

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

HB 759

2017

1 A bill to be entitled
2 An act relating to the City of Gainesville, Alachua
3 County; amending ch. 12760, Laws of Florida (1927), as
4 amended by ch. 90-394, Laws of Florida, relating to
5 the city's charter; repealing section 3.06 of the
6 city's charter, relating to the appointment,
7 qualifications, powers, and duties of the general
8 manager for utilities of Gainesville Regional
9 Utilities; creating the Gainesville Regional Utilities
10 Authority and establishing it as the governing board
11 of Gainesville Regional Utilities; providing
12 definitions; specifying the powers and duties of the
13 authority; specifying the composition of the authority
14 and the selection and removal, terms, compensation,
15 organization, and liability of its members; specifying
16 certain management and personnel for the authority;
17 specifying applicability to certain city ordinances,
18 policies, rates, fees, assessments, charges, rules,
19 regulations, budgets, and contracts; requiring the
20 authority to develop and review an ethics policy and
21 code of conduct; providing a ballot statement;
22 requiring a referendum; providing an effective date.

24 Be It Enacted by the Legislature of the State of Florida:
25

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 Section 3.06 of Article III of section 1 of chapter 90-394, Laws of Florida, is repealed.

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

ARTICLE VII GAINESVILLE REGIONAL UTILITIES AUTHORITY

7.01 Establishment.—There is created a regional utilities authority to be known as the "Gainesville Regional Utilities Authority." Gainesville Regional Utilities shall be governed by the authority upon installation of the authority's members pursuant to this article. The authority shall operate as a unit of city government and, except as otherwise provided in this article, shall be free from direction and control of the Gainesville City Commission. The authority is created for the express purpose of managing, operating, controlling, and otherwise having broad authority with respect to the utilities owned by the City of Gainesville.

7.02 Definitions.—For the purposes of this article, unless otherwise designated or the context otherwise requires, the following terms have the following meanings:

(1) "Authority" means the Gainesville Regional Utilities Authority created in this article.

(2) "City" means the City of Gainesville.

51 (3) "City commission" means the Gainesville City
52 Commission.

53 (4) "County" means Alachua County.

54 (5) "Customer" means a person or entity that makes
55 application for and is supplied with service by GRU for its
56 ultimate use.

57 (6) "GRU" means Gainesville Regional Utilities.

58 (7) "Member" means a member of the authority.

59 (8) "Utilities" means the electric utility system, water
60 utility system, wastewater utility system, reuse water utility
61 system, natural gas utility system, communications utility
62 system, and such other utility systems as may be acquired by GRU
63 in the future.

64 7.03 Powers and duties.--

65 (1) The authority shall have all of the following powers
66 and duties, in addition to the powers and duties otherwise
67 conferred by this article:

68 (a) To manage, operate, and control the utilities and to
69 do all things necessary to effectuate an orderly transition of
70 the management, operation, and control of the utilities from the
71 city to the authority, consistent with this article.

72 (b) To establish and amend the rates, fees, assessments,
73 charges, rules, regulations, and policies governing the sale and
74 use of services provided through the utilities.

75 (c) To acquire real or personal property and to construct

76 such projects as necessary to operate, maintain, enlarge,
77 extend, preserve, and promote the utility systems in a manner
78 that will ensure the economic, responsible, safe, and efficient
79 provision of utility services, provided that title to all such
80 property is vested in the city.

81 (d) To exercise the power of eminent domain pursuant to
82 part IV of chapter 166, Florida Statutes, and to use utility
83 funds to appropriate or acquire property, excluding federal or
84 state property, for the purpose of obtaining, constructing, and
85 maintaining utility facilities, provided that title to all such
86 property is vested in the city.

87 (e) To issue revenue bonds, upon resolution of the
88 authority establishing the form, terms, and purpose of such
89 bonds, for the purpose of financing or refinancing utility
90 system projects, and to exercise all powers in connection with
91 the authorization, issuance, and sale of such bonds as conferred
92 upon municipalities by part II of chapter 166, Florida Statutes,
93 provided that such bonds may be validated in accordance with
94 chapter 75, Florida Statutes. The authority may not issue
95 general obligation bonds.

96 (f) To dispose of utility system assets only to the extent
97 and under the conditions that the city commission may dispose of
98 such assets pursuant to section 5.04 of Article V.

99 (g) To prepare and submit to the city commission, at least
100 3 months before the start of the city's fiscal year, an annual

101 budget for all authority and GRU operations, including the
102 amount of any transfer to the city. The term of the budget shall
103 coincide with the city's fiscal year. Absent prior approval of
104 the city commission, the authority's budget may not reduce the
105 amount of any transfer to the city by more than 3 percent from
106 the previous fiscal year.

107 (h) To appoint and remove a chief executive
108 officer/general manager as provided in this article.

109 (i) To recommend, by resolution to the city commission,
110 the acquisition and operation of a utility system not owned or
111 operated by GRU as of the date of transfer of governing
112 authority to the authority.

113 7.04 Authority members.—

114 (1) There shall be five members of the authority appointed
115 by a simple majority vote of the city commission. Each member
116 shall be a person of recognized ability and good business
117 judgment, as identified by the city commission, who is expected
118 to perform his or her official duties in the best interests of
119 GRU and its customers. Appointments shall be made as follows:

120 (a) One member shall be a residential customer with
121 substantial knowledge of GRU, its operations, and its history.

122 (b) One member shall be a private, nongovernment customer
123 consuming at least 10,000 kilowatt hours per month of electric
124 usage during each of the previous 12 months. If the customer is
125 an entity, this member may be the owner or representative of

126 such customer.

127 (c) Three members shall be competent and knowledgeable in
128 one or more specific fields substantially related to the duties
129 and functions of the authority, including, but not limited to,
130 law, economics, accounting, engineering, finance, or energy.

131 (2) All members of the authority shall:

132 (a) Maintain primary residence within the electric service
133 territory of GRU's electric utility system.

134 (b) Be a customer of GRU electric utility system at all
135 times during the term of appointment.

136 (c) Not have been convicted of a felony as defined by
137 general law.

138 (d) Be a qualified elector of the city, except that a
139 minimum of one member must be a resident of the unincorporated
140 area of the county or a municipality in the county other than
141 the City of Gainesville.

142 (3) The composition of the authority shall be adjusted
143 upon expiration of any member's term, or upon any authority
144 vacancy, to reflect the ratio of total electric meters serving
145 GRU electric customers outside the city's jurisdictional
146 boundaries to total electric meters serving all GRU electric
147 customers. For example, upon expiration of a member's term or
148 upon an authority vacancy, if the ratio of total electric meters
149 serving customers outside the city boundaries to total electric
150 meters serving all electric customers reaches 40 percent, the

151 city commission must appoint a second member from outside the
152 city boundaries to serve the next term that would otherwise be
153 served by a qualified elector of the city. Conversely, upon
154 expiration of any member's term or upon any authority vacancy,
155 if the ratio subsequently falls below 40 percent, the city
156 commission must appoint a qualified elector of the city to serve
157 the next term that otherwise would have been served by a
158 resident from outside the city boundaries.

159 (4) Until January 1, 2022, a current or former elected
160 official of the city or county having held office after January
161 1, 2000, may not become a member, except that a member initially
162 appointed to the authority may be considered for subsequent
163 reappointment if such individual remains otherwise qualified and
164 chooses to be considered for reappointment.

165 (5) A member who is appointed for three full consecutive
166 4-year terms may not succeed herself or himself.

167 7.05 Member terms.—

168 (1) The city commission shall appoint initial members to
169 the authority within 120 calendar days after the approval at
170 referendum of the creation of this article. The initial terms of
171 office for the five members shall commence at 12 a.m. on October
172 1, 2018. The terms of the initial appointments shall be as
173 follows: one member shall be designated to serve until 12 a.m.
174 October 1, 2019; one member shall be designated to serve until
175 12 a.m. October 1, 2020; one member shall be designated to serve

176 until 12 a.m. October 1, 2021; and two members shall be
177 designated to serve until 12 a.m. October 1, 2022. Members
178 appointed for subsequent terms shall be appointed for 4-year
179 terms commencing at 12 a.m. on October 1 of the year in which
180 they are appointed. If a member is appointed to complete an
181 unexpired term, the member's term shall commence at the time of
182 appointment and shall continue through the remainder of the
183 unexpired term.

184 (2) The city commission shall fill any vacancy for the
185 unexpired portion of a term within 60 days after the vacancy
186 occurs if the remainder of the term exceeds 90 days.

187 7.06 Member compensation.—Members of the authority shall
188 serve without compensation but may receive reimbursement for per
189 diem and travel expenses incurred in the performance of their
190 duties, as provided in s. 112.061, Florida Statutes.

191 7.07 Authority; oath; organization; and meeting.—

192 (1) The authority shall initially meet at the chambers of
193 the city commission at 6 p.m. on Wednesday, October 4, 2018.

194 (2) Before taking office for any term, each member shall
195 be given an oath or affirmation by the mayor or his or her
196 designee similar to the oath or affirmation required of a member
197 of the city commission.

198 (3) The first official action of the authority shall be
199 election of a chairperson and a vice chairperson from among its
200 membership.

201 (4) The authority shall meet at least once each month,
202 except in case of unforeseen circumstances. All meetings of the
203 authority shall be noticed and open to the public, and minutes
204 shall be kept as required by law, except that meetings related
205 to settlement of then existing litigation may be held as allowed
206 by law.

207 (5) The GRU general manager or his or her designee shall
208 be responsible for making arrangements for and providing
209 adequate notice of the initial meeting of the authority.

210 7.08 Removal and suspension of members.-

211 (1) A member may be removed or suspended from office by
212 the city commission in accordance with s. 112.501, Florida
213 Statutes. In addition to the grounds for removal set forth
214 therein, a member may be removed by the city commission for
215 failure to maintain the qualifications specified in section
216 7.04.

217 (2) The authority may recommend to the city commission
218 that a member be removed or suspended from office if it finds,
219 by vote of at least three members, a reasonable basis for
220 removal or suspension on one or more of the grounds set forth in
221 s. 112.501, Florida Statutes, or for failure to maintain the
222 qualifications specified in section 7.04. The authority shall
223 give reasonable notice of any proceeding in which such action is
224 proposed and must provide the member against whom such action is
225 proposed a written statement of the basis for the proposed

226 action and an opportunity to be heard. The member against whom
227 such action is proposed may not participate in the authority's
228 debate or vote on the matter.

229 7.09 Management and personnel.—

230 (1) A chief executive officer/general manager (CEO/GM)
231 shall direct and administer all utility functions, subject to
232 the rules and resolutions of the authority. The CEO/GM shall
233 serve at the pleasure of the authority. Appointment or removal
234 of the CEO/GM shall be by majority vote of the authority. Until
235 the authority appoints a CEO/GM, the sitting general manager of
236 GRU shall serve as the CEO/GM. A sitting member of the authority
237 may not be selected as the CEO/GM.

238 (2) All officers and employees of the city who serve under
239 the supervision and direction of the sitting general manager of
240 GRU shall serve under the CEO/GM. The CEO/GM shall have the
241 exclusive authority to hire, transfer, promote, discipline, or
242 terminate employees under his or her supervision and direction.

243 (3) The authority shall fix the salary of the CEO/GM, and
244 the CEO/GM shall fix the salaries of all other employees who
245 serve under his or her direction consistent with the annual
246 budget approved by the authority. The sitting general manager of
247 GRU, as well as all officers and employees of the city who, by
248 virtue of this article, become subject to the supervision and
249 direction of the CEO/GM, shall continue without any loss of
250 rights or benefits as employees under the pension plans and

251 civil service merit system of the city existing as of the
252 creation of the authority.

253 7.10 General provisions.—

254 (1) The city and the authority shall perform all acts
255 necessary and proper to effectuate an orderly transition of the
256 governance, operation, management, and control of the utilities
257 to the authority, including, but not limited to, the creation of
258 such instruments as are necessary for the authority to function
259 in accordance with this article.

260 (2) All city ordinances, policies, rates, fees,
261 assessments, charges, rules, regulations, and budgets related to
262 operation of the utilities shall remain in effect until the
263 authority, pursuant to the powers granted in this article,
264 modifies any such item. If any city charter provision,
265 ordinance, resolution, decree, or any part thereof conflicts
266 with the provisions of this article, the provisions of this
267 article shall govern. This subsection is not intended to and may
268 not interfere with existing contractual arrangements between the
269 city and county, regardless of whether such arrangements are
270 reflected in charter provisions, ordinances, resolutions,
271 decrees, or any part thereof.

272 (3) All rights, responsibilities, claims, and actions
273 involving GRU as of the transfer to the authority shall
274 continue, except as may be modified by the authority under the
275 powers granted by this article and consistent with law.

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(4) A franchise, right-of-way, license, permit, or usage fee or tax may not be levied by the city upon the authority or the utilities unless allowed by general law.

(5) Any utility advisory board created by the city commission has no role with respect to the authority.

(6) A member of the authority is not individually responsible for authority debts or liabilities.

(7) The authority shall develop an ethics policy and a code of business conduct that shall be reviewed at least biennially.

Section 3. In order to provide for the transitional administrative needs and orderly compliance with the provisions of this act, the chairperson of the authority or his or her designee is authorized to execute documents required for the transition.

Section 4. Referendum.—At the special referendum election called pursuant to this act, the ballot question shall read as follows:

"Shall the Charter of the City of Gainesville be amended by creating the Gainesville Regional Utilities Authority as the governing board of Gainesville Regional Utilities and appointed by the City Commission of the City of Gainesville?"

Yes....

No....

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301 Section 5. This act shall take effect only upon its
302 approval by a majority vote of those qualified electors of the
303 City of Gainesville voting in a referendum to be held in March
304 2018 in conjunction with the citywide election to be held in the
305 City of Gainesville, except that this section and section 4
306 shall take effect upon becoming a law.