

HB 1369 (2014) - Gainesville Regional Utilities, Alachua County

Local Bill by Perry

Gainesville Regional Utilities, Alachua County: Requires proxy vote by mail ballot of utility's account holders to decide whether to establish Gainesville Regional Utility Authority & transfer utility from City of Gainesville to authority; provides for establishment of authority; provides for appointment, qualifications, & terms of authority's governing board; authorizes authority to set utility service rates; establishes Ratepayer Advisory Committee to submit recommendations to authority; provides for transfer of governance, management, & operation of utility from city to authority; requires utility to provide Legislature with proposed charter for utility.

Effective Date: upon becoming a law

Last Event: Died in Local & Federal Affairs Committee on Friday, May 2, 2014 10:39 PM

1 A bill to be entitled
 2 An act relating to Gainesville Regional Utilities,
 3 Alachua County; providing definitions; requiring a
 4 proxy vote by mail ballot of the utility's account
 5 holders to decide whether to establish the Gainesville
 6 Regional Utility Authority and transfer the utility
 7 from the City of Gainesville to the authority;
 8 providing for establishment of the authority;
 9 providing for appointment, qualifications, and terms
 10 of the authority's governing board; authorizing the
 11 authority to set utility service rates; establishing a
 12 Ratepayer Advisory Committee to submit recommendations
 13 to the authority; providing for transfer of
 14 governance, management, and operation of the utility
 15 from the city to the authority; requiring the utility
 16 to provide the Legislature with a proposed charter for
 17 the utility; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

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 21 Section 1. (1) DEFINITIONS.—As used in this act, the
 22 term:

23 (a) "Account holder" means a customer receiving one or
 24 more retail utility services from the utility.

25 (b) "Authority" means the Gainesville Regional Utility
 26 Authority that, if approved by a majority of account holders

27 voting in favor of independent governance as provided in
 28 paragraph (4) (a), is established by this act.

29 (c) "City commission" means the City Commission of the
 30 City of Gainesville.

31 (d) "County commission" means the Board of County
 32 Commissioners of Alachua County.

33 (e) "Retail utility services" means electric, gas, water,
 34 or wastewater services, or any combination thereof, provided by
 35 the utility.

36 (f) "Utility" means the municipal utility of the City of
 37 Gainesville operating under the fictitious name "Gainesville
 38 Regional Utilities."

39 (2) VOTE OF ACCOUNT HOLDERS.—

40 (a) The utility shall conduct a proxy vote by United
 41 States mail of all account holders of record as of July 1, 2014.

42 (b) On or before August 15, 2014, the utility shall mail
 43 to each account holder a proxy ballot containing the language
 44 provided in subsection (3). The proxy mailing for each account
 45 holder shall include the proxy ballot containing the account
 46 number and a postage-paid return envelope with the return
 47 address of the independent certified public accountant
 48 designated in paragraph (d) on the envelope.

49 (c) Each named account number is entitled to one proxy
 50 vote, which must be returned and received by October 1, 2014.
 51 The proxy ballot for an account held in the name of a business
 52 entity may be voted by any authorized corporate representative

53 of such business entity. Proxy ballots for accounts held in the
54 name of city or county government shall be voted pro rata
55 reflecting the weighted vote of each elected official recorded
56 at a publicly noticed meeting.

57 (d) The proxy ballots shall be returned to and tallied by
58 an independent certified public accountant, as designated by the
59 city commission, and the certified results shall be provided to
60 the city commission, mayor, city attorney, and city clerk within
61 14 days after the October 1, 2014, deadline. The designated
62 certified public accountant shall exercise his or her sole
63 independent professional judgment as to validating, accepting,
64 or rejecting any proxy ballot cast.

65 (e) The utility shall provide each account holder with
66 notice of the certified proxy vote results in a monthly billing
67 insert as soon as practicable after the proxy vote results are
68 provided to the city commission.

69 (3) BALLOT STATEMENT.—The ballot for the proxy vote
70 required under subsection (2) shall contain a ballot statement
71 submitting the following question to the account holders: "Shall
72 an independent utility authority be created to manage and
73 operate the business of Gainesville Regional Utilities?" The
74 ballot statement shall be followed by the word "yes" next to a
75 check box and the word "no" next to a check box.

76 (4) ESTABLISHMENT OF AUTHORITY; GOVERNANCE OF UTILITY.—

77 (a) Governance structure.—Upon a majority of account
78 holders voting in favor of independent governance, the

79 Gainesville Regional Utility Authority is established to
80 independently govern, manage, and operate the utility. The
81 authority shall act in the capacity of trustee, having a
82 fiduciary responsibility to manage and operate the utility to
83 provide safe and reliable utility services at a fair, just, and
84 reasonable cost for its customers, while ensuring that the City
85 of Gainesville receives an annual return on its investment,
86 which shall not exceed 10 percent of prior year utility
87 revenues. The authority shall independently manage and operate
88 the utility but does not have authority to sell the utility.
89 Members of the authority's governing board shall be appointed as
90 provided in this subsection. The authority shall have the
91 ability to retire and issue debt in the name of the utility in
92 furtherance of managing and operating the utility. The authority
93 does not require the consent of the City of Gainesville for
94 action in furtherance of providing independent management and
95 oversight of the utility for the benefit of the customers that
96 it serves.

97 (b) Board composition.—The members of the governing board
98 of the authority shall be appointed as follows:

99 1. Four members shall be appointed by the city commission,
100 including the Mayor of the City of Gainesville, who shall serve
101 ex officio as a voting member of the board, and three private,
102 nonelected citizen members. The citizen members shall be as
103 follows: one business community representative, one qualified
104 expert, one representative of the Gainesville Energy Advisory

105 Committee, and one qualified current or former senior executive
106 of the utility. Citizen members shall be appointed according to
107 the criteria provided in paragraphs (c)-(f).

108 2. Two private, nonelected citizen members shall be
109 appointed by the county commission, including one business
110 community representative and one qualified expert. Citizen
111 members shall be appointed according to the criteria provided in
112 paragraphs (c) and (d).

113 3. Three members shall be appointed by the Governor.

114 (c) Appointment of business community representatives.—The
115 business community representatives appointed by the city
116 commission and the county commission as citizen members of the
117 authority's governing board must be commercial or industrial
118 retail class customers of the utility in the:

119 1. Electric—General Service rate category, reflecting
120 demand of more than 50 kilowatts but less than 1,000 kilowatts;
121 or

122 2. Electric—Large Power Service rate category, reflecting
123 demand of more than 1,000 kilowatts.

124
125 An individual representing a business entity may personally
126 reside outside of the utility's service area, but the business
127 entity represented by the individual must be a retail electric
128 customer of the utility.

129 (d) Appointment of qualified experts.—The qualified
130 experts appointed by the city commission and the county

131 commission as citizen members of the authority's governing board
132 must meet at least one of the following minimum standards:

133 1. Be a past member of the Public Service Commission;

134 2. Have at least 15 years' experience working at a
135 managerial level for a publicly or privately operated utility;

136 3. Have at least 15 years' experience working at a
137 managerial level for a wholesale energy supplier;

138 4. Have at least 15 years' experience working at a
139 brokerage house specializing in the trading of energy-related
140 commodities; or

141 5. Have at least 15 years' relevant work experience in one
142 or more of the following disciplines: law, economics,
143 accounting, engineering, finance, natural resource conservation,
144 energy, or another field substantially related to the duties and
145 functions of the authority.

146 (e) Appointment of Gainesville Energy Advisory Committee
147 representative.—The representative of the Gainesville Energy
148 Advisory Committee appointed by the city commission as a citizen
149 member of the authority's governing board must be either the
150 chair or a nonstudent member of the Gainesville Energy Advisory
151 Committee. Even if an ordinance of the City of Gainesville
152 allows a member of the Gainesville Energy Advisory Committee to
153 simultaneously hold elected office, the representative appointed
154 to the authority's governing board must not hold an elected
155 office. If the representative of the Gainesville Energy Advisory
156 Committee serving on the authority's governing board is elected

157 to another office during his or her term on the authority's
158 governing board, the city commission shall appoint another
159 representative of the Gainesville Energy Advisory Committee to
160 complete the term vacated by the representative who was elected
161 to another office.

162 (f) Appointment of qualified executive of the utility.—The
163 qualified current or former senior executive of the utility
164 appointed by the city commission as a citizen member of the
165 authority's governing board must be a current or former member
166 of the utility's executive management team, as defined by the
167 utility's website and organizational structure, or a current or
168 former senior executive of the utility from one of the following
169 retail utility services provided by the utility: electric, gas,
170 water, or wastewater.

171 (g) Board chair.—The members of the authority's governing
172 board shall elect a chair, except that a current or former
173 senior executive of the utility may not serve as chair.

174 (h) Terms of board members.—Members of the authority's
175 governing board who are elected officials shall serve ex officio
176 as voting members of the board, and the terms of the elected
177 officials on the authority's governing board shall be
178 coextensive with their respective terms as elected officials.
179 Citizen members shall serve for terms of 4 years each, except
180 that the initial term for a citizen member shall be as follows:

181 1. The business community representatives shall serve
182 initial terms of 1 year each.

183 2. The qualified experts shall serve initial terms of 4
 184 years each.

185 3. The Gainesville Energy Advisory Committee
 186 representative shall serve an initial term of 1 year.

187 4. The qualified current or former senior executive of the
 188 utility shall serve an initial term of 2 years.

189 (i) Board member term limits.—No term limits apply to the
 190 terms of citizen members of the authority's governing board. A
 191 citizen member may be reappointed to the board upon expiration
 192 of his or her term. Any term limit imposed by law or ordinance
 193 that applies to the elected office of a member of the
 194 authority's governing board who is an elected official applies
 195 also to the member's term on the board. Upon vacating the
 196 elected office for which the member serves ex officio as a
 197 voting member of the board, he or she ceases to be a member of
 198 the authority's governing board.

199 (j) Board member compensation.—Members of the authority's
 200 governing board shall not receive compensation but are entitled
 201 to reimbursement for reasonable travel expenses related to
 202 attending utility meetings, conferences, and events.

203 (k) Conflict of interest policy.—The authority's governing
 204 board shall adopt a conflict of interest policy that includes,
 205 but is not limited to, provisions addressing financial
 206 interests, duty to disclose, recusal of self, determinations as
 207 to whether a conflict of interest exists, procedures for
 208 addressing a conflict of interest, and violations of the

209 conflict of interest policy. Each board member shall sign an
210 annual conflict-of-interest statement.

211 (1) Removal of board members.—A member of the authority's
212 governing board who is not an elected official may be removed
213 for good cause by the Governor, if appointed by the Governor, or
214 by a majority of the commission that appointed the board member,
215 whether the city commission or the county commission.

216 (m) Board meetings.—Meetings of the authority's governing
217 board shall be open to the public, and shall be publicly
218 noticed, in accordance with state law.

219 (5) UTILITY SERVICE RATES.—The authority's governing board
220 shall set utility service rates in public meetings after taking
221 public comment from any account holders present.

222 (6) RATEPAYER ADVISORY COMMITTEE.—A nine-member Ratepayer
223 Advisory Committee is established to provide nonbinding
224 recommendations to the authority's governing board. The
225 Ratepayer Advisory Committee shall be composed of three citizen
226 members from each of the residential, commercial, and industrial
227 rate classes of customers. The Ratepayer Advisory Committee
228 shall include members representing each geographic area of the
229 utility's service territory.

230 (7) CHARTER; TRANSFER OF GOVERNANCE, MANAGEMENT, AND
231 OPERATION.—If a majority of the utility's account holders vote
232 in favor of independent governance, the utility, by January 1,
233 2015, shall provide to each member of the Legislature whose
234 district includes a portion of the utility's service territory a

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235 proposed charter that transfers governance, management, and
236 operation of the utility to the authority's governing board as
237 specified in subsection (4). Upon favorable passage by a
238 majority of account holders, the approved governing structure
239 shall be fully implemented by July 1, 2015.

240 Section 2. This act shall take effect upon becoming a law.