

House Bill No. 1629

An act relating to Monroe County; amending chapter 69-1191, Laws of Florida, as amended; revising provisions relating to the Utility Board of the City of Key West; providing an effective date.

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

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

Section 11. The Utility Board of the City of Key West, Florida, shall have the full, complete and exclusive power and right to manage, operate, maintain, control, extend, extend beyond the limits of the City of Key West, Florida, in Monroe County, Florida, the electric public utility owned by said city, including the maintenance, operation, extension and improvement thereof, and including all lines, poles, wires, pipes, mains and all additions to and extensions of the same, and all buildings, stations, substations, machinery, appliances, land and property, real, personal and mixed, used or intended for use in or in connection with said electric public utility, and the Utility Board shall have all of the powers in connection with such other public utilities hereafter acquired by said board that are granted by this act to said board with respect to the electric public utility now owned by said city. The said Utility Board shall have exclusive power and authority to determine what improvements shall be made to all such public utilities. The said Utility Board shall adopt annual budgets and amend same from time to time, but in so doing shall conform to the requirements, if any, of any existing ordinance or resolution authorizing the issuance of revenue bonds now or hereafter against the income of the said electric public utility, as may be determined by the Utility Board of the City of Key West, Florida, for the purpose of refunding outstanding revenue bonds as well as for any other purposes which the Utility Board of said city deems proper in the management, operation, maintenance, control, improvement, extension, betterment, financing and refinancing of the electric public utility owned by the City of Key West, Florida, as well as for purposes of acquisition, purchase, building and construction and operation of additional public utilities which are deemed proper by said Utility Board, and revenue bonds may also be issued against the income of any additional public utilities so acquired, and the granting of such authority to the Utility Board of the City of Key West, Florida, to issue revenue bonds against income of the electric public utility owned by said city, or against the income of any additional public utilities hereafter acquired by said Utility Board, is exclusive to said board, and the governing body of said city shall not have the right to issue any such bonds or otherwise incur any indebtedness or obligations whereby the income of said electric public utility, or the income of any additional public utilities, hereafter acquired by said Utility Board, becomes charged for the payment thereof. The maturity dates and rate of interest of any bonds issued hereunder shall be determined and fixed by the Utility Board of the City of Key West, Florida, and said board shall have the exclusive right to sell said bonds at prices to be determined by said board. The Utility Board of the City

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

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

All bonds and refunding bonds issued pursuant to this act shall be sold at public sale, and shall be awarded to the bidder whose bid produces the lowest net interest cost to the Utility Board. The net cost of bonds shall be determined by taking the aggregate amount of interest at the rate or rates specified in the bonds, computed from the date of the bonds to the date of the various stated maturities thereof, and deducting therefrom the amount of any premium offered in excess of the par value of the bonds or adding thereto the amount of any discount offered below the par value of the bonds, with interest computed on a three hundred sixty (360) day year basis. The Utility Board shall reserve the right to reject any or all bids.

Said Utility Board shall have the exclusive right and power to buy, purchase, contract for exchange, lease and convey by deed or such other lawful means as permitted by the laws of Florida, whether special, local or general, without the consent or approval of the City Commission or other governing body of the City of Key West, Florida, or its municipal successor, from time to time, any of the property, real, personal or mixed, specified or referred to hereinbefore in this act, for such price or prices and on such terms, provisions and under such conditions as herein set forth at the time or times it determines that such property, real, personal or mixed, is excess to the needs of the electric public utility, or such other public utilities the Utility Board acquires. Said board shall have the full and complete power and exclusive authority to accept gifts, contributions, contributions in aid of construction, properties, whether real, personal or mixed, from the United States Government or any of its departments, bureaus, commissions or agencies, and the said full and complete power and exclusive authority

hereinbefore provided shall also apply to the acceptance of gifts, contributions, contributions in aid from the State of Florida, or any of its political subdivisions, departments, bureaus, commissions, or agencies, corporations, publicly or privately owned or operated, private persons and individuals. The Utility Board created by this act shall have the full and complete power and exclusive authority to contract with the United States Government, or any of its departments, bureaus, commissions or agencies, other public utilities, the State of Florida, or any of its political subdivisions, departments, bureaus, commissions or agencies, corporations, either publicly or privately owned and operated, private persons or individuals, for the acquisition, purchase and operation of other public utilities and said Utility Board may determine in its judgment, and to purchase, contract for the sale, lease or exchange of any products and services, materials and commodities, by-products and water, steam or heat from all or any of its activities or operations. The said Utility Board shall have full and complete power and exclusive authority to fix rates and charges for electricity and charges or prices for any other real and personal property, products and services, materials and commodities, by-products of and from all or any of its activities or operations, furnished or sold by said Utility Board, and to provide for the collection of same. The Utility Board shall grant a special lower rate and charge for electricity on the residential account of any person who meets low income standards adopted by the Utility Board, who has been a permanent resident of the geographical service area covered by the Utility Board in furnishing electricity in Monroe County, Florida, for three (3) consecutive years prior to requesting such special lower rate or charge and who is sixty (60) years of age or older or a totally and permanently disabled American veteran. As used in this section "residential account" means an account for a person residing in a house, mobile home, condominium, apartment, or other housing unit. Submission of an affidavit that the applicant claiming the special lower rate and charge under this section has been a permanent resident of the geographical service area heretofore mentioned for three (3) years immediately preceding the date of application, and who is sixty (60) years of age or older or a totally and permanently disabled American veteran, shall be prima facie proof of such residence, disability, and age. The affidavit shall include the annual income of the applicant. All bills for electricity and electric service and for the furnishing and sale of the products and services, materials and commodities, by-products and water, steam or heat and by-products of and from all or any activities or operations, shall be collected and accounted for by said Utility Board, and all disbursements in connection with the foregoing, shall be ordered paid out only upon approval of said board; or pursuant to policies adopted by said board or pursuant to policies established by resolution adopted by the Utility Board; and said board acting by, for, and in the name of the City of Key West, Florida, a municipal corporation, and any municipal successor thereto, existing under the laws of Florida, shall have the vested rights which are herein conferred of eminent domain, for the purpose of acquiring lands and rights-of-way necessary and expedient for the location, establishment, construction, maintenance and operation of the works and projects authorized in this act, and for the acquisition and construction of any and all kinds and classes of real, personal or mixed property, tangible or intangible, whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purposes

and objects authorized by this act, provided, however, said Utility Board shall at all times be governed by and conform to the provisions of any proceedings authorizing and providing for the issuance of bonds, or other obligations of said city, which by their terms are secured by or payable from the revenues of the electric public utility, or the revenues of any of the additional public utilities acquired by said Utility Board.

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

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

Section 13. All construction, reconstruction, repairs or work of any nature made by the Utility Board, where the entire cost, value, or amount of such construction, reconstruction, repairs or work, including the labor and materials, shall exceed the amount as established by resolution adopted by the Utility Board fifteen thousand dollars (\$15,000.00), except construction, reconstruction, repairs, or work done by employees of the Utility Board or by labor supplied under agreement with federal government or state government, with supplies and materials purchased hereinafter provided, shall be done only under contract or contracts to be entered into by the Utility Board with the lowest responsible bidder upon proper terms, after due public notice has been given asking for competitive bids as hereinafter provided. No contract shall be entered into for construction or improvement or repair of the electric system, or any part thereof, unless the contractor shall have given an undertaking with a sufficient surety or sureties, approved by the Utility Board, and in an amount fixed by said board, for the faithful performance of the contract. All such contracts shall provide among other things that the person or corporation entering into such contract with the Utility Board will pay for all materials furnished and services rendered for the performance of the contract, and that any person or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the obliger in the undertaking, as though such person or corporation were named therein, provided the action is brought within one (1) year after the time the cause of action accrues. Nothing in this section shall be construed to limit the power of authority to construct, repair or improve the electric system, or any part thereof, or any addition, betterment or extension thereto, directly by the officers, agents and employees of the Utility Board, or otherwise than by contract.

All supplies, equipment, machinery and materials costing more than the amount as established by resolution adopted by the Utility Board ten thousand dollars (\$10,000.00) or more shall be purchased only after advertisement as provided hereinafter. The Utility Board shall accept the lowest bid or bids, kind, quality and material being equal, but said board shall have the right to reject any or all bids or select a single item from any bid. The provision as to bidding shall not apply to the purchase of patented and manufactured products offered for sale in a noncompetitive market or solely by a manufacturer's authorized dealer.

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

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

Subject to the aforesaid provisions, the Utility Board may (but without intending by this provision to limit any powers of said board) enter into and carry out such contract, or establish or comply with such rules and regulations concerning labor and materials and other related matters in connection with any construction project, or portion thereof, as the Utility Board may deem desirable; provided that the provisions of this section shall not apply to any contract or agreement between the Utility Board and any engineers, architects, attorneys, or for other professional services, or to any contract or agreement relating to fiscal advisors, fiscal agents, or investment bankers, relating to the financing of projects herein authorized.

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

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

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

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

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

(4) The Utility Board authorizes such procurement when the cost of the commodities (materials) or contractual services (labor and materials) exceeds the amounts as established by resolution adopted by the Utility Board

~~ten thousand dollars (\$10,000.00) and fifteen thousand (\$15,000.00), respectively.~~

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.