

By the Committee on Communications, Energy, and Public Utilities; and Senator Simpson

579-04015-16

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1 A bill to be entitled

2 An act relating to municipal power regulation;
3 amending s. 163.01, F.S.; requiring certain entities
4 created under the Interlocal Cooperation Act of 1969
5 to submit independently prepared financial statements
6 for certain electric power projects to specified
7 public entities; providing statement requirements;
8 providing eligibility requirements for membership on
9 the governing body of certain entities created under
10 the Interlocal Cooperation Act of 1969; providing an
11 effective date.

12
13 WHEREAS, The Florida Municipal Power Agency is a joint-use
14 action agency created pursuant to a series of interlocal
15 agreements with the state's municipalities to finance, acquire,
16 contract, manage, and operate its own electric power projects or
17 jointly accomplish the same purposes with other public or
18 private utilities, and

19 WHEREAS, the Florida Municipal Power Agency is governed by
20 a board of directors, consisting of one board member from each
21 member municipality, which decides all issues concerning each
22 project except for the "All-Requirements" power supply project,
23 and

24 WHEREAS, the All-Requirements power supply project is
25 governed by an executive committee, with each All-Requirements
26 project member municipality that purchases power from the
27 project appointing one executive committee member, and

28 WHEREAS, the Auditor General conducted an operational audit
29 of the Florida Municipal Power Agency and released Report No.
30 2015-165 to the Joint Legislative Auditing Committee on March
31 30, 2015, which included findings and recommendations, and

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32 WHEREAS, the Auditor General found many of the Florida
33 Municipal Power Agency's hedging activities to be inconsistent
34 with other joint-use action agencies, leading to net losses of
35 \$247.6 million over the past 12 fiscal years, and

36 WHEREAS, the Auditor General concluded that several of the
37 Florida Municipal Power Agency's personnel and payroll
38 administration activities may negatively affect future rates,
39 including the Chief Executive Officer's employment contract that
40 provides severance pay and lifetime benefits even if employment
41 is terminated for cause, and

42 WHEREAS, the Florida Municipal Power Agency did not
43 consistently follow its own procurement and competitive
44 selection policies, one of which may increase the cost of future
45 bond issues, and

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

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

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

58 WHEREAS, the Florida Municipal Power Agency is not subject
59 to any rate-setting authority, including by the Public Service
60 Commission, and

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61 WHEREAS, there exists a need to promote transparency and
62 consistency and to increase public understanding and confidence
63 in the operation of the Florida Municipal Power Agency by the
64 member municipalities and the public, including those electric
65 ratepayers who are not residents of the municipality supplying
66 electric power but who are subject to a municipality that is
67 receiving power from the agency, NOW, THEREFORE,

68
69 Be It Enacted by the Legislature of the State of Florida:

70
71 Section 1. Subsection (19) is added to section 163.01,
72 Florida Statutes, to read:

73 163.01 Florida Interlocal Cooperation Act of 1969.—

74 (19) (a) Any entity created pursuant to this section that
75 supplies electricity through an interlocal agreement to its
76 member municipalities shall annually submit to the Public
77 Service Commission and each member municipality that
78 participates in the electric power project an independently
79 prepared financial statement for each individual generation
80 asset. The financial statement must include:

81 1. A balance sheet that reflects assets and liabilities
82 associated with each generation asset, including the plant in
83 service, accumulated additions and removals, net plant,
84 depreciation, operations and maintenance expenses, allocations,
85 and any other material asset and liability categories.

86 2. An income statement that reflects each generation
87 asset's operational and financial activities for the reporting
88 period, including revenues, expenses, gains, and losses. Any
89 gains or losses from hedging activities associated with the

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90 generation asset shall be separately itemized.

91 3. A statement of cash flows that identifies changes in the
92 generation asset's cash flows during the reporting period.

93 4. The current fair market value for each generation asset.

94 The current fair market value shall be determined assuming the
95 price that a willing buyer would pay a willing seller for the
96 generation asset, with neither party being under any compulsion
97 to buy or sell and both having reasonable knowledge of relevant
98 facts, and assuming all risk of ownership, loss, and
99 decommissioning, as applicable. The current fair market value
100 statement shall include the overall fair market value of the
101 generation asset as a whole and each member municipality's
102 equity position net of the entity's debt, based on the current
103 fair market generation asset value. The current fair market
104 value statement shall include, after considering the market
105 value of the generation assets, the net return of equity or the
106 cost to exit the entity for each member municipality.

107 (b) To serve as a member of the governing body of an entity
108 created pursuant to this section for the purpose of supplying
109 electricity to its member municipalities, each member of the
110 governing body must be an elected official from one of the
111 entity's member municipalities. Current members of a governing
112 body of such an entity who are not elected officials may
113 continue to serve until expiration of their terms but no later
114 than July 1, 2018.

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

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