

CS/CS/HB 1325

2015

1 A bill to be entitled

2 An act relating to the City of Gainesville, Alachua
3 County; amending chapter 12760, Laws of Florida
4 (1927), as amended by chapter 90-394, Laws of Florida;
5 repealing section 3.06, relating to the general
6 manager for utilities of Gainesville Regional
7 Utilities; creating the Gainesville Regional Utilities
8 Authority and prescribing its authority over
9 Gainesville Regional Utilities; repealing applicable
10 existing and conflicting charter provisions and
11 ordinances; providing a ballot statement; requiring a
12 referendum; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Section 3.06 of Article III of section 1 of
17 chapter 90-394, Laws of Florida, is repealed.

18 Section 2. Article VII is added to chapter 12760, Laws of
19 Florida (1927), as amended by chapter 90-394, Laws of Florida,
20 to read:

21
22 ARTICLE VII GAINESVILLE REGIONAL UTILITIES AUTHORITY

23
24 7.01 Establishment.—There is hereby created a regional
25 utilities authority to be known and designated as the

26 "Gainesville Regional Utilities Authority"
 27 ("Authority").Gainesville Regional Utilities ("GRU") shall be
 28 remain a legal entity but after the effective date of this act
 29 shall be governed by the dependent Authority. The Authority
 30 shall operate as a political subdivision of the City of
 31 Gainesville ("the city") with no ad valorem taxing authority.
 32 The Authority is created for the express purpose of acquiring,
 33 constructing, operating, providing utility-related products and
 34 services, financing, and otherwise having broad authority with
 35 respect to utilities. The Authority shall have the power to make
 36 and adopt rules, policies and regulations, consistent with and
 37 not in violation of this act and applicable law, for the
 38 management, administration, operation, and regulation of the
 39 fiduciary, business, and other affairs of the Authority.

40 7.02 Definitions.—For the purposes of this act, unless
 41 otherwise designated, or the context otherwise requires:

42 (1)The term "city commission" shall mean the Gainesville
 43 City Commission.

44 (2) The term "Authority" shall mean the Gainesville
 45 Regional Utilities Authority of the City of Gainesville.

46 (3) The term "GRU" shall mean Gainesville Regional
 47 Utilities, a subdivision of the Authority.

48 (4) The term "member" shall mean a member of the Authority.

49 (5) The term "utilities" shall mean, unless otherwise
 50 specified, the electric utility system, water utility system,

51 wastewater utility system, reuse water utility system, natural
 52 gas utility system, communications utility system, and such
 53 other utility systems as may be acquired by GRU in the future.

54 (6) The term "user" shall mean a GRU electric utility
 55 system customer.

56 7.03 Commission voting members.

57 (1) There shall be 5 voting members of the Authority
 58 appointed by a simple majority vote of the city commission.
 59 Each member shall be a person of recognized ability of good
 60 business judgment who can and will perform their official duties
 61 to the best interest of the citizens. Appointments shall be made
 62 as follows:

63 (a) One member shall be a residential user with substantial
 64 knowledge of GRU, its operations and its history.

65 (b) One member shall be a private, non-government user
 66 consuming at least 10,000 kilowatt hours per month of electric
 67 usage over the last 12 months. This member may be the owner or
 68 representative of the user.

69 The remaining members shall have at least one of the following
 70 qualifications:

71 (a) A certified public accountant or
 72 a Bachelor of Science Degree, or higher, in Engineering or
 73 Bachelor of Science Degree in Finance or Business
 74 Administration, or higher, or a Juris Doctorate, or equivalent,
 75 from an accredited law school.

76 (2) Members of the Authority shall:

77 (a) Reside year-round within the electric service
78 territory of Gainesville Regional Utilities' electric utility
79 system.

80 (b) Receive service as a GRU electric utility system
81 customer at the time of the appointment of the initial members,
82 and, thereafter, be a customer of Gainesville Regional
83 Utilities.

84 (c) Have not been convicted of a felony as defined by
85 applicable law.

86 (3) In addition to these qualifications, each voting member
87 must be, at the time of appointment and during the time that
88 person serves as a voting member, a qualified elector of the
89 city, except that:

90 (a) At all times, a minimum of one voting member must be a
91 resident of the unincorporated area of the Alachua County or a
92 municipality in the county other than the City of Gainesville.

93 (b) The composition of the Authority shall be adjusted
94 upon the expiration of any utility commissioner's term, or upon
95 any utility commission vacancy, to reflect the ratio of total
96 electric meters serving customers in the unincorporated area of
97 Alachua County to total electric meters serving all electric
98 customers based on the most recent annual information provided
99 by the Authority to the city commission. For example, at such
100 time as the ratio of total electric meters serving customers in

101 the unincorporated area of Alachua County to total electric
 102 meters serving all electric customers reaches 40 percent, upon
 103 the expiration of any utility commissioner's term, or upon any
 104 utility commission vacancy, the city commission must appoint a
 105 second voting member from a municipality in the county other
 106 than the City of Gainesville, or from the unincorporated area of
 107 the county to serve the next term that would otherwise be served
 108 by a qualified elector of the City of Gainesville. If the ratio
 109 subsequently falls below 40 percent, the city commission upon
 110 the expiration of any utility commissioner's term, or upon any
 111 utility commission vacancy, must appoint a qualified elector of
 112 the City of Gainesville to serve the next term that would
 113 otherwise be served by a qualified elector from the
 114 unincorporated area of the county or from a municipality in the
 115 county other than the City of Gainesville.

116 (4) Until January 1, 2020, no current or previous elected
 117 or appointed officer or official of the city or county having
 118 held office after January 1, 2000, shall become a member, except
 119 that a qualified voting member initially first appointed to the
 120 Authority in 2016 as provided for in this act shall be
 121 considered for subsequent reappointment provided that such
 122 individual remains otherwise qualified and chooses to be
 123 considered for reappointment. (5) No voting member who has been
 124 appointed for three full, consecutive 4-year terms shall succeed
 125 herself or himself.

126 7.04 Voting member terms.--

127 (1) The city commission shall make initial Authority
 128 member appointments within 120 calendar days after the approval
 129 of the referendum required by this act. The initial terms of
 130 office for the five appointed members shall commence at 12:01
 131 a.m. on October 1, 2016. The initial appointments called for in
 132 this act and shall be as follows: one member will be designated
 133 to serve until 12:01 a.m. October 1, 2017; one member will be
 134 designated to serve until 12:01 a.m. October 1, 2018 in 2016;
 135 one member will be designated to serve until 12:01 a.m. October
 136 1, 2019 and two members will be designated to serve until 12:01
 137 a.m. October 1, 2020. Members subsequently appointed will
 138 normally hold office for 4-year terms commencing at 12:01 a.m.
 139 on October 1 in the year they are appointed, or until their
 140 successors in office are appointed or as may be provided
 141 elsewhere in this act.

142 (2) The city commission shall expeditiously schedule an
 143 appointment session and fill any Authority voting member vacancy
 144 within 2 months after a permanent vacancy occurs or becomes
 145 known by virtue of resignation, death, or removal in order to
 146 fill the remaining period of the vacant member term provided
 147 that such remaining term exceeds 3 months.

148 7.05 Member compensation.--Beginning October 1, 2016 each
 149 member shall be paid an annual salary of \$18,000, adjusted
 150 annually to the All Urban CPI as defined by the Bureau of Labor

151 and Statistics. Necessary individual expenses of members
 152 incurred solely in carrying on and conducting the business of
 153 the Authority shall be paid in accordance with Authority policy
 154 and procedures and subject to the approval of a majority of the
 155 Authority. No supplemental benefits are provided for a member
 156 position.

157 7.06 Authority; initial meeting, organization, and oath.—

158 (1) The first appointed Authority shall initially meet at
 159 the chambers of the city commission at 6:00 p.m. on Wednesday
 160 October 5, 2016. The first official action of the Authority
 161 shall be election of a chair and vice chair. The Authority
 162 shall meet at least once each month at the offices of the
 163 Authority or as otherwise may be determined. All meetings of
 164 the Authority shall be noticed and open to the public and
 165 minutes shall be kept of all meetings, except that meetings
 166 related to settlement of then existing litigation may be held in
 167 accordance with law. The initial meeting of the first appointed
 168 Authority and at each subsequent first regular meeting of the
 169 Authority after each regularly scheduled annual appointment
 170 occurs as specified in section 7.03 shall include an
 171 organizational agenda item during this organizational meeting in
 172 which the new utilities member shall be sworn by the Mayor of
 173 the City of Gainesville and the voting members shall elect a
 174 chairperson and a vice chairperson from among its voting
 175 membership.

176 (2) Before taking office for any term each member shall be
 177 given an oath or affirmation similar to the oath or affirmation
 178 required of a member of the city commission.

179 7.07 Appointment and removal of chief executive
 180 officer/general manager.-

181 (1) The Authority, by a majority vote, shall appoint a
 182 chief executive officer/general manager ("CEO/GM") to direct and
 183 administer utilities functions under the policies and authority
 184 authorized by the Authority.

185 (2) The Authority by a majority vote, may exercise their
 186 exclusive authority to terminate the CEO/GM.

187 (3) A member shall not be selected as the first CEO/GM.

188 7.08 Removal or Suspension of Members.-

189 (1) Members may only be removed or suspended from office in
 190 accordance with chapter 112, F.S.

191 (2) A member may also be removed for failure to maintain
 192 all voting member qualifications as set forth in section 7.03 or
 193 for violation of a provision of this act or rules or policies as
 194 may be subsequently adopted and enforced by the Authority.

195 (3) A member who is the subject of a proceeding to request
 196 suspension or removal or a proceeding to consider reinstatement
 197 under this section may not participate in the Authority's
 198 deliberations, debate, or vote on the matter.

199 7.09 General provisions.-

200 (1) The city commission shall be required to create such
 201 instruments as are necessary for the Authority to exercise its
 202 authority in accordance with this act. The city commission shall
 203 not encumber or allow to be encumbered any property, rights or
 204 future interests of GRU by establishing conditions precedent or
 205 administrative requirements before or after the effective date
 206 of this article.

207 (2) No member of the Authority shall be individually
 208 responsible for Authority debts.

209 7.10 Powers and duties.-

210 (1) Consistent with the provisions and effective date of
 211 this act, such previous applicable utilities-related ordinances,
 212 policies, rates, fees, rules, regulations, budgets, and other
 213 provisions previously adopted under the Charter of the City of
 214 Gainesville are hereby considered as adopted, reenacted, or
 215 assumed by the Authority for transition purposes until such time
 216 that the Authority shall make changes.

217 (2) The Authority's powers and duties shall be no less than
 218 those exercised by the city commission with respect to GRU as
 219 existed on January 1, 2015.

220 (3) The Authority is authorized to exercise the power of
 221 eminent domain, but for utilities purposes only.

222 (4) The Authority has the obligation to transfer a
 223 percentage of revenue to the city for the city's general fund
 224 use. The total amount of such annual transfer shall be

225 determined by the city commission. Such transfer shall not
 226 exceed nine percent of the total operating revenue of GRU, set
 227 annually. Said transfer shall be placed on each monthly bill on
 228 a line item identified as "Transfer set by City Commission".
 229 GRU shall continue to pass on the city transfer on a monthly
 230 basis. No additional funds shall be transferred to the city's
 231 general fund from the utility.

232 (5) The Authority shall not enact rules relating to the
 233 disposal or sale of any GRU property that are less restrictive
 234 than the rules applicable to the city commission as were in
 235 effect on January 1, 2015.

236 (6) No franchise, right-of-way, license, permit, tax, or
 237 usage fee shall be levied upon the Authority or its utilities by
 238 the city or by the county unless provided by general Florida
 239 law, and no unreasonable franchise, right-of-way, license,
 240 permit, tax, or usage fee shall be levied upon the Authority or
 241 its utilities that amount to an unreasonable burden.

242 (7) All existing City of Gainesville authority, laws,
 243 ordinances, resolutions, and administrative regulations,
 244 interpretations, franchises, and controls directly and
 245 indirectly affecting and controlling said utilities are hereby
 246 conveyed to and exclusively vested within said commission and
 247 its respective governance and authority as contained herein.
 248 All rights, claims, actions, orders, and legal or administrative
 249 proceedings involving the Authority immediately prior to the

250 effective date of this act shall continue, except as modified by
 251 the Authority pursuant to the provisions of and authority
 252 granted by this act.

253 (8) The Authority shall ensure the development of an
 254 ethics policy and a code of business conduct policy consistent
 255 with best practices for municipal utilities, which shall be
 256 reviewed at least biennially.

257 (9) The rights or privileges, if any, of persons who were
 258 GRU employees immediately before the effective date of this act
 259 are not affected or impaired.

260 Section 3. (1) SEVERABILITY.—Headings and sections of
 261 this act are not intended to be construed, limiting, or
 262 interpreted in isolation from each other. If any word, phrase,
 263 clause, paragraph, section, or provision of this act or the
 264 application hereof to any person or circumstance is held invalid
 265 or unconstitutional, such finding shall not affect the other
 266 provisions or applications of this act which can be given effect
 267 without the invalid or unconstitutional provisions or
 268 application, and to this end the provisions of this act are
 269 declared severable.

270 (2) TRANSITION.—In order to provide for the transitional
 271 administrative needs and orderly compliance with the provisions
 272 in this act, upon the effective date of this act, utility
 273 commission functions as described in section 7.08(5) are
 274 authorized and shall continue until amended or repealed by the

275 Authority. The chairperson or designee is authorized upon
 276 appointment by the Authority, to execute documents required for
 277 the transition as may be appropriate or otherwise determined by
 278 the Authority and to provide required direction and
 279 administration of utilities functions for up to 60 calendar days
 280 during such time as the selection of the CEO/GM is in process as
 281 provided in section 7.06 of the Charter.

282 (3) CONFLICT WITH LAWS.—all laws or parts of laws in
 283 conflict with this act are repealed. City of Gainesville and
 284 Alachua County Charter provisions, ordinances, resolutions,
 285 decrees, or parts thereof, in conflict herewith are to the
 286 extent of such conflict hereby also repealed.

287 Section 4. The referendum question shall be posed as
 288 follows:

289 Shall the Charter of the City of Gainesville be amended by
 290 creating the Gainesville Regional Authority to be the governing
 291 board of Gainesville Regional Utilities?

292 Yes

293 No

294 Section 5. This act shall take effect only upon its
 295 approval by a majority vote of those qualified electors of the
 296 City of Gainesville voting in a referendum to be held in
 297 conjunction with the next presidential preference primary
 298 election to be held in Alachua County, except that this section
 299 and section 4 shall take effect upon becoming a law.