



325140

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/23/2016	.	
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The Committee on Communications, Energy, and Public Utilities (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (19) is added to section 163.01,  
Florida Statutes, to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(19) (a) Any entity created pursuant to this section that  
supplies electricity through an interlocal agreement to its  
member municipalities shall annually submit to the Public



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11 Service Commission and each member municipality that  
12 participates in the electric power project an independently  
13 prepared financial statement for each individual generation  
14 asset. The financial statement must include:  
15       1. A balance sheet that reflects assets and liabilities  
16 associated with each generation asset, including the plant in  
17 service, accumulated additions and removals, net plant,  
18 depreciation, operations and maintenance expenses, allocations,  
19 and any other material asset and liability categories.  
20       2. An income statement that reflects each generation  
21 asset's operational and financial activities for the reporting  
22 period, including revenues, expenses, gains, and losses. Any  
23 gains or losses from hedging activities associated with the  
24 generation asset shall be separately itemized.  
25       3. A statement of cash flows that identifies changes in the  
26 generation asset's cash flows during the reporting period.  
27       4. The current fair market value for each generation asset.  
28 The current fair market value shall be determined assuming the  
29 price that a willing buyer would pay a willing seller for the  
30 generation asset, with neither party being under any compulsion  
31 to buy or sell and both having reasonable knowledge of relevant  
32 facts, and assuming all risk of ownership, loss, and  
33 decommissioning, as applicable. The current fair market value  
34 statement shall include the overall fair market value of the  
35 generation asset as a whole and each member municipality's  
36 equity position net of the entity's debt, based on the current  
37 fair market generation asset value. The current fair market  
38 value statement shall include, after considering the market  
39 value of the generation assets, the net return of equity or the



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40 cost to exit the entity for each member municipality.

41 (b) To serve as a member of the governing body of an entity  
42 created pursuant to this section for the purpose of supplying  
43 electricity to its member municipalities, each member of the  
44 governing body must be an elected official from one of the  
45 entity's member municipalities. Current members of a governing  
46 body of such an entity who are not elected officials may  
47 continue to serve until expiration of their terms but no later  
48 than July 1, 2018.

49 Section 2. This act shall take effect July 1, 2016.

50  
51 ===== T I T L E A M E N D M E N T =====

52 And the title is amended as follows:

53 Delete everything before the enacting clause  
54 and insert:

55 A bill to be entitled  
56 An act relating to municipal power regulation;  
57 amending s. 163.01, F.S.; requiring certain entities  
58 created under the Interlocal Cooperation Act of 1969  
59 to submit independently prepared financial statements  
60 for certain electric power projects to specified  
61 public entities; providing statement requirements;  
62 providing eligibility requirements for membership on  
63 the governing body of certain entities created under  
64 the Interlocal Cooperation Act of 1969; providing an  
65 effective date.

66  
67 WHEREAS, The Florida Municipal Power Agency is a joint-use  
68 action agency created pursuant to a series of interlocal



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69 agreements with the state's municipalities to finance, acquire,  
70 contract, manage, and operate its own electric power projects or  
71 jointly accomplish the same purposes with other public or  
72 private utilities, and

73 WHEREAS, the Florida Municipal Power Agency is governed by  
74 a board of directors, consisting of one board member from each  
75 member municipality, which decides all issues concerning each  
76 project except for the "All-Requirements" power supply project,  
77 and

78 WHEREAS, the All-Requirements power supply project is  
79 governed by an executive committee, with each All-Requirements  
80 project member municipality that purchases power from the  
81 project appointing one executive committee member, and

82 WHEREAS, the Auditor General conducted an operational audit  
83 of the Florida Municipal Power Agency and released Report No.  
84 2015-165 to the Joint Legislative Auditing Committee on March  
85 30, 2015, which included findings and recommendations, and

86 WHEREAS, the Auditor General found many of the Florida  
87 Municipal Power Agency's hedging activities to be inconsistent  
88 with other joint-use action agencies, leading to net losses of  
89 \$247.6 million over the past 12 fiscal years, and

90 WHEREAS, the Auditor General concluded that several of the  
91 Florida Municipal Power Agency's personnel and payroll  
92 administration activities may negatively affect future rates,  
93 including the Chief Executive Officer's employment contract that  
94 provides severance pay and lifetime benefits even if employment  
95 is terminated for cause, and

96 WHEREAS, the Florida Municipal Power Agency did not  
97 consistently follow its own procurement and competitive



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98 selection policies, one of which may increase the cost of future  
99 bond issues, and

100 WHEREAS, the Florida Municipal Power Agency's All-  
101 Requirements project agreement to curtail peak-shaving  
102 activities is primarily voluntary, relies on self-reporting, and  
103 contains no penalties for noncompliance, and

104 WHEREAS, certain All-Requirements project contract  
105 provisions relating to the withdrawal of members are ambiguous,  
106 use a fixed discount rate rather than one based on current  
107 capital costs, and do not provide for independent verification  
108 by a withdrawing member, and

109 WHEREAS, even though the Florida Municipal Power Agency is  
110 a governmental entity, many of the laws that apply to local  
111 governments do not apply to the agency, and

112 WHEREAS, the Florida Municipal Power Agency is not subject  
113 to any rate-setting authority, including by the Public Service  
114 Commission, and

115 WHEREAS, there exists a need to promote transparency and  
116 consistency and to increase public understanding and confidence  
117 in the operation of the Florida Municipal Power Agency by the  
118 member municipalities and the public, including those electric  
119 ratepayers who are not residents of the municipality supplying  
120 electric power but who are subject to a municipality that is  
121 receiving power from the agency, NOW, THEREFORE,