

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

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

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
90 generation asset shall be separately itemized.

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

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

105 market value of the generation assets, the net return of equity
106 or the cost to exit the entity for each member municipality.

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

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