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CS/HB 1645

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1  
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 an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14 Section 1. Section 3.06 of Article III of section 1 of  
15 chapter 90-394, Laws of Florida, is repealed.

16 Section 2. Article VII is added to chapter 12760, Laws of  
17 Florida (1927), as amended by chapter 90-394, Laws of Florida,  
18 to read:

19 ARTICLE VII

20 GAINESVILLE REGIONAL UTILITIES AUTHORITY

21 7.01 Establishment.—

22 There is created a regional utilities authority to be known as  
23 the "Gainesville Regional Utilities Authority" ("Authority").  
24 Gainesville Regional Utilities shall be governed by the  
25 Authority upon installation of the Authority's members pursuant

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

33 | 7.02 Definitions.—

34 | For the purposes of this article, unless otherwise designated,  
35 | or the context otherwise requires, the following terms have the  
36 | following meanings:

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

39 | (2) "City" means the City of Gainesville.

40 | (3) "City Commission" means the Gainesville City  
41 | Commission.

42 | (4) "County" means Alachua County.

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

46 | (6) "Flow of funds" means the sum of required debt  
47 | service, necessary operations and management expenses, a  
48 | reasonable contribution to a utility plan improvement fund,  
49 | identified SLA-related losses, and any other lawful purpose as  
50 | provided in bond covenants.

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51 (7) "Government services contribution" or "GSC" means the  
52 portion of revenues generated from rates, fees, assessments, and  
53 charges for the provision of utility services by the utility  
54 system which is annually transferred by the Authority to the  
55 City for use in funding or financing its general government  
56 municipal functions.

57 (8) "GRU" means Gainesville Regional Utilities.

58 (9) "Member" means a member of the Authority.

59 (10) "Net revenues" means the gross revenues less fuel  
60 revenues.

61 (11) "Service-level agreement" or "SLA" means a contract  
62 entered into by the Authority that establishes a set of  
63 deliverables that one party has agreed to provide another.

64 (12) "Utilities" means the electric utility system, water  
65 utility system, wastewater utility system, reuse water utility  
66 system, natural gas utility system, communications utility  
67 system, and such other utility systems as may be acquired by GRU  
68 in the future.

69 7.03 Powers and duties.-

70 (1) The Authority shall have the following powers and  
71 duties, in addition to the powers and duties otherwise conferred  
72 by this article:

73 (a) To manage, operate, and control the utilities, and to  
74 do all things necessary to effectuate an orderly transition of  
75 the management, operation, and control of the utilities from the

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76 City to the Authority, consistent with this article.

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

80 (c) To acquire real or personal property and to construct  
81 such projects as necessary to operate, maintain, enlarge,  
82 extend, preserve, and promote the utility systems in a manner  
83 that will ensure the economic, responsible, safe, and efficient  
84 provision of utility services, provided that title to all such  
85 property is vested in the City.

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

92 (e) To authorize the issuance of revenue bonds and other  
93 evidences of indebtedness of the City, secured by the revenues  
94 and other pledged funds and accounts of the utility system,  
95 pursuant to Florida law. Upon resolution of the Authority  
96 establishing the authorized form, terms, and purpose of such  
97 bonds, for the purpose of financing or refinancing utility  
98 system projects, and to exercise all powers in connection with  
99 the authorization of the issuance, and sale of such bonds by the  
100 City as conferred upon municipalities by part II of chapter 166,

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101 Florida Statutes, other applicable state laws, and section 103  
102 of the Internal Revenue Code of 1986. Such bonds may be  
103 validated in accordance with chapter 75, Florida Statutes. The  
104 Authority may not authorize the issuance of general obligation  
105 bonds. Such bonds and other forms of indebtedness of the City  
106 shall be executed and attested by the officers, employees, or  
107 agents of the City, including the chief executive  
108 officer/general manager (CEO/GM) or chief financial officer of  
109 the utility system, the Authority has so designated as agents of  
110 the City. The Authority may enter into hedging agreements or  
111 options for the purpose of moderating interest rates on existing  
112 and proposed indebtedness or price fluctuations of fuel or other  
113 commodities, including agreements for the future delivery  
114 thereof, or any combinations thereof.

115 (f) To dispose of utility system assets only to the extent  
116 and under the conditions that the City Commission may dispose of  
117 such assets pursuant to section 5.04 of Article V.

118 (g) To prepare and submit to the City Commission, at least  
119 3 months before the start of the City's fiscal year, an annual  
120 budget for all Authority and GRU operations, including the  
121 amount of any transfer to the City. The term of the budget shall  
122 coincide with the City's fiscal year. The amount of any transfer  
123 is subject to the limitations specified in section 7.11.

124 (h) To appoint and remove a CEO/GM as provided in this  
125 article.

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126 (i) To recommend, by resolution to the City Commission,  
127 the acquisition and operation of a utility system not owned or  
128 operated by GRU as of the date of transfer of governing  
129 authority to the Authority.

130 7.04 Authority members.—

131 (1) There shall be five members of the Authority appointed  
132 by the Governor. Each member shall be a person of recognized  
133 ability and good business judgment as identified by the Governor  
134 who is expected to perform his or her official duties in the  
135 best interests of GRU and its customers. Appointments shall be  
136 made as follows:

137 (a) One member shall be a residential customer with  
138 substantial knowledge of GRU, its operations, and its history.

139 (b) One member shall be a private, nongovernment customer  
140 consuming at least 10,000 kilowatt hours per month of electric  
141 usage during each of the previous 12 months. This member may be  
142 the owner or representative of the customer.

143 (c) Three members shall be competent and knowledgeable in  
144 one or more specific fields substantially related to the duties  
145 and functions of the Authority, including, but not limited to,  
146 law, economics, accounting, engineering, finance, or energy.

147 (2) All members of the Authority shall:

148 (a) Maintain primary residence within the electric service  
149 territory of GRU's electric utility system.

150 (b) Receive GRU electric utility system service at all

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151 times during the term of appointment.

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

154 (d) Be a qualified elector of the City, except that a  
155 minimum of one member must be a resident of the unincorporated  
156 area of the county or a municipality in the county other than  
157 the City of Gainesville.

158 (3) The composition of the Authority shall be adjusted  
159 upon expiration of any member's term, or upon any Authority  
160 vacancy, to reflect the ratio of total electric meters serving  
161 GRU electric customers outside the City's jurisdictional  
162 boundaries to total electric meters serving all GRU electric  
163 customers. For example, upon expiration of a member's term or  
164 upon an Authority vacancy, if the ratio of total electric meters  
165 serving customers outside the City boundaries to total electric  
166 meters serving all electric customers reaches 40 percent, the  
167 Governor must appoint a second member from outside the City  
168 boundaries to serve the next term that would otherwise be served  
169 by a qualified elector of the City. Conversely, upon expiration  
170 of any member's term or upon any Authority vacancy, if the ratio  
171 subsequently falls below 40 percent, the Governor must appoint a  
172 qualified elector of the City to serve the next term that  
173 otherwise would have been served by a resident from outside the  
174 City boundaries.

175 7.05 Member nominations and terms.-

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176       (1) The Governor shall issue a public notice soliciting  
177 citizen nominations for Authority members within 120 days after  
178 the effective date of this article. The nomination solicitation  
179 period shall remain open for at least 30 days after the date of  
180 the public notice.

181       (2) The Governor shall appoint initial members to the  
182 Authority from among the nominees within 60 days after the close  
183 of the nomination solicitation period. The initial terms of  
184 office for the five members shall commence at 12 a.m. on October  
185 1, 2023. The terms of the initial appointments shall be as  
186 follows: one member shall be designated to serve until 12 a.m.  
187 on October 1, 2024; one member shall be designated to serve  
188 until 12 a.m. on October 1, 2025; one member shall be designated  
189 to serve until 12 a.m. on October 1, 2026; and two members shall  
190 be designated to serve until 12 a.m. on October 1, 2027.

191       (3) The Governor shall have a citizen nomination  
192 solicitation period for at least 30 days and appoint members for  
193 subsequent terms from among the nominees. Members appointed for  
194 subsequent terms shall be appointed for 4-year terms commencing  
195 at 12 a.m. on October 1 of the year in which they are appointed.  
196 If a member is appointed to complete an unexpired term, the  
197 member's term shall commence at the time of appointment and  
198 shall continue through the remainder of the unexpired term.

199       (4) The Governor shall fill any vacancy for the unexpired  
200 portion of a term within 60 days after the vacancy occurs if the



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201 remainder of the term exceeds 90 days.

202 7.06 Member compensation.—Beginning October 1, 2023,  
203 necessary expenses of members incurred in carrying out and  
204 conducting the business of the Authority shall be paid in  
205 accordance with Authority policy and procedures, subject to the  
206 approval of a majority of the members of the Authority. No  
207 supplemental benefits shall be provided for a member position.

208 7.07 Authority; oath; organization; and meeting.—

209 (1) The Authority shall initially meet at the chambers of  
210 the City Commission at 6 p.m. on Wednesday, October 4, 2023.

211 (2) Before taking office for any term, each member shall  
212 be given an oath or affirmation by the Mayor or his or her  
213 designee similar to the oath or affirmation required of a member  
214 of the City Commission.

215 (3) The first official action of the Authority shall be  
216 election of a chairperson and a vice chairperson from among its  
217 membership.

218 (4) The Authority shall meet at least once each month,  
219 except in case of unforeseen circumstances. All meetings of the  
220 Authority shall be noticed and open to the public, and minutes  
221 shall be kept as required by law, except that meetings related  
222 to settlement of then existing litigation may be held as allowed  
223 by law.

224 (5) The GRU general manager or his or her designee shall  
225 be responsible for making arrangements for and providing

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226 adequate notice for the initial meeting of the Authority.

227 7.08 Removal and suspension of members.—

228 (1) A member may be removed or suspended from office by  
229 the Governor in accordance with s. 112.501, Florida Statutes. In  
230 addition to the grounds for removal set forth therein, a member  
231 may be removed by the Governor for failure to maintain the  
232 qualifications specified in section 7.04.

233 (2) The Authority may recommend to the Governor that a  
234 member be removed or suspended from office if it finds, by vote  
235 of at least three members, a reasonable basis for removal or  
236 suspension on one or more of the grounds set forth in s.  
237 112.501, Florida Statutes, or for failure to maintain the  
238 qualifications specified in section 7.04. The Authority shall  
239 give reasonable notice of any proceeding in which such action is  
240 proposed and must provide the member against whom such action is  
241 proposed a written statement of the basis for the proposed  
242 action and an opportunity to be heard. The member against whom  
243 such action is proposed may not participate in the Authority's  
244 debate or vote on the matter.

245 7.09 Management and personnel.—

246 (1) A chief executive officer/general manager (CEO/GM)  
247 shall direct and administer all utility functions, subject to  
248 the rules and resolutions of the Authority. The CEO/GM shall  
249 serve at the pleasure of the Authority. Appointment or removal  
250 of the CEO/GM shall be by majority vote of the Authority. Until

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251 such time as the Authority appoints a CEO/GM, the sitting  
252 general manager of GRU shall serve as the CEO/GM. A sitting  
253 member of the Authority may not be selected as the CEO/GM.

254 (2) All officers and employees of the City who serve under  
255 the supervision and direction of the sitting general manager of  
256 GRU shall serve under the CEO/GM. The CEO/GM shall have the  
257 exclusive authority to hire, transfer, promote, discipline, or  
258 terminate employees under his or her supervision and direction.

259 (3) The Authority shall fix the salary of the CEO/GM, and  
260 the CEO/GM shall fix the salaries of all other employees who  
261 serve under his or her direction consistent with the annual  
262 budget approved by the Authority. The sitting general manager of  
263 GRU, as well as all officers and employees of the City who, by  
264 virtue of this article, become subject to the supervision and  
265 direction of the CEO/GM, shall continue without any loss of  
266 rights or benefits as employees under the pension plans and  
267 civil service merit system of the City existing as of the  
268 creation of the Authority.

269 7.10 General provisions.—

270 (1) The City and the Authority shall perform all acts  
271 necessary and proper to effectuate an orderly transition of the  
272 governance, operation, management, and control of all utility  
273 systems, properties, and assets held in the possession of GRU as  
274 of January 1, 2023, to the Authority, including, but not limited  
275 to, the creation of such instruments as are necessary for the

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276 Authority to function in accordance with this article.  
277 Notwithstanding the reorganization of the governance structure  
278 of the management of the utility system as provided in this  
279 section, the utility system shall continue to be operated as a  
280 single enterprise and there shall be no change to the ownership  
281 of the utility system.

282 (2) All City ordinances, policies, rates, fees,  
283 assessments, charges, rules, regulations, and budgets related to  
284 operation of the utilities shall remain in effect until such  
285 time as the Authority, pursuant to the powers granted in this  
286 article, modifies any such item. In the event that any City  
287 charter provision, ordinance, resolution, decree, or any part  
288 thereof conflicts with the provisions of this article, the  
289 provisions of this article shall govern. This subsection is not  
290 intended to and shall not interfere with existing contractual  
291 arrangements between the City and county, regardless of whether  
292 such arrangements are reflected in charter provisions,  
293 ordinances, resolutions, decrees, or any part thereof.

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

298 (4) No franchise, right-of-way, license, permit or usage  
299 fee or tax may be levied by the City upon the Authority or the  
300 utilities unless allowed by general law.

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301 (5) Any utility advisory board created by the City  
302 Commission shall have no role with respect to the Authority.

303 (6) No member of the Authority shall be individually  
304 responsible for Authority debts or liabilities.

305 (7) The Authority shall develop an ethics policy and a  
306 code of business conduct that shall be reviewed at least  
307 biennially.

308 (8) In order to provide for the transitional  
309 administrative needs and orderly compliance with the provisions  
310 of this act, the chairperson of the Authority or his or her  
311 designee is authorized to execute documents required for the  
312 transition.

313 7.11 Limitation on government services contribution.—

314 (1) MAXIMUM CAP ON GSC.—For any fiscal year, the GSC may  
315 not exceed aggregate utility system net revenues less flow of  
316 funds.

317 (2) DEBT SERVICE AND AVOIDANCE.—Any remaining funds, after  
318 deductions for flow of funds and GSC, shall be dedicated to  
319 additional debt service or utilized as equity in future capital  
320 projects.

321 7.12 Limitation on utility directives.—The Authority and  
322 the CEO/GM, in making all policy and operational decisions over  
323 the affairs of the utility system as contemplated under the  
324 provisions of this act, shall consider only pecuniary factors  
325 and utility industry best practices standards, which do not

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326 | include consideration of the furtherance of social, political,  
327 | or ideological interests. Appropriate pecuniary factors and  
328 | utility industry best practices are those which solely further  
329 | the fiscal and financial benefit of the utility system and  
330 | customers. This provision does not prohibit the establishment  
331 | and application of rate structures based on utility usage.

332 | Section 3. This act shall take effect July 1, 2023.