

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 951 City of Key West, Monroe County  
**SPONSOR(S):** Local, Federal & Veterans Affairs Subcommittee; Raschein  
**TIED BILLS:** None. **IDEN./SIM. BILLS:** None.

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N, As CS	Darden	Miller
2) Energy & Utilities Subcommittee	11 Y, 0 N	Keating	Keating
3) Government Accountability Committee	23 Y, 0 N	Darden	Williamson

### SUMMARY ANALYSIS

Keys Energy Services is a public power utility owned by the City of Key West. Keys Energy Services was purchased by the city in 1943 and provides power to over 28,000 customers. The utility is governed by the Utility Board of the City of Key West, a five-member body elected by the qualified electors of the City of Key West.

The bill revises the membership of the Utility Board of the City of Key West to include three members who are residents of the City of Key West and two members who receive services from Keys Energy Services but live outside of the municipal boundaries of the city. Members would be elected at-large by electors living in the service area of the utility.

The bill expands the ability of the Board to advertise by removing specific references to newspapers, radio, and television. The bill authorizes the Board to make purchases without using the competitive procurement process when the purchases are made under the provisions of a local, state, or federal purchasing contract and the Board receives more favorable terms than the baseline contract. The bill authorizes the Board to adopt a reimbursement policy for business travel. The bill revises references to the City of Key West to reflect the change in board composition.

The Economic Impact Statement submitted with the bill states that it is projected to have no fiscal impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Keys Energy Services is a public power utility owned by the City of Key West.<sup>1</sup> Purchased by the city in 1943, Keys Energy Services provides power to more than 28,000 customers. Initially providing electric service in the City of Key West with locally generated power, the utility expanded service to the Seven-Mile Bridge area in 1953. A transmission line to connect the Keys Energy Services service area to the mainland was completed in 1987, providing for reduced costs. Keys Energy Services is one of the 94 public power utilities recognized as a Reliable Public Power Provider by the American Public Power Association, out of more than 2,000 public power utilities.<sup>2</sup>

Keys Energy Services is controlled by the Utility Board of the City of Key West.<sup>3</sup> The board has the “full, complete[,] and exclusive power” to “manage, operate, maintain, control, extend, and extend beyond the limits of the City of Key West, Florida” the electric power utility owned by the City of Key West, as well as a non-exclusive right to operate other utilities, including cable and telecommunications services. The Board has the power to exercise eminent domain, but not for providing cable television or telecommunications services.

The Board consists of five members elected by the qualified electors of the City of Key West.<sup>4</sup> Elections for the Board are non-partisan and members serve four year terms.<sup>5</sup> The Board selects one of its members as chairperson during the Board’s organizational meeting.<sup>6</sup>

The Board is authorized to purchase advertising including, but not limited to, advertising from “recognized, established advertising media” such as newspapers, radio, and television.<sup>7</sup>

Purchases of commodities or contractual services made by the utility under the provisions of a local, state, or federal purchasing contract are exempt from competitive procurement requirements if:<sup>8</sup>

- The terms and conditions of the original contract or approval of a renewal/extension by the federal, state, or local government or electric cooperative are satisfactory to the Board;
- The contract or renewal was approved within 24 months prior to the proposed purchase of the commodities or contractual services by the Board;
- The purchasing agent has performed an informal solicitation to determine if the prices in the original contract are fair and reasonable; and
- The Board authorizes such procurement when the cost of commodities and contractual services exceeds the amounts established by a resolution adopted by the Board.

Members and employees of the Board may be reimbursed for travel and expenses incurred while traveling on official business in accordance with resolutions adopted by the Board.<sup>9</sup>

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<sup>1</sup> Keys Energy Services, *About Keys*, <https://keysenergy.com/aboutKEYS.php> (last visited Mar. 17, 2017).

<sup>2</sup> Keys Energy Services, *Reliable Public Power Provider*, <https://keysenergy.com/about.php> (last visited Mar. 17, 2017).

<sup>3</sup> Chapter 69-1191, s. 1, Laws of Fla.

<sup>4</sup> *Id.*

<sup>5</sup> Chapter 69-1191, s. 2, 3, Laws of Fla.

<sup>6</sup> Chapter 69-1191, s. 3, Laws of Fla.

<sup>7</sup> Chapter 69-1191, s. 11(8), Laws of Fla.

<sup>8</sup> Chapter 69-1191, s. 13, Laws of Fla.

<sup>9</sup> Chapter 69-1191, s. 19, Laws of Fla.

## **Effect of Proposed Changes**

The bill revises the membership of the Utility Board. The restructured Board would include five members elected by the qualified electors of Monroe County residing in the designated service area of the utility. The bill requires an election for the Board to be held in 2018 concurrently with the election of the Monroe County Board of County Commissioners.

The bill states that the Board members are to be elected at-large to seats labeled A, B, C, D, and E. Members elected to seats A, B, and C must reside within the city limits of Key West. Members elected to seats D and E must reside in Monroe County outside of the city limits of Key West, but inside the service area of the utility. Beginning with the 2018 general election, members will be elected to seats A, B, and D for 4 year terms. Beginning with the 2020 general election, members will be elected to seats C and E for 4 year terms. Members elected in 2016 as Groups II and III serve in seats C and E until the 2020 general election. The bill specifies that the organizational session for the Board occurs after the candidates are qualified and sworn into office by the city clerk.

The bill broadens the scope of authorized advertising venues by removing specific references to newspapers, radio, and television. The bill exempts purchases of commodities or contractual services from the competitive procurement process when the terms of the contract are satisfactory to the Board in their original form or when the terms are in a negotiated form more favorable to the Board. The bill authorizes the Board to adopt a policy governing reimbursements for Board members and employees expense while traveling on official business.

The bill makes conforming changes to references to the City of Key West to reflect that Board members would be elected in Monroe County outside the City of Key West.

The Economic Impact Statement submitted with the bill states that it is projected to have no fiscal impact.

### **B. SECTION DIRECTORY:**

Section 1: Amends ch. 69-1191, Laws of Florida, as amended by ch. 2001-297 and 2007-286, Laws of Florida, to revise membership requirements for the Utility Board of the City of Key West, require the election of board members to occur during general elections, provide for staggered 4 year terms, revise advertising procurement requirements, revise procedures for purchasing commodities or contractual services, and allow the commission to establish policies for travel reimbursement for board members.

Section 2: Provides an effective date of upon becoming a law.

## **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 15, 2017

WHERE? The *Key West Citizen*, a daily newspaper of general circulation in Monroe County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### **III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On March 15, 2017, the Local, Federal & Veterans Affairs Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The first amendment was a technical amendment reinserting missing language from the current special act. The second amendment provided that the two members of the Utility Board elected in 2016 serve until the conclusion of their current terms of office in 2020.

This analysis is drawn to the bill as amended by the Local, Federal & Veterans Affairs Subcommittee.