

CHAPTER 2017-200

Committee Substitute for House Bill No. 759

An act relating to the City of Gainesville, Alachua County; amending ch. 12760, Laws of Florida (1927), as amended by ch. 90-394, Laws of Florida, relating to the city's charter; 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; providing definitions; specifying the powers and duties of the authority; specifying the composition of the authority and the selection and removal, terms, compensation, organization, and liability of its members; specifying certain management and personnel for the authority; specifying applicability to certain city ordinances, policies, rates, fees, assessments, charges, rules, regulations, budgets, and contracts; requiring the authority to develop and review an ethics policy and code of conduct; providing a ballot statement; requiring a referendum; providing an effective date.

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

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 Section 3.06 of Article III of section 1 of chapter 90-394, Laws of Florida, is repealed.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

(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.

(7) “Member” means a member of the authority.

(8) “Utilities” means the electric utility system, water utility system, wastewater utility system, reuse water utility system, natural gas utility system, communications utility system, and such other utility systems as may be acquired by GRU in the future.

7.03 Powers and duties.—

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

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

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

(c) To acquire real or personal property and to construct such 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, provided that title to all such property is vested in the city.

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

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

(f) 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 section 5.04 of Article V.

(g) To prepare and submit to the city commission, at least 4 months before the start of the city's fiscal year, an annual budget for all authority and GRU operations, including the amount of any transfer to the city. The term of the budget shall coincide with the city's fiscal year. Absent prior approval of the city commission, the authority's budget may not reduce the amount of any transfer to the city by more than 3 percent from the previous fiscal year.

(h) To prepare and submit to the city commission, at least 4 months before the start of the city's fiscal year, an Annual Customer Report (ACR) examining utility rates for all customers. The report shall include, but not be limited to, comparisons of customer utility rates with peer municipal utilities. The report shall include multiyear projections of all customer utility rates.

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

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

7.04 Authority members.—

(1) There shall be five members of the authority appointed by a majority vote of the city commission. The members shall be diverse and representative of the community. Each member shall be a person of recognized ability and good business 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) At least 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) Be a customer with an account history of at least 5 years leading up to their appointment to the authority.

(b) Be a customer during the term of appointment.

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

(d) At least one member shall be a customer whose service is delivered to an address outside the city boundaries. Should an annexation by the city occur that affects a sitting member of the authority, that member shall be allowed to serve out his or her term. However, that member will not be eligible for a subsequent term in the capacity of a customer outside the city boundaries.

(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 to total electric meters serving all GRU electric customers. For example, upon expiration of a member's term or upon an authority vacancy, if the ratio of total electric meters serving customers outside the city boundaries to total electric meters serving all electric customers reaches 40 percent, the city commission must appoint a second member from outside the city boundaries to serve the next term that would otherwise be served by a qualified elector of the city. Conversely, upon expiration of any member's term or upon any authority vacancy, if the ratio subsequently falls below 40 percent, the city commission must appoint a qualified elector of the city to serve the next term that otherwise would have been served by a resident from outside the city boundaries.

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

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

7.05 Member nominations and terms.—

(1) The city commission shall issue a public notice soliciting citizen nominations for authority members within 120 days after the approval at referendum of the creation of this article. The nomination solicitation period shall remain open for at least 30 days after the date of the public notice.

(2) The city commission shall appoint initial members to the authority from among the nominees within 60 days after the close of the nomination solicitation period. The initial terms of office for the five members shall commence at 12 a.m. on October 1, 2019. The terms of the initial appointments shall be as follows: one member shall be designated to serve until 12 a.m. October 1, 2020; one member shall be designated to serve

until 12 a.m. October 1, 2021; one member shall be designated to serve until 12 a.m. October 1, 2022; and two members shall be designated to serve until 12 a.m. October 1, 2023.

(3) The city commission shall have a citizen nomination solicitation period for at least 30 days and appoint members for subsequent terms from among the nominees. 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.

(4) 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 Tuesday, October 1, 2019.

(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 chairperson and a vice chairperson 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 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 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 operation of the utilities shall remain in effect until the authority, pursuant to the powers granted in this article, modifies any such item. If any city charter provision, ordinance, resolution, decree, or any part thereof conflicts with the provisions of this article, the provisions of this article shall govern. This subsection is not intended to and

may not interfere with existing contractual arrangements between the city and county, regardless of whether such arrangements are reflected in charter provisions, ordinances, resolutions, decrees, or any part thereof.

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

(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. 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 to create the Gainesville Regional Utilities Authority as the governing board of Gainesville Regional Utilities (GRU), whose responsibilities shall include, but not be limited to, examining and establishing utility rates for all customers, and whose members shall be GRU customers, shall be diverse and representative of the community, and shall be nominated by citizens and appointed by the Gainesville City Commission?”

Yes.....

No.....

Section 5. This act shall take effect 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 conjunction with the general election to be held in the City of Gainesville in November 2018, except that this section and section 4 shall take effect upon becoming a law.

Approved by the Governor June 6, 2017.

Filed in Office Secretary of State June 6, 2017.