

**HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS****BILL #:** CS/HB 1645 City of Gainesville, Alachua County**SPONSOR(S):** State Affairs Committee, Clemons**TIED BILLS:** **IDEN./SIM. BILLS:**

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**FINAL HOUSE FLOOR ACTION:** 81 Y's 33 N's **GOVERNOR'S ACTION:** Pending

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**SUMMARY ANALYSIS**

CS/HB 1645 passed the House on April 27, 2023, and subsequently passed the Senate on May 4, 2023.

Established in 1912, the Gainesville Regional Utilities (GRU) is a municipal utility system providing electric, natural gas, water, wastewater, and telecommunications services to approximately 93,000 customers in the City of Gainesville (City) and surrounding areas. GRU is governed by the City commission, who appoints a general manager to manage the day-to-day operation of the utility.

The bill amends the City charter to establish the Gainesville Regional Utilities Authority (Authority) to govern GRU. The bill details the Authority's governance and leadership structure, as well as duties and powers. In summary, the bill:

- Establishes the Authority as a unit of city government, free from the direction and control of the City commission and City charter officers, for the purpose of governing the utilities operated by GRU.
- Establishes the powers and duties of the Authority.
- Provides that the Authority will consist of five members appointed by the Governor, to include at least one member from outside the City boundaries, serving four-year terms.
- Sets qualification requirements for Authority members and provides for a citizen nomination solicitation process.
- Provides that an Authority member may be removed or suspended by the Governor for cause under general law.
- Provides for the continued service of GRU personnel under the chief executive officer/general manager (CEO/GM).
- Requires the performance of all acts necessary to ensure an orderly transition of GRU governance to the Authority.
- Limits transfers from the utility fund to the City to the aggregate of utility system net revenues less the flow of funds and requires any remaining funds after the transfer to be dedicated to additional debt service or used as equity for future capital projects.
- Requires the Authority and CEO/GM to make all policy and operational decisions for the utility based only on pecuniary factors and utility industry best practices.
- Repeals section 3.06 of the current City charter relating to the general manager for utilities.

According to the Economic Impact Statement filed with the bill, the bill is not expected to have a fiscal impact.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2023.

A. EFFECT OF CHANGES:

**Present Situation**

Municipal Utilities

Pursuant to s. 2(b), Art. VIII of the State Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services. Municipalities may exercise any power for municipal purposes, except when expressly prohibited by law.<sup>1</sup> The legislative body of each municipality has the power to enact legislation on any subject upon which the Legislature may act with certain exceptions.<sup>2</sup> Under their home rule power and as otherwise provided or limited by law or agreement, municipalities may provide utilities to citizens and entities within the municipality's corporate boundaries, in unincorporated areas, and even in other municipalities.

Many municipalities own and operate electric utilities and natural gas utilities and govern the operation of those utilities through ordinance, code, or policies. Currently, there are 33 municipal electric utilities in the state.<sup>3</sup> Municipal electric and natural gas utility rates are not directly regulated by the Public Service Commission (PSC), however, the PSC does have jurisdiction over municipal electric utilities for matters related to rate structure, power plant transmission line site certification, general reporting jurisdiction, service territory and territory disputes, energy efficiency reporting, 10-year site plans, reporting on system hardening and resiliency, reporting on net metering, audits related to regulatory assessment fees, monitoring renewable energy, reporting on facilities inspection and vegetation management, and grid bill jurisdiction.<sup>4</sup>

Most municipal utility systems are governed by the municipality's governing body (i.e., the city commission). Six municipal electric utility systems in Florida are governed by separate utility boards, or "authorities," which are typically appointed by the municipality's governing body.<sup>5</sup> These utility authorities vary in structure, though the charter documents for each generally address the powers and duties of the authority (including terms related to rate-setting, financing, acquisitions, and eminent domain), the selection process for authority members (including qualifications and terms of office), the management and personnel of the authority, the transfer of revenues from utility operations to the municipality, and the degree of continuing oversight by the municipal governing body.

Current law authorizes municipalities to raise amounts of money necessary for the conduct of the municipal government. A municipality may do so by taxation and licenses authorized by Florida's constitution or general law, or by user charges or fees authorized by ordinance.<sup>6</sup> Municipalities routinely transfer a portion of their utility earnings to their general funds for non-utility purposes, though the amounts and percentages may vary widely among municipalities.<sup>7</sup> These transfers may be limited in some circumstances by ordinance, but they are not governed by state law.

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<sup>1</sup> Section 166.021(2), F.S., provides that any activity or power which may be exercised by the state or its political subdivisions is considered a municipal purpose.

<sup>2</sup> Pursuant to s. 166.021(3), F.S., a municipality may not enact legislation on the following: the subjects of annexation, merger, and exercise of extraterritorial power, which require general law or special law; any subject expressly prohibited by the constitution; any subject expressly preempted to state or county government by the constitution or by general law; and any subject preempted to a county pursuant to a county charter adopted under the authority of the State constitution.

<sup>3</sup> Presentation on *Florida Public Power*, Florida Municipal Electric Association (herein *Florida Public Power*), slide 2, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3226&Session=2023&DocumentType=Meeting+Packets&FileName=ecc+2-9-23.pdf> (last visited Apr. 13, 2023).

<sup>4</sup> *Id.* at slide 3.

<sup>5</sup> The Keys Energy Services Utility Board is the only utility authority in the state with elected board members. KeyWest has an elected board, with two of the five members from outside the city limits. *Florida Public Power*, slide 8.

<sup>6</sup> S. 166.201, F.S.

<sup>7</sup> *Florida Public Power*, slide 6.

*Extraterritorial Jurisdiction*

A municipality that operates a water or sewer utility outside of its municipal boundaries may impose higher rates, fees, and charges on consumers receiving service outside of its corporate boundaries as compared to the rates, fees, and charges imposed on consumers within its boundaries. The municipality can accomplish this in two ways:

- First, for consumers outside of its boundaries, it may add a surcharge of up to 25 percent of the rates, fees, and charges imposed on consumers within its boundaries. This mechanism does not require a public hearing.<sup>8</sup>
- Second, it may set separate rates, fees, and charges for consumers outside its boundaries based on the same factors used to set rates for consumers within its boundaries. It may add a surcharge of up to 25 percent of these charges, provided that the total of all such rates, fees, and charges for service to consumers outside its boundaries may not exceed the total charges to consumers within its boundaries by more than 50 percent for corresponding service. Rates set in this manner require a public hearing at which all users served or to be served by the water or sewer utilities and all other interested persons will have an opportunity to be heard concerning the proposed rates.<sup>9</sup>

Gainesville Regional Utilities

Gainesville Regional Utilities (GRU) was established in 1912 as a city-run electric utility.<sup>10</sup> It is the fifth largest municipal electric utility in Florida, serving approximately 93,000 retail and wholesale customers in the City of Gainesville (City) and surrounding areas.<sup>11</sup> GRU offers electric, natural gas, water, wastewater, and telecommunications services. An audit for Fiscal Year (FY) 2021-2022 states that GRU in September 2022 had \$1.9 billion in capital assets<sup>12</sup> and operating revenue of \$525 million.<sup>13</sup> GRU's residential electric utility rates in February 2023 were the highest in the state among municipal utility providers.<sup>14</sup>

The City's charter provides that the City commission appoints an at-will general manager for utilities who is responsible for the efficient administration of the utility system.<sup>15</sup> The City commission is comprised of seven members: four elected from single member districts, two elected at-large, and one who is elected as mayor.<sup>16</sup>

The charter sets forth the general manager's powers and duties, which provides that the general manager is:

- Responsible for and has exclusive management jurisdiction and control over operating and financial affairs of the utility system including, but not limited to, the planning, development, production, purchase, sale, exchange, interchange, transmission, and distribution of all electricity; the planning, development, purchase, sale, exchange, interchange, transmission, and distribution of all natural gas; the planning, development, supply, treatment, transmission,

<sup>8</sup> S. 180.191(1)(a), F.S.

<sup>9</sup> S. 180.191(1)(b), F.S.

<sup>10</sup> GRU, *Milestones*, <https://www.gru.com/100thAnniversary/Milestones.aspx> (last visited Apr. 13, 2023).

<sup>11</sup> GRU, *About GRU*, <https://www.gru.com/AboutGRU.aspx> (last visited Apr. 13, 2023).

<sup>12</sup> GRU, *Financial Statements and Independent Auditors' Report, Gainesville Regional Utilities, Gainesville, Florida, September 30, 2022 and 2021* (herein *Financial Statements and Independent Auditors' Report*), 8, available at [https://www.gru.com/Portals/0/2023%20Updates/Audited%20Financial%20Statements%20for%20the%20Year%20Ended%20September%2030,%202022\\_final.pdf](https://www.gru.com/Portals/0/2023%20Updates/Audited%20Financial%20Statements%20for%20the%20Year%20Ended%20September%2030,%202022_final.pdf) (last visited Apr. 13, 2023).

<sup>13</sup> *Financial Statements and Independent Auditors' Report* 14.

<sup>14</sup> Florida Municipal Electric Association, *Electric Bill Comparisons*, [https://assets.noviams.com/novi-file-uploads/fmea/Rates/2023/2023\\_february\\_rates.pdf](https://assets.noviams.com/novi-file-uploads/fmea/Rates/2023/2023_february_rates.pdf) (last visited Apr. 13, 2023).

<sup>15</sup> City of Gainesville Charter, Art. III, s. 3.06.

<sup>16</sup> City of Gainesville, *City Commission*, <https://www.gainesvillefl.gov/City-Commission> (last visited Apr. 13, 2023).

distribution and sale of all potable water; and the planning, development, collection, treatment, disposal and billing of all wastewater now or hereafter provided by the City;

- Required to submit to the City commission for its consideration a yearly budget for the operation of the utility system;
- The purchasing agent for all equipment, materials, supplies, and services necessary for operating and maintaining the utility system subject to policies promulgated by the City commission;
- Required to propose ordinances to designate the job titles of subordinates that are to be considered directors of departments;
- Required to appoint and, except as otherwise provided in the charter, remove all directors of departments at will;
- Required to recommend to the City commission all measures necessary and expedient for the proper governance and management of the utility system;
- Required to keep the City commission fully advised as to the management, governance, and needs of the utility system; and
- Required to perform all other duties prescribed by law, the charter, ordinance, or direction of the City commission.<sup>17</sup>

The charter also prohibits the City commission from disposing of, or agreeing to dispose of, in whole or part, the City's electrical or water production or distribution facilities so as to materially reduce the City's capacity to produce or distribute electrical energy or water, except by ordinance with the prior approval of a majority vote of the qualified electors of the City.<sup>18</sup>

Chapter 27 of the City's Code of Ordinances sets forth regulations pertaining to each municipal utility system.<sup>19</sup>

Prior to 2016, the City utilized an "Energy Advisory Committee" comprised of nine members appointed by the city commission. This committee had the following responsibilities: to serve as a communications channel between the City commission, utility staff, and the citizens of the City, in order to understand and solve the problems relating to energy; to promote public access to information on the City's facilities, services, policies, and programs concerning energy, and consider the future energy needs of the community with respect to the utilities as well as general government; to assist utility staff by suggesting and reviewing policies affecting programs and services that affect acquisition, delivery, or utilization of energy resources within the community; and to perform any other duties, which may be within the purview of the committee and which may be assigned by the City commission.<sup>20</sup> In addition, a "Regional Utilities Committee," comprised of three City commissioners and an ex-officio member representing Alachua County, had the responsibility to report to the City commission on GRU-related matters.<sup>21</sup>

In 2016, the City replaced the Energy Advisory Committee with a "Utility Advisory Board" (UAB) to serve as an advisor to the City commission on all policy and governance decisions regarding utility services.<sup>22</sup> The UAB is comprised of seven members and meets at least once a month. All members of the UAB must reside within GRU's service territory and receive utility service. A minimum of one member must reside outside of the City's boundaries. The membership is comprised of the following: a representative of a major business (defined as having 25 or more employees) that is a GRU commercial customer; a person with utility management experience; a person with investment banking, financial, or certified public accounting experience; a licensed attorney with business, contract, or corporate law experience; a person with engineering experience; and two persons with any

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<sup>17</sup> City of Gainesville Charter, Art. III, s. 3.06(2)(a)-(h).

<sup>18</sup> *Id.* at s. 5.04.

<sup>19</sup> City of Gainesville Code of Ordinances, ch. 27, art. I-VI.

<sup>20</sup> Navigant Consulting LLC, *Re: Independent Investigative Review of the Gainesville Regional Utilities (GRU)*, April 15, 2015, at 171-172.

<sup>21</sup> *Id.* at 171.

<sup>22</sup> City of Gainesville, Ordinance No. 140384, §2 (Nov. 19, 2015).

qualifications the City commission deems relevant or beneficial to service on the UAB. The UAB must make independent recommendations to the City commission and the general manager of GRU regarding all aspects of utility governance, including all items that the general manager intends to place on a City commission agenda.<sup>23</sup>

2013 Report by the Gainesville Area Chamber of Commerce and Council for Economic Outreach

In November 2013, the Gainesville Area Chamber of Commerce and Council for Economic Outreach submitted a report to the City.<sup>24</sup> The study was conducted by a 12-member Energy Study Group that produced a report providing four policy recommendations for the City “to help Gainesville remain a competitively advantaged community for sustainable economic development as it relates to overall energy costs.”<sup>25</sup> The fourth recommendation provided that the method of governance be changed to an appointed utility authority.<sup>26</sup> The report noted that JEA (formerly known as Jacksonville Electric Authority) was the largest municipal utility in Florida at that time<sup>27</sup> and it had a governance structure under which the board was appointed by the Mayor of Jacksonville, subject to confirmation by the Council.<sup>28</sup> The report also noted that the Orlando Utilities Commission board appointed its own members from a pool of candidates identified by a city nominating committee,<sup>29</sup> and that Lakeland Electric had a Commission/Customer Committee Hybrid.<sup>30</sup> The report also stated that the City of Tallahassee had a city commission governance model.<sup>31</sup> According to the report, Florida cities with an appointed utility authority “are more competitive than Gainesville in commercial and industrial customer class electricity costs,” noting that Jacksonville, Orlando, Kissimmee, Fort Pierce, and New Smyrna Beach each have an appointed utility authority and that “[c]ommercial and industrial customer class electricity costs in those cities are significantly lower than in Gainesville.”<sup>32</sup>

**Effect of the Bill**

The bill amends the City’s charter to establish the Gainesville Regional Utilities Authority (Authority) to govern GRU’s utility systems. The following chart summarizes the provisions of the charter amendment:

<b>ARTICLE VII - GAINESVILLE REGIONAL UTILITIES AUTHORITY</b>	
<b>7.01 Establishment</b>	
	<ul style="list-style-type: none"> <li>• Creates a regional utilities commission, named the “Gainesville Regional Utilities Authority.”</li> <li>• Provides that GRU will be governed by the Authority upon the installation of the Authority’s governing members pursuant to Article VII.</li> <li>• Provides that the Authority operates as a unit of City government, but is free from direction and control of the City commission and City charter officers.</li> <li>• Lists express purposes for the Authority, including “managing, operating, controlling, and otherwise having broad authority with respect to [GRU].”</li> </ul>
<b>7.02 Definitions</b>	
	<ul style="list-style-type: none"> <li>• Defines the following terms for the purpose of Article VII: “Authority,” “City,” “City Commission,” “County,” “Customer,” “Flow of Funds,” “GRU,” “Government Services Contribution,” “Member,” “Net Revenues,” “Service-Level Agreement,” and “Utilities.”</li> </ul>

<sup>23</sup> City of Gainesville, Code of Ordinances, ch. 2, art. V, div. 7.

<sup>24</sup> Gainesville Area Chamber of Commerce, *A Gainesville Solution: Energy Competitiveness Report*, November 2013, 41.

<sup>25</sup> *Id.* at 7.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 51.

<sup>28</sup> *Id.* at 50.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 7.

<b>7.03 Powers and duties</b>	
	<ul style="list-style-type: none"> <li>• Provides the following powers and duties of the Authority:                             <ul style="list-style-type: none"> <li>○ To manage, operate, and control the utilities and do all things necessary to effectuate an orderly transition.</li> <li>○ To establish and amend the rates, fees, assessments, charges, rules, regulations, and policies governing the sale and use of services provided through the utilities.</li> <li>○ To acquire real or personal property and to construct projects as necessary to operate, maintain, enlarge, extend, preserve, and promote the utility systems in a manner that will ensure the economic, responsible, safe, and efficient provision of utility services.</li> <li>○ To exercise the power of eminent domain pursuant to ch. 166, F.S., to acquire property for the purpose of obtaining, constructing, and maintaining utility facilities.</li> <li>○ To authorize the issuance of revenue bonds by resolution establishing the form, terms, and purpose of the bonds, for the purpose of financing or refinancing utility system projects; prohibit issuance of general obligation bonds; require bonds and other forms of indebtedness to be executed and attested by officers of the City designated by the Authority.</li> <li>○ To dispose of utility system assets only to the extent and under the conditions that the City commission may dispose of such assets pursuant to the City charter.</li> <li>○ To prepare and submit an annual budget to the City commission at least three months before the start of the City’s fiscal year, including the amount of any transfer to the City, which is subject to the limitations provided in section 7.11 of the City charter.</li> <li>○ To appoint and remove a chief executive officer/general manager (CEO/GM).</li> <li>○ To recommend, by resolution to the City commission, the acquisition of a new utility system.</li> </ul> </li> </ul>
<b>7.04 Authority members</b>	
7.04(1)	<ul style="list-style-type: none"> <li>• Provides for the appointment of five members by the Governor:                             <ul style="list-style-type: none"> <li>○ One member must be a residential customer with substantial knowledge of GRU, its operations, and its history.</li> <li>○ One member must be the owner or representative of a private, non-governmental customer consuming at least 10,000 kilowatt hours per month of electricity during the previous 12 months.</li> <li>○ Three members must be competent and knowledgeable in one or more specific fields including, but not limited to, law, economics, accounting, engineering, finance, or energy.</li> </ul> </li> </ul>
7.04(2)	<ul style="list-style-type: none"> <li>• Provides that members of the Authority must:                             <ul style="list-style-type: none"> <li>○ Maintain their primary residence within the electric service territory of GRU's electric utility system.</li> <li>○ Receive GRU electric utility system service at all times during the term of appointment;</li> <li>○ Have no felony conviction; and</li> <li>○ Be a qualified elector of the City, except that at least one member must be a resident of the unincorporated area of Alachua County or a municipality in the county other than the City of Gainesville.</li> </ul> </li> </ul>
7.04(3)	<ul style="list-style-type: none"> <li>• Provides that the composition of the Authority must be adjusted at the expiration of each member’s term to reflect the ratio of electric meters serving customers outside of the City boundaries to electric meters serving all customers (e.g., if 40 percent of GRU electric meters are serving customers outside of the City boundaries at the time of a vacancy, a second Authority member must be appointed from outside of the City boundaries).</li> </ul>
<b>7.05 Member terms</b>	

7.05(1)	<ul style="list-style-type: none"> <li>Requires the Governor to issue a public notice soliciting nominations for Authority members within 120 days of the effective date of the article.</li> <li>Requires a nomination solicitation period of at least 30 days after the date of the public notice.</li> </ul>
7.05(2)	<ul style="list-style-type: none"> <li>Requires the Governor to appoint initial members of the Authority within 60 days after the close of the nomination solicitation period for the following terms: <ul style="list-style-type: none"> <li>Initial member term starts at midnight on October 1, 2023.</li> <li>Staggered initial terms: one member each for a one-, two-, and three-year term, two members with four-year terms.</li> </ul> </li> </ul>
7.05(3)	<ul style="list-style-type: none"> <li>Requires subsequent Authority members to be selected from nominations solicited from the public for at least 30 days.</li> <li>Provides for four-year terms for subsequent appointments, taking effect at midnight on October 1 of the year in question.</li> <li>Provides that members appointed to complete an unexpired term must serve from the time of appointment until the end of the term.</li> </ul>
7.05(4)	<ul style="list-style-type: none"> <li>Requires the Governor to fill any vacancy for the unexpired portion of a term within 60 days after the vacancy becomes known, if more than 90 days remain.</li> </ul>
<b>7.06 Member compensation</b>	
	<ul style="list-style-type: none"> <li>Beginning October 1, 2023, provides that necessary expenses of members incurred in carrying out and conducting Authority business must be paid in accordance with Authority policy and procedures, subject to the approval of a majority of the Authority members.</li> <li>Provides that no supplemental benefits may be provided for a member position.</li> </ul>
<b>7.07 Authority, oath, organization, and meeting</b>	
7.07(1)	<ul style="list-style-type: none"> <li>Provides for an initial meeting to be held on October 4, 2023, at 6:00 p.m. at the chambers of the City commission.</li> </ul>
7.07(2)	<ul style="list-style-type: none"> <li>Requires each Authority member to take an oath or affirmation, given by the mayor or designee, similar to the oath or affirmation required of a member of the City commission.</li> </ul>
7.07(3)	<ul style="list-style-type: none"> <li>Specifies that the first official act of the Authority is electing a chair and a vice chair from among its membership.</li> </ul>
7.07(4)	<ul style="list-style-type: none"> <li>Requires the Authority to meet at least once each month, except in the case of unforeseen circumstances.</li> <li>Requires meetings to be noticed and open to the public.</li> <li>Requires minutes of each meeting be kept, except that meetings related to settlement of pending litigation may be held in accordance with law.</li> </ul>
7.07(5)	<ul style="list-style-type: none"> <li>Specifies that GRU's general manager (GM) or designee is responsible for making arrangements for and providing adequate notice for the initial meeting.</li> </ul>
<b>7.08 Removal and suspension of members</b>	
7.08(1)	<ul style="list-style-type: none"> <li>Provides that a member may be removed or suspended by the Governor in accordance with s. 112.501, F.S., or for failure to maintain the qualifications specified in section 7.04 of the charter.</li> </ul>
7.08(2)	<ul style="list-style-type: none"> <li>Provides that the Authority may recommend to the Governor that an Authority member be removed or suspended based on the grounds that the City commission may remove or suspend an official, and provides a process for the Authority to take such action (reasonable notice, written statement of the grounds, and an opportunity to be heard).</li> </ul>
<b>7.09 Management and Personnel</b>	
7.09(1)	<ul style="list-style-type: none"> <li>Makes the CEO/GM responsible for direction and administration of utility functions, subject to the rules and resolutions of the Authority.</li> <li>Provides that the CEO/GM serves at the pleasure of the Authority.</li> <li>Empowers the Authority to appoint or remove the CEO/GM by majority vote.</li> </ul>

	<ul style="list-style-type: none"> <li>Provides that the sitting GM of GRU, until appointment of a CEO/GM by the Authority, serves as the CEO/GM.<sup>33</sup></li> <li>Provides that a sitting member of the Authority may not be selected as the CEO/GM.</li> </ul>
7.09(2)	<ul style="list-style-type: none"> <li>Provides that all officers and employees of the City who serve under the supervision and direction of the sitting GM of GRU serve under the CEO/GM.</li> <li>Grants the CEO/GM exclusive authority to hire, transfer, promote, discipline, or terminate employees under his or her supervision and direction.</li> </ul>
7.09(3)	<ul style="list-style-type: none"> <li>Authorizes the Authority to fix the salary of the CEO/GM.</li> <li>Authorizes the CEO/GM to fix the salaries of all other employees under his or her direction, consistent with the Authority's approved budget.</li> <li>Provides that the sitting GM of GRU, and all other officers and employees of the City who become subject to the supervision and direction of the CEO/GM, must continue without any loss of rights or benefits under the pension plans and civil service merit system of the City.</li> </ul>
<b>7.10 General provisions</b>	
7.10(1)	<ul style="list-style-type: none"> <li>Requires the City and the Authority to perform all acts and create such instruments as are necessary and proper for an orderly transition of governance, operation, management, and control of all utility systems, properties, and assets held in possession of GRU as of January 1, 2023, to the Authority.</li> <li>Provides that, notwithstanding the change to the governance structure, the utility system will continue to be operated as a single enterprise and the new board does not constitute a change in ownership.</li> </ul>
7.10(2)	<ul style="list-style-type: none"> <li>Provides that all City ordinances, policies, rates, fees, assessments, charges, rules, regulations, and budgets related to operation of the utilities remain in effect until modified by the Authority.</li> <li>Provides that these charter amendment provisions govern in the event of a conflict with any City charter provision, ordinance, resolution, decree, or part thereof, provided that the resolution of any such conflict is not intended to interfere with existing contractual arrangements between the City and Alachua County.</li> </ul>
7.10(3)	<ul style="list-style-type: none"> <li>Provides that all rights, responsibilities, claims, and actions involving GRU as of the transfer to the Authority continue, except as may be modified by the Authority under its powers.</li> </ul>
7.10(4)	<ul style="list-style-type: none"> <li>Prohibits the City from levying on the Authority or the utilities a franchise, right-of-way, license, permit, or usage fee or tax, unless allowed to do so by general law.</li> </ul>
7.10(5)	<ul style="list-style-type: none"> <li>Provides that any utility advisory board created by the City commission does not have an advisory role as to the Authority.</li> </ul>
7.10(6)	<ul style="list-style-type: none"> <li>Provides that Authority members are not individually responsible for Authority debts or liabilities.</li> </ul>
7.10(7)	<ul style="list-style-type: none"> <li>Requires the Authority to develop an ethics policy and code of business conduct and review those policies at least biennially.</li> </ul>
7.10(8)	<ul style="list-style-type: none"> <li>In order to provide for the transitional administrative needs and orderly compliance with the provisions of the act, authorizes the chairperson or designee to execute documents required for the transition.</li> </ul>
<b>7.11 Limitation on Government Services Contribution</b>	
7.11(1)	<ul style="list-style-type: none"> <li>Limits the "government services contribution" (transfer of utility revenues to the City to use for general government purposes) to the aggregate of utility system net revenues (gross revenues minus fuel revenues) minus "flow of funds" (amount required for debt service, necessary operation and management</li> </ul>

<sup>33</sup> This language provides continuity in the period from July 1, 2023, to October 4, 2023, when the current GM position appointed by the City has been eliminated but the governing board of the Authority has not yet taken office.



	expenses, a “reasonable contribution” to the utility plan improvement fund, identified service-level agreement losses, and any other lawful purpose provided in bond covenants).
7.11(2)	<ul style="list-style-type: none"> <li>Requires any remaining funds after flow of funds and government services contribution to be dedicated to additional debt service or used as equity for future capital projects.</li> </ul>
<b>7.12 Limitation on Utility Directives</b>	
7.12	<ul style="list-style-type: none"> <li>Requires the Authority and CEO/GM to consider only pecuniary factors and utility industry best practices that solely further the fiscal and financial benefit of the utility system and its customers in making all policy and operational decisions.</li> </ul>

In addition, the bill repeals section 3.06 of article III of section 1 of the City’s charter.<sup>34</sup> This section authorizes the City commission to appoint a GM for utilities. Because the charter amendment makes the selection of the GM for GRU a power of the Authority, this section of the charter would become obsolete. As noted above, the bill creates section 7.09(1) of the charter, which provides that the current GM appointed by the City must be retained as the CEO/GM absent action by the Authority.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS

The Economic Impact Statement filed with the bill states that the bill is not expected to have a fiscal impact.

### E. NOTICE PUBLISHED? Yes No

IF YES, WHEN? March 9, 2023.

<sup>34</sup> Ch. 12760 (1927), Laws of Fla., as amended by ch. 90-394, s. 1, Laws of Fla.

WHERE?                    The *Gainesville Sun*, a newspaper published in Gainesville, Alachua County, Florida.

F. REFERENDUM(S) REQUIRED?    Yes     No

IF YES, WHEN?