

By Senator Jones

40-1667-99

See HB

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; providing an
6 effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Section 11 of chapter 69-1119, Laws of
11 Florida, as amended by chapters 75-410, 75-412, and 76-396,
12 Laws of Florida, is amended to read:

13 Section 11. The Utility Board of the City of Key West,
14 Florida, shall have the full, complete and exclusive power and
15 right to manage, operate, maintain, control, extend, extend
16 beyond the limits of the City of Key West, Florida, in Monroe
17 County, Florida, the electric public utility owned by said
18 city, including the maintenance, operation, extension and
19 improvement thereof, and including all lines, poles, wires,
20 pipes, mains and all additions to and extensions of the same,
21 and all buildings, stations, substations, machinery,
22 appliances, land and property, real, personal and mixed, used
23 or intended for use in or in connection with said electric
24 public utility, and the Utility Board shall have all of the
25 powers in connection with such other public utilities
26 hereafter acquired by said board that are granted by this act
27 to said board with respect to the electric public utility now
28 owned by said city. The said Utility Board shall have
29 exclusive power and authority to determine what improvements
30 shall be made to all such public utilities. The said Utility
31 Board shall adopt annual budgets and amend same from time to

1 time, but in so doing shall conform to the requirements, if
2 any, of any existing ordinance or resolution authorizing the
3 issuance of revenue bonds now or hereafter against the income
4 of the said electric public utility, as may be determined by
5 the Utility Board of the City of Key West, Florida, for the
6 purpose of refunding outstanding revenue bonds as well as for
7 any other purposes which the Utility Board of said city deems
8 proper in the management, operation, maintenance, control,
9 improvement, extension, betterment, financing and refinancing
10 of the electric public utility owned by the City of Key West,
11 Florida, as well as for purposes of acquisition, purchase,
12 building and construction and operation of additional public
13 utilities which are deemed proper by said Utility Board, and
14 revenue bonds may also be issued against the income of any
15 additional public utilities so acquired, and the granting of
16 such authority to the Utility Board of the City of Key West,
17 Florida, to issue revenue bonds against income of the electric
18 public utility owned by said city, or against the income of
19 any additional public utilities hereafter acquired by said
20 Utility Board, is exclusive to said board, and the governing
21 body of said city shall not have the right to issue any such
22 bonds or otherwise incur any indebtedness or obligations
23 whereby the income of said electric public utility, or the
24 income of any additional public utilities, hereafter acquired
25 by said Utility Board, becomes charged for the payment
26 thereof. The maturity dates and rate of interest of any bonds
27 issued hereunder shall be determined and fixed by the Utility
28 Board of the City of Key West, Florida, and said board shall
29 have the exclusive right to sell said bonds at prices to be
30 determined by said board. The Utility Board of the City of Key
31 West, Florida, is authorized and empowered to adopt such

1 resolutions as may be necessary or advisable in connection
2 with the authorization, execution, issuance, sale and delivery
3 of the revenue bonds authorized hereunder. Prior to the
4 validation and issuance of any bonds authorized hereunder,
5 said board shall obtain the approval of the City Commission of
6 the City of Key West, Florida, by appropriate ordinance.

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

29 All bonds and refunding bonds issued pursuant to this
30 act shall be sold at public sale, and shall be awarded to the
31 bidder whose bid produces the lowest net interest cost to the

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

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

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

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

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

10 The Utility Board is hereby authorized to purchase
11 advertising from recognized, established advertising media,
12 such as newspapers, radio and television, as a proper
13 expenditure of the system. The Utility Board shall not make
14 contributions and donations and charge such contributions and
15 donations to advertising the utility system.

16 Section 2. Section 13 of chapter 69-1191, Laws of
17 Florida, as amended by chapters 84-457 and 95-509, Laws of
18 Florida, is amended to read:

19 Section 13. All construction, reconstruction, repairs
20 or work of any nature made by the Utility Board, where the
21 entire cost, value, or amount of such construction,
22 reconstruction, repairs or work, including the labor and
23 materials, shall exceed the amount as established by
24 resolution adopted by the Utility Board ~~fifteen thousand~~
25 ~~dollars (\$15,000.00)~~, except construction, reconstruction,
26 repairs, or work done by employees of the Utility Board or by
27 labor supplied under agreement with federal government or
28 state government, with supplies and materials purchased
29 hereinafter provided, shall be done only under contract or
30 contracts to be entered into by the Utility Board with the
31 lowest responsible bidder upon proper terms, after due public

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

23 All supplies, equipment, machinery and materials
24 costing more than the amount as established by resolution
25 adopted by the Utility Board ~~ten thousand dollars (\$10,000.00)~~
26 ~~or more~~ shall be purchased only after advertisement as
27 provided hereinafter. The Utility Board shall accept the
28 lowest bid or bids, kind, quality and material being equal,
29 but said board shall have the right to reject any or all bids
30 or select a single item from any bid. The provision as to
31 bidding shall not apply to the purchase of patented and

1 manufactured products offered for sale in a noncompetitive
2 market or solely by a manufacturer's authorized dealer.

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

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

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

31

1 fiscal agents, or investment bankers, relating to the
2 financing of projects herein authorized.

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

7 All purchases of commodities or contractual services
8 under the provisions of local, state, and federal purchasing
9 contracts shall be exempt from the competitive procurement
10 requirements, provided that the following criteria are all
11 satisfied:

12 (1) The terms and conditions of the original contract
13 by the federal, state or local government are satisfactory to
14 the Utility Board and such terms and conditions are expressly
15 extended to other municipalities pursuant to the bid
16 documents.

17 (2) The original contract by the federal, state or
18 local government was executed within twelve (12) months prior
19 to the proposed purchase of commodities or services by the
20 Utility Board.

21 (3) The purchasing agent has performed an informal
22 solicitation to determine if the prices of the original
23 contract are fair and reasonable, and to assure local vendors
24 have an opportunity to compete.

25 (4) The Utility Board authorizes such procurement when
26 the cost of the commodities (materials) or contractual
27 services (labor and materials) exceeds the amounts as
28 established by resolution adopted by the Utility Board ~~ten~~
29 ~~thousand dollars (\$10,000.00) and fifteen thousand~~
30 ~~(\$15,000.00), respectively.~~

31

1 Section 3. This act shall take effect upon becoming a
2 law.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31