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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
~~BILL ANALYSIS & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION~~**

BILL #: HB 2343
RELATING TO: The Gainesville-Alachua County Regional Airport Authority
SPONSOR(S): Representative Casey
COMPANION BILL(S): SB 2990 (I)
ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) COMMUNITY AFFAIRS
(2) TRANSPORTATION
(3)
(4)
(5)

I. SUMMARY:

This bill amends the charter for the Gainesville-Alachua County Regional Airport Authority (Authority) to change the membership of the Authority from nine to five members, and to clarify that the Authority has exclusive jurisdiction over the operation and maintenance of the Airport and its facilities.

The amendments to the charter will result in changing the designation of the Authority from a dependent to an independent special district as defined by general law.

The attached Economic Impact Statement reflects that the bill would not have a fiscal impact.

1 A bill to be entitled
2 An act relating to the Gainesville-Alachua
3 County Regional Airport Authority; amending
4 chapter 86-469, Laws of Florida, as amended;
5 changing the membership, terms, organization,
6 and quorum of the authority; eliminating annual
7 reporting requirements; providing for the
8 privatization of airport operations; removing
9 budget approval by the city commission;
10 deleting obsolete provisions; affirming that
11 the City of Gainesville has no power to operate
12 or maintain the airport and airport facilities;
13 providing for the conveyance of title to the
14 authority; providing an effective date.
15

16 Be It Enacted by the Legislature of the State of Florida:
17

18 Section 1. Chapter 86-469, Laws of Florida, as amended
19 by chapter 89-433, Laws of Florida, is amended to read:
20

21 Section 1. Short title.--This act shall be known and
22 may be cited as the "Gainesville-Alachua County Regional
23 Airport Authority Act."

24 Section 2. Definitions.--As used in this act, unless
25 the context otherwise requires:

26 (1) "Airport" means any area, of land or water, which
27 is designed for the landing and taking off of aircraft,
28 whether or not facilities are provided for the shelter,
29 servicing, or repair of aircraft or for receiving and
30 discharging passengers or cargo, and all appurtenant areas
31 used or suitable for airport buildings or other airport
facilities, and all appurtenant rights-of-way at the area now

1 known and which may hereinafter be known as the Gainesville
2 Regional Airport.

3 (2) "Airport facilities" means airport facilities at
4 the area now known as the Gainesville Regional Airport,
5 including, but not limited to, runways, taxiways, taxilanes,
6 aprons, landing-fields; hangars, shops, terminals, buildings
7 and all other facilities necessary or desirable for the
8 landing, taking off, operating, servicing, repairing and
9 parking of aircraft, and the unloading and handling of
10 passengers, mail, express and freight, together with all
11 necessary appurtenances and equipment and all properties,
12 rights, easements and franchises relating thereto and deemed
13 necessary or convenient by the authority in connection
14 therewith. This shall also include the area known on the
15 effective date of this act as the "Airport Industrial Park"
16 and all appurtenant facilities related thereto.

17 (3) "Authority" means the Gainesville-Alachua County
18 Regional Airport Authority created herein.

19 (4) "Authorized project" means an undertaking,
20 including a capital project, approved by the authority and
21 includes all property rights, easements, and franchises
22 related thereto and deemed necessary or convenient for the
23 construction, acquisition or operation thereof, and embraces
24 any capital expenditure which it the-city-commission deems to
25 be made for a public purpose, including the refunding of any
26 bonded indebtedness which may be outstanding on any existing
27 project which is to be improved by means of a new project.

28 (5) "Board of county commissioners" means the Board of
29 County Commissioners of the County of Alachua.

30 (6) "Bond" includes bonds, debentures, notes,
31 certificates of indebtedness, mortgage certificates, or other

1 obligations or evidences of indebtedness of any type or
2 character.

3 (7) "City" means the City of Gainesville.

4 (8) "City commission" means the City Commission of the
5 City of Gainesville.

6 (9) "County" means the County of Alachua.

7 (10) "Person" means any individual, firm, partnership,
8 corporation, company, association, joint stock association, or
9 body politic; and includes any trustee, receiver, assignee, or
10 other similar representative thereof.

11 (11)--"Preexisting authority"--means the Gainesville
12 Regional Airport Authority created under Gainesville City
13 Ordinance No. 2721/8-82-33:

14 (11)(12) "Revenue bonds" means obligations of the
15 authority which are payable from revenues derived from sources
16 other than ad valorem taxes on real or tangible personal
17 property and which do not pledge the property, credit, or
18 general tax revenue of the authority or the city.

19 (12)(13) "Refunding bonds" means bonds issued to
20 refinance outstanding bonds of any type and the interest and
21 redemption premium thereon. Refunding bonds shall be issuable
22 and payable in the same manner as the refinanced bonds, except
23 that no approval by the electorate shall be required unless
24 required by the State Constitution.

25 Section 3. Gainesville-Alachua County Regional Airport
26 Authority.--

27 (1) CREATION AND PURPOSE.--For the purpose of managing
28 and operating the airport and airport facilities, there is
29 hereby created a dependent special district to be known as the
30 Gainesville-Alachua County Regional Airport Authority. The
31 exercise by the authority of the powers conferred upon it by

1 this act will be deemed to be for an essential and proper
2 purpose.

3 (2) MEMBERSHIP.--The powers of the authority shall be
4 vested in its members in office from time to time. There
5 shall be five ~~nine~~ members. As a condition of eligibility for
6 appointment and to hold office, each member shall reside
7 within the city or county. No person shall serve as a member
8 of the authority and, at the same time, hold any publicly
9 elected office in the State of Florida, except for the Mayor
10 of the City of Gainesville, who shall serve ex officio as a
11 member of the authority.

12 (3) ~~INITIAL APPOINTMENTS; EXPIRATION OF TERMS.~~--
13 ~~Initial appointments shall be as follows:~~

14 (a) ~~The initial members of the authority shall consist~~
15 ~~of:~~

16 1. The Mayor of the City of Gainesville ~~All members of~~
17 ~~the preexisting authority; and~~

18 2. Three (3) members appointed by majority vote of the
19 city commission.

20 3. One (1) member appointed by majority vote of the
21 board of county commissioners. ~~The four members separately~~
22 ~~appointed by the Governor and the county to the authority~~
23 ~~created by chapter 85-378, Law of Florida;~~

24 (b) ~~--If any of the members designated in paragraph (a)~~
25 ~~declines to serve, such office shall be filled within 30 days~~
26 ~~of the effective date of this act; as follows:~~

27 1. ~~--The Governor shall replace by appointment any of~~
28 ~~the three members appointed by him under chapter 85-378, Laws~~
29 ~~of Florida;~~

30
31

1 2:--~~The board of county commissioners shall replace by~~
2 ~~appointment the member appointed thereby under chapter 35-378;~~
3 ~~Law of Florida; and~~

4 3:--~~The city commission shall replace by appointment~~
5 ~~any of the remaining members:~~

6 (b)(c) The current terms of office term of members any
7 member initially appointed under chapter 86-469, Laws of
8 Florida, this act shall expire on June 1, 1995. July 31 of
9 the year such member's term was scheduled to expire under
10 chapter 85-378; Laws of Florida; or under Gainesville City
11 Ordinance No. 2724/8-82-33; as appropriate; except that the
12 term of any such member previously appointed by the city who
13 was also subsequently appointed to the authority created under
14 chapter 85-378; Laws of Florida; shall expire on July 31 of
15 the year which represents the later expiration date of the two
16 appointments:

17 (c) The terms of office of authority members shall be
18 staggered so that the terms of office do not all expire the
19 same year. The initial terms of office of one member shall be
20 3 years, one initial term of office shall be 2 years and one
21 initial term of office shall be 1 year, all as designated by
22 the city commission. The initial term of office of one member
23 appointed by the board of county commissioners shall be 3
24 years. Subsequently, all members appointed by the city
25 commission and the board of county commissioners shall serve
26 3-year terms of office beginning on June 1 and expiring on May
27 31 of the year the member's term is scheduled to expire.

28 (4)--~~SUBSEQUENT APPOINTMENTS; TERMS~~--Upon expiration
29 of initial terms of office:

30 (a)--~~Subsequent appointments shall be made by the~~
31 appropriate appointing entity on or prior to the date of

1 expiration-of-the-preceding-term-in-the-same-manner-as
2 described-in-paragraph-(3)(b):--In-the-event-an-appointment
3 has-not-been-made-by-such-date,-the-Governor-shall-make-the
4 appointment-within-20-days-thereafter:

5 (b)--All-members-shall-serve-3-year-terms-of-office;
6 beginning-on-August-1-and-expiring-on-July-31-of-the
7 appropriate-year:

8 (4)(5) FILLING OF VACANCIES.--Except as may be
9 otherwise provided herein, vacancies in office shall be filled
10 for the balance of the term by the appropriate appointing
11 entity,-in-the-same-manner-as-set-forth-in-paragraph-(3)(b):
12 In-such-cases,-the-appointment-shall-be-made-no-later-than-30
13 days-after-the-office-has-become-vacant:--In-the-event-an
14 appointment-has-not-been-made-by-such-date,-the-Governor-shall
15 make-the-appointment-within-20-days-thereafter.

16 (5)(6) ORGANIZATION; MEETINGS; NOTICE; QUORUM.--

17 (a) A chair chairman, vice chair chairman, and
18 secretary/treasurer shall be chosen by and from the authority
19 membership. The chair chairman, vice chair chairman, and
20 secretary/treasurer shall each serve a term of office of 2
21 years 1-year, and no member shall hold the same office for
22 more than 2 consecutive terms.

23 (b)1. The authority shall meet at the call of the
24 chair chairman, at the request of three or more of its
25 members, and at such other times as may be prescribed by rule
26 of the authority.

27 2. The authority shall give reasonable notice of all
28 meetings at least 48 hours prior thereto, which shall be
29 published in a newspaper in general circulation in Alachua
30 County, and shall include agenda items whenever such items
31 involve leasing of any airport property. All meetings of the

1 authority shall be so noticed except emergency meetings which
2 shall only be called when there is an immediate danger to the
3 public health, safety or welfare.

4 (c) The presence of three ~~five~~ members is required to
5 constitute a quorum, and the affirmative vote of a majority of
6 the members present and eligible to vote; ~~but no fewer than~~
7 ~~four of the members present and eligible to vote~~; is required
8 for any action or recommendation by the authority.

9 (6)(7) REMOVAL FROM OFFICE.--A member may be removed
10 by the entity appointing such member, but only upon grounds
11 constituting misfeasance, neglect of duty, incompetence,
12 permanent inability to perform official duties, or commission
13 of a felony. The unexcused failure to attend three
14 consecutive regular meetings of the authority shall be deemed
15 neglect of duty, without limiting the meaning of that term.

16 (7)(8) RESTRICTIONS.--

17 (a) No person who has transacted business with the
18 authority shall be eligible for appointment to the authority
19 until 3 years after the last transaction. No person who has
20 served on the authority shall be eligible to transact business
21 with the authority until 3 years after ~~the~~ his last date of
22 service. Said transactions include transactions either for
23 oneself or as an employee of, agent for, or consultant to any
24 other person or legal entity. However, nothing in this
25 paragraph shall be construed as prohibiting an appointed
26 member from purchasing supplies or services from any fixed-
27 base operators or tenants at the airport or airport industrial
28 park.

29 (b) No member, officer, agent, or employee of the
30 authority, either for himself or as agent for anyone else, or
31 as a stockholder or owner in any other legal entity, shall

1 participate in or benefit directly or indirectly from any
2 sale, purchase, lease, franchise, contract, or other
3 transaction, entered into by the authority or the city. The
4 provisions of this paragraph shall be cumulative to any
5 general laws of the state which may from time to time be
6 applicable to members, officers, agents or employees of the
7 authority and which require the disclosure of, or prohibit,
8 conflicts of interest.

9 (8)(9) EXPENSES.--The members of the authority shall
10 receive no salary or other compensation for their services.
11 The authority shall, however, be authorized to pay reasonable
12 costs and expenses necessarily incurred by the members in
13 performance of their duties.

14 Section 4. Powers and duties.--The authority shall
15 have exclusive jurisdiction over the operation and maintenance
16 of, and improvements to, the airport and airport facilities,
17 and pursuant thereto shall have the following powers and
18 duties, which are in addition to all other powers granted by
19 other provisions of this act:

20 (1) To enter into contracts and to sue and be sued in
21 its own name.

22 (2) To acquire real property in fee simple or any
23 lesser interest or easement ~~in the name of the city~~ by
24 purchase, gift, devise, lease or other means if the authority
25 is able to agree with the owners of said property on the terms
26 of such acquisition. To acquire real property in fee simple
27 or any lesser interest or easement ~~in the name of the city~~, as
28 it may deem necessary for the property managing and operation
29 of the airport and airport facilities, by condemnation in the
30 manner provided by the law under which municipalities are
31 authorized to acquire property for public purposes, with full

1 power to exercise the right of eminent domain for such
2 purposes being hereby granted to said authority as specified
3 in and including all the powers, ~~rights~~ right, and privileges
4 of chapters 73 and 74, Florida Statutes, or any succeeding
5 legislation. For the purposes of making surveys and
6 examinations relative to any condemnation proceedings, it
7 shall be lawful to enter upon any land, doing no unnecessary
8 damage. The authority may take possession of any such
9 property to be acquired at any time after the filing of the
10 petition describing the same in condemnation proceedings, as
11 provided in chapters 73 and 74, Florida Statutes. It shall
12 not be precluded from abandoning the condemnation of any such
13 property in any case where possession thereof has not been
14 taken. ~~However, no condemnation proceedings in exercise of
15 the power of eminent domain shall be initiated or valid;
16 unless and until the city commission shall, by resolution,
17 approve the resolution of the authority and authorize by
18 resolution the exercise of the power of eminent domain in the
19 name of the city for the purposes set forth in such resolution
20 of the authority. To acquire or lease personal property in
21 the name of the authority or in the name of the city.~~

22 (3) To let or lease the airport and the airport
23 facilities or any portion thereof, and to grant concessions
24 upon such terms and conditions as it shall deem proper.

25 (4) To employ an airport manager and other personnel
26 as provided in section 6.

27 (5) To accept revenues from the operation of the
28 airport and airport facilities and, independently, or in
29 conjunction with the City of Gainesville if required by a
30 granting agency, to accept gifts, grants, and other revenues.
31

- 1 (6) To prepare and propose a budget annually, and to
2 amend it during the fiscal year, as provided in section 5.
3 (7) To adopt rules for the regulation of its affairs
4 and the conduct of its business, and rules for the operation
5 of the airport, airport facilities, and aircraft, including,
6 but not limited to, safety and noise abatement rules, and to
7 enforce and administer all such rules.
8 (8) To name and rename the airport and airport
9 facilities.
10 (9) To adopt and alter an official seal.
11 (10) To maintain an office within the city.
12 (11) To undertake capital projects and repair, equip,
13 maintain, and operate the airport and such buildings,
14 structures, roads, alleyways, and any other development of
15 land or improvements as the authority shall determine to be
16 necessary and proper in the performance of the duties and
17 purposes of this act.
18 (12) To issue revenue bonds or refunding bonds of the
19 authority pursuant to section 2. 18: Further, to borrow money
20 from available sources to finance airport operations and
21 facilities, excluding the Airport Industrial Park.
22 (13) To fix and revise from time to time and to
23 collect rates, fees, and other charges for the use of the
24 airport and airport facilities.
25 (14) To pay operating and debt service costs of the
26 airport and airport facilities.
27 (15) When deemed desirable by the authority, and, when
28 agreed to by the city, to utilize the purchasing authority and
29 capability of the city for such things as, but not limited to,
30 computer services, supplies, equipment, labor, and contractual
31 services. However, all such material and services shall be

1 paid by the authority out of its own budget and not that of
2 the city.

3 ~~(16)~~--To annually issue a report to the city
4 commission, board of county commissioners, and the Governor on
5 the progress of the 20-year master plan which is being
6 conducted on the airport:

7 ~~(16)~~(17) To do all acts necessary in order to carry
8 out the purposes of this act.

9 ~~(17)~~(18) To appoint or employ and constitute its own
10 airport guards or police officers, or to contract with the
11 city, county, or agency of the state to provide law
12 enforcement services and protection through its duly sworn
13 officers, and all such officers shall have full power of
14 arrest to prevent or abate the commission of any offense
15 against the ordinances of the city or county, the laws of this
16 state, or the laws of the United States, when any such
17 offense, or threatened offense occurs upon any airport lands.

18 ~~(18)~~(19) To expend funds to advertise and promote the
19 airport, its operations, airport facilities and issues
20 affecting the airport.

21 ~~(19)~~ To privatize any operation of the airport when
22 deemed in the best interest of the public.

23 Section 5. Budget.--

24 (1) INITIAL BUDGET PROCEDURES.--The authority shall
25 operate under the annual budget of the preexisting authority
26 for the 1994-1995 1986-1987 fiscal year, but may submit budget
27 amendments pursuant to this section. The fiscal year for the
28 authority shall be October 1 through September 30 of each year
29 concurrent with the fiscal year of the City of Gainesville.

30 (2) GENERAL BUDGET PROCEDURES.--For the 1995-1996
31 1987-1988 fiscal year and each fiscal year thereafter:

1 (a) Prior to preparation of the annual budget as
2 provided in paragraph (b), the authority shall, ~~by the time~~
3 ~~specified by the city commission~~, develop an annual proposed
4 budget consisting of the elements described in paragraph (b),
5 which shall be presented for a public hearing before the
6 citizens of Alachua County. This public hearing shall be
7 noticed as a budget hearing.

8 (b) Following the public hearing conducted pursuant to
9 paragraph (a), the authority shall prepare an annual budget,
10 consisting of an operating revenue/operating revenue expense
11 account, capital outlay account, capital project account, ~~and~~
12 ~~such other accounts as the city commission shall prescribe~~;
13 for its operations in the ensuing fiscal year, ~~and the~~
14 ~~chairman of the authority shall, by the time specified by the~~
15 ~~city commission, submit such budget to the city commission.~~
16 At the time the authority prepares its annual budget, it shall
17 adopt a resolution determining and finding the estimated
18 amounts to be expended by the authority in the ensuing year in
19 each account, exclusive of any bonds or other indebtedness of
20 the authority, used to acquire, establish, construct, enlarge,
21 operate and maintain the airport and airport facilities and
22 other facilities related thereto, or for any other corporate
23 purpose of the authority. ~~A certified copy of such resolution~~
24 ~~shall be submitted to the city commission at the same time~~
25 ~~that the authority submits its annual budget referred to~~
26 herein:

27 (c) ~~The city commission shall examine the budget and~~
28 ~~the certified copy of the resolution; and may, in its sole~~
29 ~~discretion, increase or decrease the total amount requested in~~
30 ~~each account of the budget as the city commission deems~~
31 ~~advisable. The city commission shall not, however, have the~~

1 ~~power to veto line items within any account of the budget;~~
2 ~~The authority shall offer any budget amendments necessitated~~
3 ~~by any such increase or decrease. Thereafter, the city~~
4 ~~commission shall approve the budget of the authority, either~~
5 ~~as submitted or as increased or decreased by amendment, as~~
6 ~~aforsaid:~~

7 (c)(d) ~~--In addition to budget amendments offered under~~
8 ~~paragraph (c); The authority may, at any time within a fiscal~~
9 ~~year, adopt budget amendments, provided that any budget~~
10 ~~amendment adopted by the authority that increases the total~~
11 ~~budget shall be approved by the city commission prior to~~
12 ~~taking effect.~~

13 (d)(e) All anticipated revenues to be derived from the
14 operation of the airport and airport facilities shall be
15 included in the budget; provided, however, that any amounts of
16 money, anticipated or actual, including funds in the
17 authority's budget for the preceding fiscal year which remain
18 unencumbered and unexpended from the revenue derived under the
19 budget for the preceding fiscal year, may, by resolution of
20 the authority ~~duly adopted and approved by the city~~
21 ~~commission, be set aside in a separate fund, to be known and~~
22 ~~described as a "Renewal and Replacement Fund," and accumulated~~
23 ~~in said fund from year to year for the purpose of purchasing~~
24 ~~real and tangible personal property, and building and~~
25 ~~constructing permanent improvements, replacements,~~
26 ~~alterations, buildings, and other structures, including, but~~
27 ~~not limited to, runways, taxi strips and aprons. Such funds~~
28 ~~may be disbursed from time to time out of the renewal and~~
29 ~~replacement fund, upon proper resolution of the authority duly~~
30 ~~adopted and approved by the city commission, solely for the~~
31 ~~payment of the cost of purchasing real and tangible personal~~

1 property, and building and constructing permanent
2 improvements, replacements, alterations, buildings, and other
3 structures, including, but not limited to, runways, taxi
4 strips and aprons.

5 (e)(f) The authority shall adopt budget procedures to
6 establish the direct and indirect costs of operating and
7 maintaining the airport and airport facilities, as well as the
8 direct income derived therefrom. However, the budget of the
9 authority shall not include the maintenance and upkeep of
10 navigational aids as performed and funded directly by the
11 Federal Aviation Administration.

12 ~~(g)--The remaining balance in the airport operations~~
13 ~~and capital budget of the airport enterprise fund of the~~
14 ~~preexisting authority shall be transferred from the city~~
15 ~~budget to the authority budget on January 12, 1987, except~~
16 ~~that up to \$18,888 may be transferred on the effective date of~~
17 ~~this act to fund expenses of the authority in carrying out its~~
18 ~~functions specified in section 15 of this act.~~

19 ~~(h)--The remaining balance in the operations trust fund~~
20 ~~established in the State General Appropriations Act for 1985-~~
21 ~~1986 shall be transferred from the Department of~~
22 ~~Transportation to the authority on January 12, 1987.~~

23 (f)(i) The city, and the county and its other
24 political subdivisions may, by loan or grant, fund budget
25 deficits of the authority, and all may guarantee bonds issued
26 by the authority.

27 Section 6. Employees.--

28 (1) The authority shall employ an aviation-experienced
29 manager to administer and manage all operations of the airport
30 and airport facilities and to supervise all airport projects.
31 The manager shall employ, supervise, and remove all other

1 employees of the authority. All personnel actions of the
2 authority shall be based upon merit and cause and implemented
3 pursuant to personnel policies of the authority.

4 (2)(a) The authority shall provide terms and
5 conditions of employment for its employees substantially equal
6 to those enjoyed by similarly situated city employees.

7 (b) ~~Those individuals employed in the city's airport~~
8 ~~department as director or aviation and supervisor of~~
9 ~~operations shall be laid off, effective the close of the work~~
10 ~~day January 11, 1987. The authority shall offer to employ,~~
11 ~~effective January 12, 1987, all such individuals employed in~~
12 ~~the city's airport department on January 11, 1987. Said~~
13 ~~individuals shall be offered employment with the authority~~
14 ~~the same salary as that which would have been paid by the city~~
15 ~~on January 12, 1987, and with all their terms and conditions~~
16 ~~of employment being similar (in total) to those they enjoyed~~
17 ~~with the city as of January 11, 1987.~~

18 (c) ~~The current employees of the City of Gainesville~~
19 ~~employed as other than director of aviation and supervisor of~~
20 ~~operations with the airport shall remain employees of the~~
21 ~~city. These employees shall continue in service at the~~
22 ~~airport in accordance with the agreement entered into pursuant~~
23 ~~to this section. The city shall, prior to January 12, 1987,~~
24 ~~contract with the airport authority for the services of these~~
25 ~~employees. This agreement shall include a provision providing~~
26 ~~for compensation to the city at cost for the services of these~~
27 ~~employees. In the event of a vacancy in a position, or the~~
28 ~~creation of a new position at the airport authority, the city~~
29 ~~shall fill the position in accordance with the agreement~~
30 ~~entered into pursuant to this section. As an alternative,~~
31 ~~with consent of the city commission, the authority may~~

1 directly-employ-other-employees-to-fill-such-vacancies-or-new
2 positions:

3 (d)--The-agreement-entered-into-pursuant-to-this
4 section-shall-be-for-a-term-of-no-less-than-10-years:
5 However;-the-city-and-authority-may-renegotiate-the-terms-and
6 conditions-at-any-time.--In-the-event-such-agreement-is
7 terminated;-the-authority-may-directly-employ-its-own
8 employees:

9 (3) Nothing in this act shall interfere with the
10 rights of the parties to that certain agreement between the
11 authority and the city pursuant to sections 6(c) and (d) of
12 chapter 86-469, Laws of Florida.

13 Section 7. Relationship between the authority, city,
14 county, and state.--The authority shall have the power and
15 responsibility to operate the airport and airport facilities
16 in a manner consistent with applicable federal, state, county,
17 and city law. The city has no power to operate or maintain
18 the airport and airport facilities. Applicable building codes
19 of the city shall apply to all construction upon the airport,
20 except to the extent that different state or federal
21 requirements are expressly applicable, and except to the
22 extent that the authority or the airport has been made exempt
23 from any requirement of the city by state or federal law. All
24 construction upon the airport shall be subject to inspection
25 by the city on behalf of the state, and the city inspectors
26 may ensure compliance with applicable state regulations for
27 such construction in addition to applicable city regulations.

28 Section 8. Title to airport land.--The city may convey
29 This act shall not affect the title to the land comprising the
30 Gainesville Regional Airport to the authority for no monetary
31 consideration and Airport-Industrial-Park. Nothing in this

1 act shall be construed to impair the obligations of any
2 original agreements with the Federal Government or of any
3 agreement between the city or any of its agencies and fixed-
4 base operators of the airport entered into as of the effective
5 date of this act.

6 Section 9. Bonding power.--

7 (1) The authority is empowered and authorized to issue
8 revenue or refunding bonds. The purpose of the bonds shall be
9 to pay all or any part of the cost for the acquisition and
10 development of property by the authority for the design and
11 construction or reconstruction of any authorized project, for
12 equipment, or for refunding of bonds for the same purpose.

13 (2) Bonds issued under this section shall be
14 authorized by resolution of the authority. Such bonds may be
15 issued in one or more series and shall bear such date or
16 dates, be payable upon demand or mature at such time or times,
17 be in such denomination or denominations, be in such form,
18 registered or not, with or without coupon, carry such
19 conversion or registration privileges, have such rank or
20 priority, be executed in such manner, be payable in such
21 medium of payment, at such place or places, and be subject to
22 such terms of redemption, with or without premium, be secured
23 in such manner, and have such other characteristics as may be
24 provided by such resolution or ordinance or trust indenture or
25 mortgage issued pursuant thereto. Such bonds shall bear
26 interest at such rate or rates allowed by s. 215.84, Florida
27 Statutes.

28 (3) The authority shall determine the terms and manner
29 of sale and distribution or other disposition of any and all
30 bonds it may issue and shall have any and all powers necessary
31 or convenient to such disposition.

1 (4) The authority may establish and administer such
2 sinking funds as it deems necessary or convenient for the
3 payment, purchase, or redemption of any outstanding bonded
4 indebtedness of the authority.

5 Section 10. Bonding rights.--The State of Florida does
6 pledge to, and agree with, the Federal Government and any
7 person, firm or corporation, subscribing to, or acquiring the
8 bonds to be issued by the authority for the construction,
9 acquisition, extension, improvement or enlargement of
10 projects, or any part thereof, that the state will not limit
11 or alter the rights hereby vested in the authority until all
12 bonds at any time issued, together with the interest therein,
13 are fully paid and discharged or until provision is made
14 therefor. The State of Florida does further pledge to, and
15 agree with, the Federal Government that in the event that the
16 Federal Government shall construct or contribute any funds for
17 the construction, acquisition, extension, improvement or
18 enlargement of said projects, or any part thereof, the state
19 will not alter or limit the rights and powers of the authority
20 in any manner which would be inconsistent with the continued
21 maintenance and operation of the projects, or any part
22 thereof, or the improvement thereof, or which would be
23 inconsistent with the due performance of any agreements
24 between the authority and the Federal Government, and the
25 authority shall continue to have and may exercise all powers
26 herein granted, so long as the same may be necessary or
27 desirable for the carrying out of the purposes of this act and
28 the purposes of the Federal Government in the construction, or
29 acquisition or improvement or enlargement of said projects, or
30 any part thereof.

31

1 Section 11. Effect on other laws.--This act shall
2 supersede any law, whether general, special or local,
3 establishing an airport authority, and, to the extent
4 inconsistent with this act, any local ordinance or resolution
5 regarding the operation of the airport facility.

6 Section 12. Building restriction.--The erection of any
7 new structures or the alteration of any existing structures on
8 the airport that would constitute a hazard to air navigation
9 affecting any facility operated by the authority as the same
10 is defined by the criteria set forth in Regulations of the
11 Administrator, Federal Aviation Agency, Washington, D.C., is
12 hereby prohibited.

13 Section 13. Nothing herein shall interfere with any
14 legal action filed by or against the city or predecessor or
15 predecessors of the authority. The authority may become a
16 party in any such action as provided by law. Nothing herein
17 shall impair the right of the city to initiate, pursue, or
18 defend litigation.

19 Section 14.--Chapter 85-378, Laws of Florida, is hereby
20 repealed.

21 Section 15.--Upon the effective date of this act, the
22 authority shall undertake all planning and administrative
23 functions preparatory to operating the airport facilities;
24 including the proposal of amendments to the budget of the
25 preexisting authority, and may enter into contracts to take
26 effect no sooner than January 12, 1987, but the authority
27 shall not otherwise take over the operation of the airport and
28 airport facilities until January 12, 1987.

29 Section 14.16: Severability.--(1) If any provision of
30 this act or the application thereof to any person or
31 circumstance is held invalid, the invalidity shall not affect

1 ~~other provisions or applications of the act which can be given~~
2 ~~effect without the invalid provisions or applications, and to~~
3 ~~this end the provisions of this act are declared severable.~~

4 ~~(2)--In-particular;-if-all-or-part-of-the-method-of~~
5 ~~appointments-provided-by-this-act-is-held-invalid;-the-offices~~
6 ~~filled-by-the-invalid-appointments-shall-be-considered-vacant~~
7 ~~and-such-vacancies-shall-be-filled-by-the-Governor;-if-the-act~~
8 ~~can-be-held-valid-by-such-alternative-method--If-the-act~~
9 ~~cannot-be-held-valid-if-the-Governor-so-fills-such-invalid~~
10 ~~appointments;-the-offices-of-all-nine-members-shall-be~~
11 ~~considered-vacant-and-shall-all-be-filled-for-the-remainder-of~~
12 ~~the-vacant-terms-at-a-general-election-if-held-within-90-days~~
13 ~~of-such-vacancies;-or-if-not-held-within-that-time;-at-a~~
14 ~~special-election-paid-for-out-of-the-budget-of-the-authority~~
15 ~~and-held-by-the-board-of-county-commissioners-for-that~~
16 ~~purpose;-in-accordance-with-election-laws-currently-in-force~~
17 ~~in-the-county;-except-that-any-term-filled-that-would-be~~
18 ~~shorter-than-one-year-shall-be-filled-at-such-election-for-one~~
19 ~~additional-year:~~

20 Section 2. This act shall take effect on June 1, 1995.
21
22
23

24
25 This publication was produced at an average cost of 1.12 cents
26 per single page in compliance with the Rules and for
the information of members of the Legislature and the public.

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STORAGE NAME: h2343.ca

DATE: April 4, 1995

PAGE 2

II. SUBSTANTIVE ANALYSIS:**A. PRESENT SITUATION:****Special Districts**

A special district is defined as a local unit of government that has a specific purpose and a limited boundary, and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. Special districts have unique functions and powers that are prescribed by law.

Special districts in Florida have either independent or dependent status. A dependent special district is defined as one that either has: 1) a governing body that is identical to the governing body of a single county or municipality; 2) governing board members that are appointed by a single county or municipal governing board; 3) a governing body whose members may be removed by a single county or municipality; or 4) a budget that must be approved or vetoed by a single county or municipality. The millage that a dependent special district can tax is limited by the millage cap of the controlling local government.

An independent special district, on the other hand, has a governing board and budget that are not controlled by a local county or municipal government. A referendum vote by the electors determines the millage levied by an independent special district and the rate which the district can charge is not limited by the local millage cap. By definition, a special district that spans more than one county must be independent, unless the district lies wholly within the boundaries of a single municipality.

The Gainesville-Alachua County Airport Authority

The Gainesville-Alachua County Airport Authority (Authority) was originally created by chapter 85-378, Laws of Florida. This bill transferred jurisdiction over the operation, maintenance, and improvement of the Gainesville Airport (Airport) to the Authority from the City of Gainesville. Prior to 1985, the Airport was managed as a division of the City's Buildings and Grounds Department. Pursuant to the 1985 act, the City of Gainesville retained limited authority to approve the Authority's budget and retained title to Airport property.

In 1988, because of a legal challenge to the 1985 act, a new charter was adopted by the Legislature in chapter 88-469, Laws of Florida. This act eliminated legal defects of the 1985 act. Chapter 88-469, Laws of Florida, provides that the Authority has nine members and has jurisdiction over operation, maintenance, and improvements to the Airport and its facilities. It also gives the Authority the ability to enter into contracts; sue and be sued in its own name; let or lease the Airport and its facilities; employ a manager and other personnel; accept revenues from the operation of the Airport; undertake capital projects; issue revenue bonds; and fix and collect fees and other charges for the use of the Airport and its facilities. The Authority may prepare a proposed budget which must be approved by the City of Gainesville Commission.

The 1988 charter has been amended one time. Chapter 89-433, Laws of Florida, provides that the Authority may acquire land in the name of the City by eminent domain; appoint guards or police with full police powers; and expend funds to advertise and promote the Airport.

STORAGE NAME: h2343.ca
DATE: April 4, 1995
PAGE 3

The Authority is listed as a dependent district on the 1994 Official List of Special Districts, compiled by the Department of Community Affairs. This designation is due to the fact that paragraph (2) (c) of section 5 of chapter 88-469, Laws of Florida, gives the City of Gainesville the authority to approve the budget of the Authority.

The City of Gainesville has been involved in three active lawsuits and two dismissed lawsuits involving the Authority and one of its tenants at the Airport known as "Kenn-Air," for many years. On Tuesday, March 29, 1995, oral arguments were heard for Kenn-Air v. City of Gainesville and the Gainesville-Alachua County Airport Authority, Case No. 92-2923-CA. In this case, the City takes the position that it is not liable for the acts of the Authority. Kenn-Air, on the other hand, argues that the City is liable for the acts of the Authority under the provisions of the charter. Because of the issues in this case, the City desires to establish that the Authority is an independent authority and that the City is not liable for the actions of the Authority.

B. EFFECT OF PROPOSED CHANGES:

This bill will change the Gainesville-Alachua County Regional Airport Authority from a dependent special district to an independent special district as defined by chapter 189, F.S., by removing from the City of Gainesville the authority to approve the budget of the Authority.

This bill amends the charter for the Gainesville-Alachua County Regional Airport Authority to:

- Change the membership of the Authority from nine to five members.
- Allow the Mayor of the City of Gainesville to serve ex officio as a member of the Authority, notwithstanding the requirement that members of the Authority not hold any publicly elected office in the state.
- State that the members of the Authority shall be: the Mayor of the City of Gainesville, three members appointed by majority vote of the City of Gainesville Commission, and one member appointed by the Board of County Commissioners for Alachua County.
- Terminate the terms of office of current members of the Authority on June 1, 1995.
- Provide that terms of members, other than initial terms of office, shall be 3 year terms and shall begin on June 1 and expire on May 31, instead of beginning on August 1 and expiring on July 31.
- Provide that the chair, vice-chair, and secretary/treasurer, shall serve for 2 years instead of 1 year.
- Provide that the presence of three members constitutes a quorum.
- Give the Authority exclusive jurisdiction over the operation and maintenance of the airport and airport facilities, and clarify that the City of Gainesville has no power to operate or maintain the airport and airport facilities.

STORAGE NAME: h2343.ca

DATE: April 4, 1995

AGE 4

- Delete the requirement that the budget of the Authority be submitted to the City of Gainesville Commission, and delete the City's authority to amend the budget and approve the budget.
- Allow the City of Gainesville to convey title to lands comprising the Gainesville Regional Airport to the Authority for no monetary consideration.

These changes to the charter will result in changing the designation of the Authority from a dependant to an independent special district as defined in chapter 189, F.S.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 86-469, Laws of Florida, as amended by chapter 89-433, Laws of Florida.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Chapter 86-469, Laws of Florida, as amended by chapter 89-433, Laws of Florida, is amended to do the following:

- 1) Delete the definition of "preexisting authority" from the charter of the Gainesville-Alachua County Regional Airport Authority.
- 2) Change the membership of the Authority from nine to five members.
- 3) Allow the Mayor of the City of Gainesville to serve ex officio as a member of the Authority, notwithstanding the requirement that members of the Authority not hold any publicly elected office in the state.
- 4) State that the members of the Authority shall be: the Mayor of the City of Gainesville, three members appointed by majority vote of the City of Gainesville Commission, and one member appointed by the Board of County Commissioners for Alachua County.
- 5) Terminate the terms of office of current members of the Authority on June 1, 1995.
- 6) Allow for staggered terms of office for new members of the Authority.
- 7) Provide that terms of members, other than initial terms of office, shall be 3 year terms and shall begin on June 1 and expire on May 31, instead of beginning on August 1 and expiring on July 31.
- 8) Provide that the chair, vice-chair, and secretary/treasurer, shall serve for 2 years instead of 1 year.
- 9) Provide that the presence of three members constitutes a quorum.
- 10) Give the Authority exclusive jurisdiction over the operation and maintenance of the airport and airport facilities, and clarify that the City of Gainesville has no power to operate or maintain the airport and airport facilities.
- 11) Delete the requirement that real property must be acquired in the name of the City of Gainesville and allow it to be acquired by the Authority exclusively.

STANDARD FORM 11/90

STORAGE NAME: h2343.ca

DATE: April 4, 1995

PAGE 6

- 12) Delete the requirement that the City of Gainesville must approve the Authority's exercise of the power of eminent domain.
- 13) Delete the requirement that the Authority issue a report to the city and county commissions and the Governor on the progress of the 20 year master plan for the airport.
- 14) Allow the privatization of airport operations when deemed in the best interest of the public.
- 15) State that the budget year is from October 1 to September 30 of each year.
- 16) Delete the requirement that the budget of the Authority be submitted to the City of Gainesville Commission, and delete the City's authority to amend the budget and approve the budget.
- 17) Delete obsolete language relating the transfer of city employees to the Authority.
- 18) Allow the City of Gainesville to convey title to lands comprising the Gainesville Regional Airport to the Authority for no monetary consideration.
- 19) Repeal the repeal of chapter 85-378, Laws of Florida.
- 20) Delete language relating to the transfer of the airport to the Authority from the City of Gainesville.
- 21) Delete language relating to the appointment of vacancies by the Governor if the appointment method in the act is determined invalid.

Section 2: Provides that the act shall take effect on June 1, 1995.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 5, 1995

WHERE? The Gainesville Sun, Gainesville, 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

STORAGE NAME: h2343.ca

DATE: April 4, 1995

PAGE 6

IV. COMMENTS:**Independent District Creation**

The Legislature recreated the Authority in 1986 and designated it as a dependent special district with an annual budget that must be submitted to and approved by the city commission. Chapter 189, Florida Statutes, "the Uniform Special District Accountability Act of 1989" provides definitions that confirm the Authority's status as a dependent district.

For special districts created after 1989, section 189.4041, Florida Statutes, provides that a charter for a dependent special district "shall be adopted only by ordinance of a county or municipal governing body having jurisdiction over the area affected." As a dependent district created by special act of the Legislature, the Authority constitutes a pre-1989 relic inconsistent with the intent of chapter 189, Florida Statutes, which is to have independent districts governed by special act and dependent districts governed by local ordinance.

This bill reestablishes the Authority as an independent district. Chapter 189, Florida Statutes, does not distinguish between newly created independent districts that have had no prior existence in any form and those that previously existed as some other kind of entity. According to section 189.404, Florida Statutes, a special act creating an independent district is constitutionally prohibited unless certain minimum standards are met. Subsections (2) and (3) of section 189.404, Florida Statutes, provide:

(2) **SPECIAL ACTS PROHIBITED.**—Pursuant to s. 11(a)(21), Art. III of the State Constitution, the Legislature hereby prohibits special laws or general laws of local application which:

- (a) Create independent special districts that do not, at a minimum, conform to the minimum requirements in subsection (3);
- (b) Exempt independent special district elections from the appropriate requirements in s. 189.405;
- (c) Exempt an independent special district from the requirements for bond referenda in s. 189.408;
- (d) Exempt an independent special district from the reporting, notice, or public meetings requirements of s. 189.4085, s. 189.415, s. 189.417, or s. 189.418;
- (e) Create an independent special district for which a statement has not been submitted to the Legislature that documents the following:

1. The purpose of the proposed district;
2. The authority of the proposed district;
3. An explanation of why the district is the best alternative; and
4. A resolution or official statement of the governing body or an appropriate administrator of the local jurisdiction within which the proposed district is located stating that the creation of the proposed district is consistent with the approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

(3) **MINIMUM REQUIREMENTS.**—General laws or special acts that create or authorize the creation of independent special districts and are enacted after September 30, 1989, must address and require the following in their charters:

- (a) The purpose of the district.

STORAGE NAME: h2343.ca

DATE: April 4, 1995

PAGE 7

- (b) The powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements.
- (c) The methods for establishing and dissolving the district.
- (d) The method for amending the charter of the district.
- (e) The membership and organization of the governing board of the district. If a district created after September 30, 1989, uses a one-acre/one-vote election principle, it shall provide for a governing board consisting of five members. Three members shall constitute a quorum.
- (f) The maximum compensation of a governing board member.
- (g) The administrative duties of the governing board of the district.
- (h) The applicable financial disclosure, noticing, and reporting requirements.
- (i) If a district has authority to issue bonds, the procedures and requirements for issuing bonds.
- (j) The procedures for conducting any district elections or referenda required and the qualifications of an elector of the district.
- (k) The methods for financing the district.
- (l) If an independent special district has the authority to levy ad valorem taxes, other than taxes levied for the payment of bonds and taxes levied for periods not longer than 2 years when authorized by vote of the electors of the district, the millage rate that is authorized.
- (m) The method or methods for collecting non-ad valorem assessments, fees, or service charges.
- (n) Planning requirements.
- (o) Geographic boundary limitations.

Many of the minimum requirements for creating an independent special district are included in this bill establishing the charter for the Authority. For example, the purpose and authority of the district are explained in the bill. Also required is an explanation as to why the establishment of the Authority as an independent district is the best alternative. Considering that the other minimum requirements for establishing an independent district by special act that are not currently a part of this bill could be addressed by simple amendments to the bill, amendments to complete these minimum requirements, such as an explanation of the planning that will be required of this entity as an independent district, is recommended.

Pending Litigation

Pending litigation involves the responsibility or liability of the City of Gainesville for actions taken by the Authority toward Kenn Air, one of its tenants. The tenant asserts that, because the Authority is a dependent special district, there was a principle/agent relationship between the City of Gainesville and the Authority. Consequently, the City is responsible and liable for the actions of the Authority. In any event, any alleged liability of the City is presumably within the waiver of sovereign immunity limitations of section 768.28, Florida Statutes, 1994 Supplement.

Part of the basis for the tenant's assertion that the City is liable for the actions of the Authority, a dependent district, is Hernando County v. Florida Department of Community Affairs, 826 So.2d 1330 (Fla. 1993), *reh'g denied*, (Dec. 14, 1993). In this case, the Florida Supreme Court states that dependent districts are not "distinct entities." The Court also refers to dependent districts as "governmental units whose primary actions de facto are controlled by a single county or municipality."

STORAGE NAME: h2343.ca
DATE: April 4, 1995
PAGE 8

The Hernando case does not, however, settle the matter or go so far as to establish a principle/agent or master/servant relationship between a local government and its dependent special district. All special districts, dependent as well as independent, are defined by section 189.403, Florida Statutes, as having special purpose or purposes "implemented by specialized functions and related prescribed powers." Moreover, in Hernando, the Florida Supreme Court was only resolving whether a dependent district was a distinct entity or controlled by a single county or municipality for the purpose of determining if the district falls within the constitutionally imposed 10 mil cap on municipal and county ad valorem taxation.

This bill reestablishes or recreates the Authority as an independent district. Although the change in status from dependent to independent might have an impact on future litigation involving the Authority and the City of Gainesville, it should have no effect on pending litigation and decisions regarding the City's liability for past actions or activities of the Authority prior to the effective date of this act. If the primary purpose of this bill is to influence the decisions of the court with regard to pending lawsuits, this bill will not accomplish that purpose.

The Sponsor's statement of intent states:

The purpose of this legislation is to clarify both the legal and authoritative relationship between the City of Gainesville and the Gainesville Regional Airport Authority.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Proposed Amendment 1: Amends the bill to change the proposed membership of the Authority to include two members appointed by a majority vote of the Gainesville City Commission and two members appointed by a majority vote of the Alachua County Commissioners, instead of three members appointed by a majority vote of the Gainesville City Commission and one member appointed by a majority vote of the Alachua County Commissioners.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:
Prepared by:

Staff Director:

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