

CS/CS/HB 1355 (2016) - Gainesville Regional Utilities, Alachua County

Local Bill by Regulatory Affairs Committee and Local Government Affairs Subcommittee and Perry

Gainesville Regional Utilities, Alachua County: Creates Gainesville Regional Utilities Authority; requires referendum.

Effective Date: upon becoming a law

Event: Vetoed by Governor 03/25/2016 - 2:30 PM

Last Event: Veto Message transmitted to Secretary of State on Thursday, June 1, 2017 10:49 AM

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 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 relating to the city's charter; repealing section 3.06
 6 of the charter, relating to the general manager for
 7 utilities of Gainesville Regional Utilities; creating
 8 the Gainesville Regional Utilities Authority and
 9 establishing it as the governing board of Gainesville
 10 Regional Utilities; providing definitions; providing a
 11 ballot statement; requiring a referendum; providing an
 12 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 17 chapter 90-394, Laws of Florida, is repealed.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 created a regional utilities
 25 authority to be known as the "Gainesville Regional Utilities
 26 Authority" ("authority"). Gainesville Regional Utilities shall

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27 be governed by the authority upon installation of the
 28 authority's members pursuant to this article. The authority
 29 shall operate as a unit of city government and, except as
 30 otherwise provided in this article, shall be free from direction
 31 and control of the Gainesville City Commission. The authority is
 32 created for the express purpose of managing, operating,
 33 controlling, and otherwise having broad authority with respect
 34 to the utilities owned by the City of Gainesville.

35 7.02 Definitions.—For the purposes of this article, unless
 36 otherwise designated, or the context otherwise requires, the
 37 following terms have the following meanings:

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

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

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

43 (4) "County" means Alachua County.

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

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

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

49 (8) "Utilities" means the electric utility system, water
 50 utility system, wastewater utility system, reuse water utility
 51 system, natural gas utility system, communications utility

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52 system, and such other utility systems as may be acquired by GRU
 53 in the future.

54 7.03 Powers and duties.-

55 (1) The authority shall have the following powers and
 56 duties, in addition to the powers and duties otherwise conferred
 57 by this article:

58 (a) To manage, operate, and control the utilities, and to
 59 do all things necessary to effectuate an orderly transition of
 60 the management, operation, and control of the utilities from the
 61 city to the authority, consistent with this article;

62 (b) To establish and amend the rates, fees, assessments,
 63 charges, rules, regulations, and policies governing the sale and
 64 use of services provided through the utilities;

65 (c) To acquire real or personal property and to construct
 66 such projects as necessary to operate, maintain, enlarge,
 67 extend, preserve, and promote the utility systems in a manner
 68 that will ensure the economic, responsible, safe, and efficient
 69 provision of utility services, provided that title to all such
 70 property is vested in the city.

71 (d) To exercise the power of eminent domain pursuant to
 72 chapter 166, Florida Statutes, and to use utility funds to
 73 appropriate or acquire property, excluding federal or state
 74 property, for the purpose of obtaining, constructing, and
 75 maintaining utility facilities, provided that title to all such
 76 property is vested in the city.

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77 (e) To issue revenue bonds, upon resolution of the
78 authority establishing the form, terms, and purpose of such
79 bonds, for the purpose of financing or refinancing utility
80 system projects, and to exercise all powers in connection with
81 the authorization, issuance, and sale of such bonds as conferred
82 upon municipalities by part II of chapter 166, Florida Statutes,
83 provided that such bonds may be validated in accordance with
84 chapter 75, Florida Statutes. The authority may not issue
85 general obligation bonds.

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

89 (g) To prepare and submit to the city commission, at least
90 3 months before the start of the city's fiscal year, an annual
91 budget for all authority and GRU operations, including the
92 amount of any transfer to the city. The term of the budget shall
93 coincide with the city's fiscal year. Absent prior approval of
94 the city commission, the authority's budget may not reduce the
95 amount of any transfer to the city by more than 3 percent from
96 the previous fiscal year.

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

99 (i) To recommend, by resolution to the city commission,
100 the acquisition and operation of a utility system not owned or
101 operated by GRU as of the date of transfer of governing
102 authority to the authority.

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103 7.04 Authority members.-
 104 (1) There shall be five members of the authority appointed
 105 by a simple majority vote of the city commission. Each member
 106 shall be a person of recognized ability and good business
 107 judgment as identified by the city commission who is expected to
 108 perform his or her official duties in the best interests of GRU
 109 and its customers. Appointments shall be made as follows:
 110 (a) One member shall be a residential customer with
 111 substantial knowledge of GRU, its operations, and its history.
 112 (b) One member shall be a private, nongovernment customer
 113 consuming at least 10,000 kilowatt hours per month of electric
 114 usage during each of the previous 12 months. This member may be
 115 the owner or representative of the customer.
 116 (c) Three members shall be competent and knowledgeable in
 117 one or more specific fields substantially related to the duties
 118 and functions of the authority, including, but not limited to,
 119 law, economics, accounting, engineering, finance, or energy.
 120 (2) All members of the authority shall:
 121 (a) Maintain primary residence within the electric service
 122 territory of GRU's electric utility system.
 123 (b) Receive GRU electric utility system service at all
 124 times during the term of appointment.
 125 (c) Not have been convicted of a felony as defined by
 126 general law.
 127 (d) Be a qualified elector of the city, except that a
 128 minimum of one member must be a resident of the unincorporated

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129 area of the county or a municipality in the county other than
 130 the City of Gainesville.

131 (3) The composition of the authority shall be adjusted
 132 upon expiration of any member's term, or upon any authority
 133 vacancy, to reflect the ratio of total electric meters serving
 134 GRU electric customers outside the city's jurisdictional
 135 boundaries to total electric meters serving all GRU electric
 136 customers. For example, upon expiration of a member's term or
 137 upon an authority vacancy, if the ratio of total electric meters
 138 serving customers outside the city boundaries to total electric
 139 meters serving all electric customers reaches 40 percent, the
 140 city commission must appoint a second member from outside the
 141 city boundaries to serve the next term that would otherwise be
 142 served by a qualified elector of the city. Conversely, upon
 143 expiration of any member's term or upon any authority vacancy,
 144 if the ratio subsequently falls below 40 percent, the city
 145 commission must appoint a qualified elector of the city to serve
 146 the next term that otherwise would have been served by a
 147 resident from outside the city boundaries.

148 (4) Until January 1, 2022, no current or previous elected
 149 official of the city or county having held office after January
 150 1, 2000, may become a member, except that a member initially
 151 appointed to the authority may be considered for subsequent
 152 reappointment if such individual remains otherwise qualified and
 153 chooses to be considered for reappointment.

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154 (5) A member who is appointed for three full consecutive
 155 4-year terms may not succeed herself or himself.

156 7.05 Member terms.—

157 (1) The city commission shall make initial authority
 158 member appointments within 120 calendar days after the approval
 159 at referendum of the creation of this article. The initial terms
 160 of office for the five members shall commence at 12 a.m. on
 161 October 1, 2017. The terms of the initial appointments shall be
 162 as follows: one member shall be designated to serve until 12
 163 a.m. October 1, 2018; one member shall be designated to serve
 164 until 12 a.m. October 1, 2019; one member shall be designated to
 165 serve until 12 a.m. October 1, 2020; and two members shall be
 166 designated to serve until 12 a.m. October 1, 2021. Members
 167 appointed for subsequent terms shall be appointed for 4-year
 168 terms commencing at 12 a.m. on October 1 of the year in which
 169 they are appointed. If a member is appointed to complete an
 170 unexpired term, the member's term shall commence at the time of
 171 appointment and shall continue through the remainder of the
 172 unexpired term.

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

176 7.06 Member compensation.—Beginning October 1, 2017, each
 177 member shall be paid an annual salary of \$18,000, adjusted
 178 annually to reflect changes in the most recently released
 179 Consumer Price Index for All Urban Consumers as defined by the

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180 United States Department of Labor, Bureau of Labor Statistics.
 181 Necessary expenses of members incurred in carrying out and
 182 conducting the business of the authority shall be paid in
 183 accordance with authority policy and procedures, subject to the
 184 approval of a majority of the members of the authority. No
 185 supplemental benefits shall be provided for a member position.

186 7.07 Authority; oath; organization; and meeting.—

187 (1) The authority shall initially meet at the chambers of
 188 the city commission at 6 p.m. on Wednesday, October 4, 2017.

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

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

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

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

205 7.08 Removal and suspension of members.—

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

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

224 7.09 Management and personnel.—

225 (1) A chief executive officer/general manager (CEO/GM)
226 shall direct and administer all utility functions, subject to
227 the rules and resolutions of the authority. The CEO/GM shall
228 serve at the pleasure of the authority. Appointment or removal
229 of the CEO/GM shall be by majority vote of the authority. Until
230 such time as the authority appoints a CEO/GM, the sitting

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

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

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

248 7.10 General provisions.—

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

255 (2) All city ordinances, policies, rates, fees,
 256 assessments, charges, rules, regulations, and budgets related to

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257 operation of the utilities shall remain in effect until such
 258 time as the authority, pursuant to the powers granted in this
 259 article, modifies any such item. In the event that any city
 260 charter provision, ordinance, resolution, decree, or any part
 261 thereof conflicts with the provisions of this article, the
 262 provisions of this article shall govern. This subsection is not
 263 intended to and shall not interfere with existing contractual
 264 arrangements between the city and county, regardless of whether
 265 such arrangements are reflected in charter provisions,
 266 ordinances, resolutions, decrees, or any part thereof.

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

271 (4) No franchise, right-of-way, license, permit or usage
 272 fee or tax may be levied by the city upon the authority or the
 273 utilities unless allowed by general law.

274 (5) Any utility advisory board created by the city
 275 commission shall have no role with respect to the authority.

276 (6) No member of the authority shall be individually
 277 responsible for authority debts or liabilities.

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

281 Section 3. In order to provide for the transitional
 282 administrative needs and orderly compliance with the provisions

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283 of this act, the chairperson of the authority or his or her
 284 designee is authorized to execute documents required for the
 285 transition.

286 Section 4. The ballot statement shall read as follows:
 287 "Shall the Charter of the City of Gainesville be amended by
 288 creating the Gainesville Regional Utilities Authority as the
 289 governing board of Gainesville Regional Utilities and appointed
 290 by the City Commission of the City of Gainesville?"

291 Yes

292 No

293 Section 5. This act shall take effect only upon its
 294 approval by a majority vote of those qualified electors of the
 295 City of Gainesville voting in a referendum to be held in March
 296 2017, in conjunction with the citywide election to be held in
 297 the City of Gainesville, except that this section and section 4
 298 shall take effect upon becoming a law.