authority shall include within its  
19 territorial boundaries all of the lands within Monroe County,  
20 but may procure water outside its boundaries for sale within  
21 said boundaries, and may serve customers residing within 1  
22 mile of its pipeline, from its well field at Florida City in  
23 Dade County to the territorial boundary of the Authority, and  
24 may provide for the disposal or treatment of wastewater  
25 outside its boundaries for wastewater from within its  
26 boundaries.

27 Section 2. Subsection (8) of section 3 of chapter  
28 76-441, Laws of Florida, is amended to read:

29 Section 3. Definitions.--Unless the context shall  
30 indicate otherwise, the following words as used in this act  
31 shall have the following meanings:

1           (8) "Sewer system" means any plant, system, facility,  
2 or property and additions, extensions, and improvements  
3 thereto at any future time constructed or acquired as part  
4 thereof, useful or necessary or having the present capacity  
5 for future use in connection with the collection, treatment,  
6 purification, or disposal of sewage, including without  
7 limitation, industrial wastes resulting from any processes of  
8 industry, manufacture, trade, or business or from the  
9 development of any natural resources, and, without limiting  
10 the generality of the foregoing, shall include treatment  
11 plants, pumping stations, lift stations, valve, force mains,  
12 intercepting sewers, laterals, pressure lines, mains and all  
13 necessary appurtenances and equipment, all sewer mains,  
14 laterals, and other devices for the reception and collection  
15 of sewage from premises connected therewith, and all real and  
16 personal property and any interest therein, rights, easements,  
17 and franchises of any nature whatsoever relating to any such  
18 system and necessary or convenient for the operation thereof.  
19 The terms "wastewater" or "wastewater system" shall be  
20 construed as synonymous with the term "sewer" or "sewer  
21 system" for all purposes under this act.

22           Section 3. Section 6 of chapter 76-441, Laws of  
23 Florida, as amended by chapter 80-546, Laws of Florida, is  
24 amended to read:

25           Section 6. Compensation of the board.--Each member  
26 shall be entitled to receive for such services a fee of \$300  
27 per meeting, not to exceed 3 meetings per month. In addition,  
28 each board member shall receive reasonable expenses which  
29 shall not be in excess of the amounts provided by law for  
30 state and county officials in chapter 112, Florida Statutes.  
31 The compensation amount for the members of the board provided

1 for in this section shall be adjusted annually based upon the  
2 index provided for pursuant to s. 287.017(2), Florida  
3 Statutes.

4 Section 4. Subsection (1) of section 7 of chapter  
5 76-441, Laws of Florida, is amended to read:

6 Section 7. Bonds; depositories; fiscal agent;  
7 budget.--

8 (1) Each member of the board of directors shall  
9 execute a bond to the Governor in the amount of \$10,000 with a  
10 qualified surety to secure their faithful performance of their  
11 powers and duties. The board of directors shall require a  
12 certified audit of the books of the Authority at least once a  
13 year at the expense of the Authority. Such audit shall be  
14 available for public inspection and a notice of the  
15 availability of the audit shall be published in a newspaper  
16 published in Monroe County at least once within 6 months after  
17 the end of each fiscal year. The legislative auditor may  
18 audit the Authority at any time.

19 Section 5. Subsection (3) of section 9 of chapter  
20 76-441, Laws of Florida, as amended by chapters 77-604,  
21 80-546, and 84-483, Laws of Florida, is amended to read:

22 Section 9. Powers of the Authority.--In addition to  
23 and not in limitation of the powers of the Authority, it shall  
24 have the following powers:

25 (3) OWNERSHIP AND DISTRIBUTION OF PROPERTY.--To  
26 acquire property, real, personal, or mixed within or without  
27 its territorial limits in fee simple or any lesser interest or  
28 estate by purchase, gift, devise, or lease on such terms and  
29 conditions as the board of directors may deem necessary or  
30 desirable and by condemnation (subject to limitations herein  
31 below). The Authority shall provide information and assistance

1 to Monroe County for use in preparing its comprehensive plan  
2 with respect to the availability of water and wastewater  
3 facilities. Except in cases of emergency, or the purchase of  
4 sole source items, or when the board determines that delay  
5 would be detrimental to the interests of the Authority, ~~no~~  
6 equipment shall be purchased in accordance with part I of  
7 chapter 287, Florida Statutes ~~whose purchase price exceeds~~  
8 ~~\$5,000 shall be purchased unless purchased upon competitive~~  
9 ~~bids received.~~ All provided that the board of directors  
10 determines that the use or ownership of such property be  
11 necessary in the furtherance of a designated lawful purpose  
12 authorized under the provisions of this act. However, the  
13 authority may purchase equipment or material without  
14 competitive bid, regardless of price, when the manufacturer  
15 ~~manufacturers~~ of such equipment or material refuses to bid on  
16 the equipment or material and the board determines that the  
17 public interest would be served, and substantial savings would  
18 result, if the equipment or material were purchased directly  
19 from the manufacturer. In all such cases the board shall  
20 enter a record of such purchase in the "Record of Governing  
21 Board of Florida Keys Aqueduct Authority." The Authority is  
22 specifically excluded from the provisions of s. 253.03(6),  
23 Florida Statutes, and has the authority to hold title to  
24 property in its own name; to acquire easements or  
25 rights-of-way, with or without restrictions, within or without  
26 the limits of the Authority. The State of Florida may convey  
27 to the Authority rights-of-way over any of the lands and  
28 structures belonging to the State of Florida or any of its  
29 agencies for the purpose of constructing, maintaining,  
30 supplying, establishing, and regulating the works and projects  
31 involved in the wastewater system or the water supply and

1 distribution systems authorized by this act. To mortgage,  
2 hold, manage, control, convey, lease, sell, grant, or  
3 otherwise dispose of the same and any of the assets and  
4 properties of the Authority without regard to chapter 273,  
5 Florida Statutes.

6 Section 6. Paragraphs (k), (l), (m), (n), (o), and (p)  
7 are added to subsection (9) of section 9 of chapter 76-441,  
8 Laws of Florida, to read:

9 Section 9. Powers of the Authority.--In addition and  
10 not in limitation of the powers of the Authority, it shall  
11 have the following powers:

12 (9)

13 (k) The Authority shall have power to contract with  
14 any person, any private or public corporation, the State of  
15 Florida, or any agency, instrumentality, or county,  
16 municipality or political subdivision thereof, or any agency,  
17 instrumentality, or corporation of or created by the United  
18 States, with respect to such wastewater system or any part  
19 thereof. The Authority shall also have power to accept and  
20 receive grants or loans from the same, and in connection with  
21 any such contract, grant, or loan, to stipulate and agree to  
22 such covenants, terms, and conditions as the governing body of  
23 the Authority shall deem appropriate.

24 (l) To make or cause to be made such surveys,  
25 investigations, studies, borings, maps, drawings, and  
26 estimates of cost and revenues as it may deem necessary, and  
27 to prepare and adopt a comprehensive plan or plans for the  
28 location, relocation, construction, improvement, revision, and  
29 development of the wastewater system.

30 (m) That subject to covenants or agreement with  
31 bondholders contained in proceedings authorizing the issuance

1 of bonds pursuant to this act, the Authority shall have the  
2 power to lease said wastewater system or any part or parts  
3 thereof, to any person, firm, corporation, association, or  
4 body, upon such terms and conditions and for such periods of  
5 time as shall be determined by the governing body. The  
6 Authority shall also, whenever desirable, have power to grant  
7 permits or licenses in connection with any of the facilities  
8 of such wastewater system, and shall have full and complete  
9 power to do all things necessary and desirable for the proper  
10 and efficient administration and operation of such wastewater  
11 system and all parts thereof. The Authority shall also have  
12 power, whenever deemed necessary or desirable and subject to  
13 covenants and agreements with bondholders, to lease from any  
14 person, firm, corporation, association, or body, any  
15 facilities of any nature for such wastewater system.

16 (n) That charges shall be levied by the Authority  
17 against its own books or against Monroe County with respect to  
18 providing any facilities or services rendered by such  
19 wastewater system to the Authority or to Monroe County, or to  
20 any other political subdivision or public body or agency which  
21 receives wastewater system services, or to any department or  
22 works thereof, at the rate or rates applicable to other  
23 customers or users taking facilities or services under similar  
24 conditions. Revenues derived from such facilities or services  
25 so furnished shall be treated as all other revenues of the  
26 wastewater system.

27 (o) Neither Monroe County, nor any municipality or  
28 special district therein, shall exercise any present or future  
29 power, pursuant to law, to interfere with the Authority's  
30 jurisdiction and operation of the wastewater system in such a  
31 manner as to impair or adversely affect the covenants and

1 obligations of the Authority under agreement relating to its  
2 bonds or other debts.

3 (p) The Authority shall have exclusive jurisdiction  
4 over the administration, maintenance, development, and  
5 provision of wastewater system services in Monroe County, with  
6 the exception of the City of Key West, the City of Key Colony  
7 Beach, the City of Layton, and Islamorada, Village of Islands,  
8 unless such incorporated areas shall choose to grant the  
9 Authority such jurisdiction, and the Authority's wastewater  
10 system authorized hereunder shall be the exclusive provider of  
11 wastewater system services and no franchise or grant of power  
12 to any other entity or provider shall be lawful unless  
13 preapproved by the Authority. The Authority shall have the  
14 power to regulate the use of, including prohibiting the use of  
15 or mandating the use of, specific types of wastewater  
16 facilities and, notwithstanding any other provisions hereof,  
17 shall be authorized to prescribe the specific type of  
18 wastewater treatment facility or measures required to be  
19 utilized within the boundaries of the Authority, including,  
20 but not limited to, requiring the use of septic tanks in lieu  
21 of cess pits, the mandatory hookup to specific wastewater  
22 treatment plants, requiring upgrades be undertaken on site  
23 wastewater systems, and any other combination of the foregoing  
24 in order to manage effluent disposal and wastewater matters.

25 Section 7. Section 17 of chapter 76-441, Laws of  
26 Florida, is amended to read:

27 Section 17. Remedies.--Any holder of bonds issued  
28 under the provisions of this act or of any of the coupons  
29 appertaining thereto, and the trustee under the trust  
30 indenture, if any, except to the extent the rights herein  
31 given may be restricted by resolution passed before the



1 issuance of the bonds or by the trust indenture, may, either  
2 at law or in equity, by suit, action, mandamus, or other  
3 proceeding, protect and enforce any and all rights under the  
4 laws of the State of Florida or granted hereunder or under  
5 such resolution or trust indenture, and may enforce or compel  
6 performance of all duties required by this act or by such  
7 resolution or trust indenture to be performed by the Authority  
8 or any officer thereof, including the fixing, charging, and  
9 collecting of rates and other charges for both water furnished  
10 by the waterworks system and wastewater treatment furnished by  
11 the wastewater system.

12 Section 8. Section 28 of chapter 76-441, Laws of  
13 Florida, as amended by chapters 80-546 and 87-454, Laws of  
14 Florida, is amended to read:

15 Section 28. Authorization and form of revenue  
16 bonds.--~~Revenue bonds may be authorized by resolution of the~~  
17 ~~board of directors which shall be adopted by a majority of all~~  
18 ~~members thereof then in office. Such resolutions may be~~  
19 ~~adopted at the meeting subsequent to and not at the same~~  
20 ~~meeting at which they are introduced.~~ The board may by  
21 resolution authorize the issuance of revenue bonds on either a  
22 negotiated or competitive bid basis, fix the aggregate amount  
23 of revenue bonds to be issued, the purpose or purposes for  
24 which the moneys derived therefrom shall be expended, the rate  
25 or rates of interest, ~~which rate may not exceed the rate~~  
26 ~~authorized by general law,~~ the denomination of bonds, whether  
27 or not the bonds are to be issued in one or more series, the  
28 date or dates thereof, the date or dates of maturity, which  
29 shall not exceed 40 years from their respective dates of  
30 issuance, the medium of payment, place or places within or  
31 without the state where payment shall be made, registration,

1 | privileges, ~~redemption terms and privileges~~ (whether with or  
2 | without premium), the manner of execution, the form of the  
3 | bonds, including any interest coupons to be attached thereto,  
4 | the manner of execution of bonds and coupons, and any and all  
5 | other terms, covenants and conditions thereof, and the  
6 | establishment of reserve or other funds.

7 |         Section 9. This act shall take effect upon becoming a  
8 | law.

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