

SB 1568 (2017) - City of Gainesville, Alachua County

Local Bill by Perry

City of Gainesville, Alachua County: Repealing section 3.06 of the city's charter, relating to the appointment, qualifications, powers, and duties of the general manager for utilities of Gainesville Regional Utilities; creating the Gainesville Regional Utilities Authority and establishing it as the governing board of Gainesville Regional Utilities; requiring a referendum, etc.

Effective Date: Only upon its approval by a majority vote of those qualified electors of the City of Gainesville voting in a referendum to be held in March 2018, in conjunction with the citywide election to be held in the City of Gainesville, except that this section and section 4 of this act shall take effect upon becoming a law

Last Event: 05/05/17 S Died in Communications, Energy, and Public Utilities, companion bill(s) passed, see CS/HB 759 (Ch. 2017-200) on Friday, May 5, 2017 11:59 PM

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28 chapter 90-394, Laws of Florida, is repealed.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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30 Florida (1927), as amended by chapter 90-394, Laws of Florida,
31 to read:

32
33 ARTICLE VII GAINESVILLE REGIONAL UTILITIES AUTHORITY

34
35 7.01 Establishment.—There is created a regional utilities
36 authority to be known as the "Gainesville Regional Utilities
37 Authority." Gainesville Regional Utilities shall be governed by
38 the authority upon installation of the authority's members
39 pursuant to this article. The authority shall operate as a unit
40 of city government and, except as otherwise provided in this
41 article, shall be free from direction and control of the
42 Gainesville City Commission. The authority is created for the
43 express purpose of managing, operating, controlling, and
44 otherwise having broad authority with respect to the utilities
45 owned by the City of Gainesville.

46 7.02 Definitions.—For the purposes of this article, unless
47 otherwise designated or the context otherwise requires, the
48 following terms have the following meanings:

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

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

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

54 (4) "County" means Alachua County.

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

58 (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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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 the GRU's electric utility system.

134 (b) Be a customer of the 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 upon
143 expiration of any member's term, or upon any authority vacancy,
144 to reflect the ratio of total electric meters serving GRU
145 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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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 be
195 given an oath or affirmation by the mayor or his or her designee
196 similar to the oath or affirmation required of a member of the
197 city commission.

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

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

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

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

209 7.08 Removal and suspension of members.—

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

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

227 7.09 Management and personnel.—

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

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

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

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

251 7.10 General provisions.-

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

258 (2) All city ordinances, policies, rates, fees,
259 assessments, charges, rules, regulations, and budgets related to
260 the operation of the utilities shall remain in effect until
261 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.