

Item #160911

4/5/17

By Senator Perry

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1 A bill to be entitled  
2 An act relating to the City of Gainesville, Alachua  
3 County; repealing section 3.06 of the city's charter,  
4 relating to the appointment, qualifications, powers,  
5 and duties of the general manager for utilities of  
6 Gainesville Regional Utilities; amending chapter  
7 12760, Laws of Florida (1927), as amended by chapter  
8 90-394, Laws of Florida, relating to the city's  
9 charter; 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, adopt, and review an ethics  
21 policy and code of conduct; providing a ballot  
22 statement; requiring a referendum; providing effective  
23 dates.

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

26  
27 Section 1. Section 3.06 of Article III of section 1 of  
28 chapter 90-394, Laws of Florida, is repealed.

29 Section 2. Article VII is added to chapter 12760, Laws of

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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.

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

(4) "County" means Alachua County.

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

(6) "GRU" means Gainesville Regional Utilities.

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

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

65       7.03 Powers and duties.—The authority shall have all of the  
66 following powers and duties, in addition to the powers and  
67 duties otherwise conferred by this article:

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

72       (2) 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       (3) 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       (4) 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       (5) To issue revenue bonds, upon resolution of the

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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 (6) 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 (7) 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 (8) To appoint and remove a chief executive officer/general  
108 manager as provided in this article.

109 (9) To recommend, by resolution to the city commission, the  
110 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

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judgment, as identified by the city commission, who is expected to perform his or her official duties in the best interests of GRU and its customers. Appointments shall be made as follows:

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

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

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

(2) All members of the authority shall:

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

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

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

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

(3) The composition of the authority shall be adjusted upon expiration of any member's term, or upon any authority vacancy, to reflect the ratio of total electric meters serving GRU electric customers outside the city's jurisdictional boundaries

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146 to total electric meters serving all GRU electric customers. For  
147 example, upon expiration of a member's term or upon an authority  
148 vacancy, if the ratio of total electric meters serving customers  
149 outside the city boundaries to total electric meters serving all  
150 electric customers reaches 40 percent, the city commission must  
151 appoint a second member from outside the city boundaries to  
152 serve the next term that would otherwise be served by a  
153 qualified elector of the city. Conversely, upon expiration of  
154 any member's term or upon any authority vacancy, if the ratio  
155 subsequently falls below 40 percent, the city commission must  
156 appoint a qualified elector of the city to serve the next term  
157 that otherwise would have been served by a resident from outside  
158 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 4-  
166 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

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12 a.m. October 1, 2020; one member shall be designated to serve until 12 a.m. October 1, 2021; and two members shall be designated to serve until 12 a.m. October 1, 2022. Members appointed for subsequent terms shall be appointed for 4-year terms commencing at 12 a.m. on October 1 of the year in which they are appointed. If a member is appointed to complete an unexpired term, the member's term shall commence at the time of appointment and shall continue through the remainder of the unexpired term.

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

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

7.07 Authority; oath; organization; and meeting.—

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

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

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

(4) The authority shall meet at least once each month, except in case of unforeseen circumstances. All meetings of the authority shall be noticed and open to the public, and minutes shall be kept as required by law, except that meetings related

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to settlement of then existing litigation may be held as allowed  
by law.

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

7.08 Removal and suspension of members.—

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

(2) The authority may recommend to the city commission that  
a member be removed or suspended from office if it finds, by  
vote of at least three members, a reasonable basis for removal  
or suspension on one or more of the grounds set forth in s.  
112.501, Florida Statutes, or for failure to maintain the  
qualifications specified in section 7.04. The authority shall  
give reasonable notice of any proceeding in which such action is  
proposed and must provide the member against whom such action is  
proposed a written statement of the basis for the proposed  
action and an opportunity to be heard. The member against whom  
such action is proposed may not participate in the authority's  
debate or vote on the matter.

7.09 Management and personnel.—

(1) A chief executive officer/general manager (CEO/GM)  
shall direct and administer all utility functions, subject to  
the rules and resolutions of the authority. The CEO/GM shall  
serve at the pleasure of the authority. Appointment or removal  
of the CEO/GM shall be by majority vote of the authority. Until



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the authority appoints a CEO/GM, the sitting general manager of GRU shall serve as the CEO/GM. A sitting member of the authority may not be selected as the CEO/GM.

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

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

7.10 General provisions.—

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

(2) All city ordinances, policies, rates, fees, assessments, charges, rules, regulations, and budgets related to the operation of the utilities shall remain in effect until modified by the authority, pursuant to the powers granted in

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262 this article. If any city charter, ordinance, resolution, or  
263 decree, or any provision thereof, conflicts with this article,  
264 the provisions of this article shall govern; however, this  
265 subsection does not supersede existing contractual arrangements  
266 between the city and county, regardless of whether such  
267 arrangements are specified in any city charter, ordinance,  
268 resolution, or decree, or any provision thereof.

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

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

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

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

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

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

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

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

295 Yes....

296 No....

297 Section 5. This act shall take effect only upon its  
298 approval by a majority vote of those qualified electors of the  
299 City of Gainesville voting in a referendum to be held in March  
300 2018, in conjunction with the citywide election to be held in  
301 the City of Gainesville, except that this section and section 4  
302 of this act shall take effect upon becoming a law.