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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.

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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 which 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 which 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.

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