

# **P R E S S   R E L E A S E**

July 3, 2023

## **Gainesville Residents United files Federal lawsuit against Florida officials for State takeover of Gainesville Regional Utilities**

Ron DeSantis signed Florida House Bill 1645 on June 28, 2023 which mandates that Governor's appointees will take charge of the utility services of the City of Gainesville, Florida. The "special law" took effect on July 1, 2023. The State is advertising for applicants that the Governor will appoint to a new five-person Utility Authority. This board will manage all aspects of the City of Gainesville's utility department beginning October 4, 2023.

Gainesville Residents United, Inc. filed its lawsuit on July 3, 2023 in the United States District Court's Northern Division (in Gainesville) requesting that the special law be blocked and declared unconstitutional. The lawsuit is titled: "Gainesville Residents United, et al v. Governor Ron DeSantis, et al."

Plaintiffs in the lawsuit are the nonprofit corporation "Gainesville Residents United, Inc." and individual persons including Susan Bottcher, Evelyn Foxx, Robert Hutchinson, Joe Little, Michael Varvel, and Wes Wheeler. The mission of Gainesville Residents United is "to educate, advocate, negotiate, and litigate issues of importance to our community."

Defendants in the lawsuit are Ron DeSantis, Governor of Florida; Ashley Moody, Attorney General of Florida; and Cord Byrd, Florida Secretary of State. The City of Gainesville is also named as a "nominal defendant". A nominal defendant is included in a lawsuit when they are a party affected by the legal issue, but not necessarily the cause of the dispute. The City of Gainesville is also being included because the new Gainesville Regional Utility Authority has been designated by the state law as a "unit" of the City of Gainesville, and therefore is not a separate legal entity capable of being sued.

The lawsuit filed in Federal Court lists twelve separate counts in which the Special Law infringes on constitutional rights, or its passage didn't adhere to due process, or it violates Florida statutes. Each count is summarized in the attached chart.

Attorneys for the plaintiffs are:

- Terrell Arline of Tallahassee, an expert in local government and Florida laws
- Gary Edinger of Gainesville, an expert in First Amendment and federal appellate law.
- Joe Little, UF Professor Emeritus of Constitutional Law

Their professional experience is linked at: [www.grunited.org/our-board-legal-team](http://www.grunited.org/our-board-legal-team)

It is anticipated that the Florida Attorney General will be responding for state agency defendants. Gainesville City Attorney Dan Nee will manage the City's involvement; the City has also engaged Cindy Laquidara of Jacksonville as special counsel for City litigation involving the Utility Authority.

Utility services provided by Gainesville Regional Utilities (GRU) include electricity, water, wastewater, natural gas, re-use water, and internet. GRU services are provided to customers within the Gainesville city limits and to thousands of customers in unincorporated Alachua County. A percentage of net proceeds from utility revenues is provided to the City's general fund. This "general services contribution" supports City services such as Police, Fire/Rescue, Public Works, Parks & Recreation, Cultural Affairs, Social Services, and other City programs.

**Resources:**

***House Bill 1645:***

This site provides the full text of the bill, its legislative history, staff analysis, etc.

<https://www.flsenate.gov/Session/Bill/2023/1645>

***Gainesville Residents United*** website: [www.GRUnited.org](http://www.GRUnited.org)

This site provides a downloadable version of the 90-page court filing. It also has an archive of past legislative actions, dozens of news stories and media accounts, and other online links to past and current information and opinions about the issue. Also see our Facebook page for opinions and discussion.

Background information or interviews with plaintiffs can be obtained by contacting:

**Robert Hutchinson**, President of Gainesville Residents United and lead plaintiff. Hutch worked for GRU in the 1980s and is retired from serving twelve years on the Board of Alachua County Commissioners. Call/text: 352-256-6043 E-mail: [GVLResidentsUnited.Hutch@gmail.com](mailto:GVLResidentsUnited.Hutch@gmail.com)

**Susan Bottcher**, Vice President of Gainesville Residents United. Ms. Bottcher is a former Gainesville City Commissioner, and led legal and political efforts preceding this one to defeat similar attempts to take over the City's utilities. E-mail at: [swbottcher@swet.com](mailto:swbottcher@swet.com)

**Irving "Wes" Wheeler**, Secretary of Gainesville Residents United. Mr. Wheeler is an attorney, a solar energy advocate, and served recently as Chair of Gainesville's Utility Advisory Board. [GVLResidentsUnited.Wes@gmail.com](mailto:GVLResidentsUnited.Wes@gmail.com)

Interviews with other plaintiffs, experts, and attorneys can be arranged upon request.

Other people who are knowledgeable sources for background information and might provide interviews include the following (contact info can be provided upon request):

Florida Representative Chuck Clemons – sponsor of House Bill 1645

Florida Senator Keith Perry – sponsor of the bill in the Senate

Florida Representative Yvonne Hinson – opponent of House Bill 1645

Stephanie Kopelousos – Governor's Legislative and Intergovernmental Affairs Director

Mayor Harvey Ward – City of Gainesville

Gainesville City Commissioner Cynthia Chestnut (former State legislator)

Gainesville City Commissioner Bryan Eastman (has compiled detailed report about disinformation efforts regarding GRU)

Tony Cunningham, General Manager of Gainesville Regional Utilities

Janice Garry – President of local League of Women Voters (opposed the bill)

Sarah Younger – Sierra Club (opposed the bill)

<b>Summary of complaints in "Gainesville Residents United, et al v. Governor Ron DeSantis, et al</b>		
<b>Count</b>	<b>Summary</b>	<b>Law</b>
1	Special Law infringes upon Plaintiff's ability to "petition for redress of grievances."	First Amendment to the U.S. Constitution ("petition" clause)
2	Special Law infringes on the Plaintiff's right to free speech through "content-based and viewpoint-based discrimination."	First Amendment to the U.S. Constitution ("freedom of speech" clause, and subsequent interpretations)
3	Special Law infringes on the Plaintiff's right to free speech through "prior restraint of speech without procedural and substantive protections".	First Amendment to the U.S. Constitution ("freedom of speech" clause and subsequent interpretations)
4	Special Law's prohibition for any considerations "in furtherance of social, political, or ideological interests" is unconstitutionally vague	First amendment to the U.S. Constitution, and due process arguments
5	Special Law is invalid because it violates the constitutional restrictions on the duties of the Governor as an officer of the State.	Florida Constitution - Article III, §11 (A)
6	Special Law's passage failed to comply with Notice requirements in the Florida Constitution and Statutes	Florida Constitution - Article III, §10 & Florida Statutes - §11.02
7	Special Law, during its legislative consideration, failed to comply with Affidavit Requirements	Florida Statutes - §11.03
8	Special Law violates statutes by authorizing an un-elected, non-legislative authority to make legislative decisions for a municipality	Florida Statutes - Chapter 180
9	Special Law violates Florida Constitution by failing to provide for a referendum	Florida Constitution – Article III, §10
10	Special Law violates Florida Statutes by affecting municipal employees and "extra-territorial interests", which require a referendum	Florida Statutes - §166.021 (4)
11	Special Law denies the constitutional right for citizens to vote for municipal legislative offices	Florida Constitution – Article VIII, §2 (b)
12	Special Law impairs the contract with municipal bondholders	Florida Constitution - Article I, § 10,