

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

**ROBERT HUTCHINSON and
JEFFREY SHAPIRO,**

Petitioners,

CASE NO:

vs.

RON DESANTIS, in his official capacity
as Governor of the State of Florida,

Respondent.

_____ /

PETITION FOR WRIT OF *QUO WARRANTO*

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BASIS FOR INVOKING JURISDICTION OF THE COURT

A. This Court has Original Jurisdiction over Extraordinary Writs, including Quo Warranto

Petitioners challenge Governor DeSantis' authority to appoint five (5) members to the Board of the Gainesville Regional Utilities Authority.

This Court has original jurisdiction over this matter pursuant to Art. V, §5(b) of the Florida Constitution:

(b) Jurisdiction. - The circuit courts ... shall have the power to issue writs of mandamus, *quo warranto*, certiorari, prohibition and habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction. (Emphasis added).

See, *also*, Rule 9.030(c)(3), Fla.R.App.P. ("Original Jurisdiction. Circuit courts may issue writs of ... quo warranto... and all writs necessary to the complete exercise of the courts' jurisdiction."). While Florida's other courts also have jurisdiction over quo warranto proceedings,¹ it is appropriate to file this action in Circuit Court. See, Whiley v. Scott, 79 So.3d 702, 707 (Fla. 2011) ("As a general rule, unless there is a compelling reason for invoking the original jurisdiction of a higher court, a quo warranto proceeding should

¹ See, Whiley, 79 So.3d at 707 ("[I]t is clear that the Florida Constitution authorizes this Court as well as the district and circuit courts to issue writs of quo warranto.").

be commenced in circuit court.”). Rule 9.100, Fla.R.App.P. provides that the original jurisdiction of the Court is invoked by filing a petition for quo warranto with the Clerk; See, *a/so*, Rule 1.630, Fla.R.Civ.P.

Quo warranto proceedings are the proper vehicle to challenge the authority of a state officer to act. As noted in a leading quo warranto case, Governor DeSantis is a state officer:

The term “quo warranto” means “by what authority,” and the writ is the proper means for inquiring into whether a particular individual has improperly exercised a power or right derived from the State. See Fla. House of Reps. v. Crist, 999 So.2d 601, 607 (Fla. 2008); Martinez, 545 So.2d at 1339. This Court “may” issue a writ of quo warranto which renders this Court’s exercise of jurisdiction discretionary. Art. V, §3(b)(8), Fla. Const. Furthermore, the Court is limited to issuing writs of quo warranto only to “state officers and state agencies.” Id. The Governor is a state officer. See art. III, § 1(a), Fla. Const. (“The governor shall be the chief administrative officer of the state....”).

Whiley, 79 So.3d at 707; See, *a/so*, Boan v. Fla. Fifth Dist. Ct. of Appeal Jud. Nominating Comm’n, 352 So.3d 1249, 1252 (Fla. 2022) (“The writ of quo warranto ‘historically has been used to determine whether a state officer or agency has improperly exercised a power or right derived from the State.’” (citation omitted)); Martinez v. Martinez, 545 So.2d 1338, 1339 (Fla. 1989) (Citing collected cases).

Venue is proper in this Court pursuant to §47.011, Fla.Stat. because Respondent resides in Leon County, Florida and because the home venue

privilege applies here. *See, generally, Scott v. Thompson*, 326 So.3d 123, 126 (Fla. 1st DCA 2021).

B. Petitioners have Standing to Sue

Petitioner, ROBERT HUTCHINSON is an individual, *sui juris*, residing within the territory of electric service provided by City of Gainesville Utilities (“GRU”), but outside the corporate limits of the City. Petitioner has been a customer of Gainesville Regional Utilities since the mid-1980s.

Petitioner JEFFREY SHAPIRO is an individual, *sui juris*, residing within the City of Gainesville. He has also been a customer of Gainesville Regional Utilities since the mid-1980s.

Petitioners are concerned that Authority members may not be knowledgeable concerning the needs of the entire community served by GRU. The likelihood of inexperienced, non-representative members is much greater if appropriate public notice is not given to solicit the broadest possible pool of applicants for the Board.

Petitioners have standing to bring this action as “citizens and taxpayers”. The Supreme Court has recognized that standing is appropriate for any individual in the geographic area subject to the challenged government action:

As to standing, we see a close analogy to cases where this Court has recognized “citizen and taxpayer” standing to challenge a governor’s alleged noncompliance with constitutional provisions regulating the judicial appointment process. See Thompson v. DeSantis, 301 So.3d 180 (Fla. 2020); Pleus v. Crist, 14 So.3d 941 (Fla. 2009).

Boan, 352 So.3d at 1252.

There is no requirement that a petitioner seeking a writ of quo warranto prove any special injury.

In addition to her status as a citizen and taxpayer, Whiley also alleged that as a blind food stamp recipient ... she is negatively impacted by the operation of Executive Order 11–01. We need not address Whiley’s allegations on this point, however, as the extent of harm to the petitioner is not pertinent to the Court’s inquiry under quo warranto, and is simply an attempt by the dissent to divert attention. See Polston, J., dissenting op. at 719–20. Rather, a petition for writ of quo warranto is directed at the action of the state officer and whether such action exceeds that position’s constitutional authority. See Martinez v. Martinez, 545 So.2d 1338, 1339 (Fla. 1989) (in addressing the issue of standing, stating that “[i]n quo warranto proceedings seeking the enforcement of a public right the people are the real party to the action and the person bringing suit ‘need not show that he has any real or personal interest in it.’ ”) (emphasis added; *citing State ex rel. Pooser v. Wester*, 126 Fla. 49, 170 So. 736, 737 (1936)). Thus, when bringing a petition for writ of quo warranto, individual members of the public have standing as citizens and taxpayers. See Chiles v. Phelps, 714 So.2d 453, 456 (Fla. 1998).

Whiley, 79 So.3d at 706; See, *also*, Martinez, 545 So.2d at 1339 (“In quo warranto proceedings seeking the enforcement of a public right the people are the real party to the action and the person bringing suit ‘need not show

that he has any real or personal interest in it.” (citation omitted)).

Petitioners are seeking a determination that the appointment of authority members is void because of non-compliance with public notice and advertising requirements and because the appointees fail to meet the statutory residency requirements. This action is entirely analogous to a challenge against an ordinance for failure to strictly comply with enactment requirements, including public notice, found in the charter or authorizing statute. Like quo warranto actions in general, cases seeking to invalidate a law based on enactment defects recognize that any resident will have standing to sue. See, Parsons v. City of Jacksonville, 295 So.3d 892, 894 (Fla. 1st DCA 2020) (“Under Florida law, no special injury is required for actions attacking void ordinances; i.e., ordinances adopted without proper notice or legislative authority, or in excess of police powers. Renard v. Dade Cty., 261 So.2d 832, 838 (Fla. 1972) (holding “[a]ny affected resident, citizen or property owner of the governmental unit in question has standing to challenge” an ordinance that is void as improperly enacted) (additional citation omitted))”).

C. This Action is Ripe

The Florida Supreme Court has held that actions for quo warranto are ripe only after the responsible official has acted. See, Thompson v. DeSantis,

301 So.3d at 191 *quoting* League of Women Voters of Fla. v. Scott, 232 So.3d 264, 265 (Fla. 2017) (“[T]he history of the extraordinary writ reflects that petitions for relief in quo warranto are properly filed only after a public official has acted.”).

Petitioners challenge the Governor’s failure to comply with the legal conditions precedent to appointment of members to the Board of the Gainesville Regional Utilities Authority. Chapter 2023-348, Laws of Florida, which creates the Authority and authorizes the Governor to appoint qualified members, also requires the Governor to publicly advertise the positions.

The Governor appointed three Authority members on September 26, 2023. According to §7.05(1) of Ch. 2023-348, Laws of Florida, the advertising for those positions should have occurred at least thirty (30) days prior to the appointments:

The nomination solicitation period shall remain open for at least 30 days after the date of the public notice.

Accordingly, the last day the Governor could have given public notice to accommodate the statutory 30-day period was August 26, 2023.

Section 7.04 of the Law prescribes the qualifications and requirements for persons appointed to the Authority Board. Section 7.04(2) includes specific residency standards for the appointees:

(2) **All members of the Authority shall:**

...

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

It is indisputable that the three individuals nominated by the Governor (James Coats IV, Robert Karow and Eric Lawson) do not reside within the City of Gainesville and are not electors of the City.

Here, the Governor has appointed Board members without advertising for the position, in violation of the express terms of Ch. 2023-348, Laws of Fla.² In addition, the Governor has appointed Board members who are disqualified from serving because they are not electors of the City. Because the Governor has already appointed those Board members, his actions are complete and capable of being challenged through an action for quo warranto. This action is ripe.

NATURE OF THE RELIEF SOUGHT

This action concerns the Governor's authority under the Law of the Florida Legislature (Ch. 2023-348, Laws of Fla.) amending chapter 12760, Laws of Florida (1927) (as amended by chapter 90-394, Laws of Florida)

² This fact was confirmed through multiple public records request. See, discussion, *infra*.

(hereinafter “the “Law” or “Ch. 2023-348, Laws of Fla.””). A copy of the Law is attached as Exhibit “A” to this Petition. That Law creates the Gainesville Regional Utilities Authority, sets forth the qualifications of its members and authorizes the Governor to appoint those members following a specific process.

In particular, Ch. 2023-348, Laws of Fla. §7.05(1) requires the Governor to publicly advertise for those positions at least thirty (30) days before the appointments are made:

7.05 Member nominations and terms.–

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

(2) The Governor 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, 2023. ...

(Emphasis added.)

The Governor failed to issue a public notice as required by the Law. As a result, the public at large was not informed of their opportunity to apply for consideration as a member of the Authority. Despite his failure to comply with the express statutory precondition for appointment of Authority Board

members, Governor DeSantis announced his appointments to the Board on September 26, 2023.

The Law also includes specific residency requirements. Of the five members, four must be residents (“electors”) of the City of Gainesville:

(2) **All members of the Authority shall:**

...

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

However, all of the appointees announced on September 26, 2023, live outside the Gainesville city limits and none is an “elector of the City”. Accordingly, none of those appointees meet the statutory qualifications.³

Petitioners maintain that the Governor’s appointments are a legal nullity and that no member has been properly appointed to the Authority Board.

This action challenges that Governor’s right and authority to appoint members of the Gainesville Regional Utilities Authority Board without complying with the express language of the Law. Petitioners pray for an

³ It is possible that one of those appointees may qualify as a resident of the unincorporated county. The appointment of one such non-resident requires that *all* other appointees be electors of the City. As a result, at least two out of three of the appointees are unqualified to serve.

effective Writ which: (1) declares that the appointment of members to the Gainesville Regional Utilities Authority Board is void *ab initio*; (2) declares that the individuals who were nominally appointed to the Authority Board by the Governor have no power or authority to act in that capacity;⁴ and (3) requires that the Governor issue a public notice soliciting citizen nominations for the Authority Board at least thirty (30) days before appointing anyone to that position.

STATEMENT OF THE CASE AND OF THE FACTS

As noted above, Petitioners are customers of GRU and live within the area serviced by that facility. Petitioner Shapiro is a resident of Gainesville and previously had the right to exercise control over GRU through his elected representatives, the City of Gainesville Commission. This year the Legislature enacted Ch. 2023-348, Laws of Fla. which gave Governor DeSantis the obligation and authority to appoint members to the Gainesville Regional Utilities Authority which was to operate GRU independent of any

⁴ If Petitioners' argument based on failure to provide public notice is unavailing and the Governor claims that one of his appointees is qualified to serve as an extra-jurisdictional member, the Governor must be directed to select which of the otherwise unqualified individuals is to serve in that capacity. Petitioner notes that the Law requires a five-person Board and that no action may be taken by a single member.

oversight by the City Commission.⁵ Governor DeSantis effectively assumed the position previously occupied by Gainesville voters and their elected representatives.

The Law prescribes an exact process for the advertisement of Board positions and imposes a time frame for appointments from the pool of applicants. The Law also requires that four of the appointees be electors of the City. The Law instructs the Governor to advertise the position of Authority Board member within 120 days from the effective date of the Law. See, §7.05(1). Section 3 of the Law specifies that the Law went into effect on July 1, 2023. While there is no starting date for the advertisements, the Law specifies that at least thirty days must be allowed between the public notice and the closing of the application process:

7.05 Member nominations and terms.–

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

⁵ The law creates an unprecedented hybrid in which the Authority, although independent of the City Commission under the terms of the Law, is nonetheless treated as a legal “unit” of the City. That structure has obvious problems in terms of fundamental unconstitutionality and the impossibility of implementation. However, the resolution of this case does not turn on any of those issues.

The Law also states that the Governor is obligated to “appoint initial members to the Authority from among the nominees.” See, §7.05(2).

Petitioners confirmed through a public records request, sent directly to the Governor’s Office, that the Governor did not issue a public notice for Authority members as of September 6, 2023. See, Public Records Request and E-mailed response dated September 6, 2023, a copy of which is attached as Composite Exhibit “B” to this Petition.⁶ Petitioners conducted additional due diligence by directing a similar public records request on September 18, 2023, to Gainesville’s legislative delegation. The Office of the Senate General Counsel (responding for Senator Keith Perry) advised on September 25, 2023, that it too had no records of any advertisement. A copy of the September 18, 2023 request and response is attached as Composite Exhibit “C” to this Petition. Under the guidelines established by §7.05(1), the Governor could not have appointed any members to the Authority Board before October 1, 2023, because there would not have been enough time to

⁶ Petitioners have conducted a daily search of local newspapers in general circulation in Alachua County as well as a search of the Internet to determine whether any public notice has been given subsequent to September 6, 2023. On information and belief, Petitioner represents that no advertisement or other public notice has been given as of the date this Petition is filed.

accommodate the 30-day notice requirement.

On September 26, 2023, the Governor purportedly appointed three members to the Authority Board: James Coats IV, Robert Karow and Eric Lawson. See, Governor’s Press Release dated September 26, 2023, attached as Exhibit “D” to this Petition.⁷ Those appointments are void *ab initio* because they did not comply with the public notice requirements of HB 1645.

Section §7.04 of the Law establishes the qualifications required of any potential Board member. Those qualifications include a residency requirement within the city limits of Gainesville:

(2) ***All members of the Authority shall:***

...

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

See, §7.04(2)(d), HB 1645.

James Coats IV, Robert Karow and Eric Lawson all reside outside of Gainesville, and none are “electors of the City”. Publicly available information concerning their respective residences discloses the following:

⁷ A copy of the September 26, 2023 press release is accessible on-line at: <https://www.flgov.com/2023/09/26/governor-ron-desantis-appoints-three-to-the-gainesville-regional-utilities-authority/> (last accessed 10/1/23).

A. James Coats IV resides at 6109 NW 60th Place Gainesville, Florida 32653. That residence lies outside the municipal limits of Gainesville, as reflected by Composite Exhibit “E” consisting of the following:

- (1) Deed recorded at O.R. Book 4579, page 2265, Public Records of Alachua County, Florida;
- (2) Tax information for Tax Parcel No.: 06026-004-037;
- (3) 2023 TRIM Notice showing homestead exemption;
- (4) Google Maps image showing location of property;
- (5) Gainesville Department of Sustainable Development GIS Map showing that the Coats property is outside of City limits.⁸

B. Robert Karow resides at 7008 S.W. 30th Way, Gainesville, Florida 32608. That residence lies outside the municipal limits of Gainesville, as reflected by Composite Exhibit “F” consisting of the following:

- (1) Deed recorded at O.R. Book 1791, page 1048, Public Records of Alachua County, Florida;

⁸ Mr. Coats’ property is identified with a black dot to the center-left; Gainesville’s municipal boundary is the bold black line to the right (i.e., to the East). This map is accessible on-line at: <https://gainesvillefl.maps.arcgis.com/apps/webappviewer/index.html?id=4e5bf13c90bf406da07444ecbbd58cb2> (last accessed 10/1/23).

- (2) Tax information for Tax Parcel No.: 07146-100-006;
- (3) 2023 TRIM Notice showing homestead exemption;
- (4) Google Maps image showing location of property;
- (5) Gainesville Department of Sustainable Development GIS

Map showing that the Karow property is outside of City limits.⁹

C. Eric Lawson resides at 7117 NW 20th Place, Gainesville, Florida 32605. That residence lies outside the municipal limits of Gainesville, as reflected by Composite Exhibit “G” consisting of the following:

- (1) Deed recorded at O.R. Book 4666, page 2027, Public Records of Alachua County, Florida;
- (2) Tax information for Tax Parcel No.: 06348-003-000;
- (3) 2023 TRIM Notice showing homestead exemption;
- (4) Google Maps image showing location of property;
- (5) Gainesville Department of Sustainable Development GIS

⁹ Mr. Karow’s property is identified with a black dot to the bottom-right; Gainesville’s municipal boundary is the bold black line above (i.e., to the North). This map is accessible on-line at: <https://gainesvillefl.maps.arcgis.com/apps/webappviewer/index.html?id=4e5bf13c90bf406da07444ecbbd58cb2> (last accessed 10/1/23).

Map showing that the Lawson property is outside of City limits.¹⁰

Pursuant to §9-13 of the Gainesville Code of Ordinances, those individuals are not “electors of the City” because they are not residents of the City of Gainesville. Accordingly, those individuals are not qualified to serve on the Authority Board.¹¹

ARGUMENT

I. THE GOVERNOR’S APPOINTMENTS TO THE GAINESVILLE REGIONAL UTILITIES AUTHORITY BOARD ARE VOID *AB INITIO* BECAUSE HE FAILED TO COMPLY WITH THE PUBLIC NOTICE REQUIREMENT OF CH. 2023-348, LAWS OF FLA., §7.05, WHICH IS A CONDITION PRECEDENT TO THE APPOINTMENT PROCESS.

When the law specifies that public notice is required before official action of some kind is taken, a failure to strictly comply with the notice

¹⁰ Mr. Lawson’s property is identified with a black dot to the upper-left; Gainesville’s municipal boundary is the bold black line below (i.e., to the South-East). This map is accessible on-line at: <https://gainesvillefl.maps.arcgis.com/apps/webappviewer/index.html?id=4e5bf13c90bf406da07444ecbbd58cb2> (last accessed 10/1/23).

¹¹ Petitioners previously noted that it may be possible for one out of those three nominees to qualify under the Law. That possibility will be further explored, *infra*. The Law does not specify how many Authority members must be present to constitute a quorum, but that number must surely be larger than one-out-of-five. See, §166.041(5), Fla.Stat. (Stating that, for purposes of enacting municipal ordinances and resolutions “[a] majority of the members of the governing body shall constitute a quorum.”).

requirements renders that action void *ab initio*. Partial compliance or notice given in some way other than as specified in the enabling legislation will not suffice. Rather, strict compliance is required:

[T]his court and others have universally concluded that “[s]trict compliance with the notice requirements ... is a jurisdictional and mandatory prerequisite to the valid enactment of a zoning measure.” Webb v. Town Council of Town of Hilliard, 766 So.2d 1241, 1244 (Fla. 1st DCA 2000) (*quoting* Lady J. Lingerie, Inc. v. City of Jacksonville, 973 F. Supp. 1428, 1434 (M.D. Fla. 1997)).

Save Calusa, Inc. v. Miami-Dade Cnty., 355 So.3d 534, 539 (Fla. 3d DCA 2023), *reh’g den.* (Feb. 12, 2023); *See, also*, Testa v. Town of Jupiter Island, 360 So.3d 722, 730 (Fla. 4th DCA 2023) (“[O]rdinances which fall within the ambit of section 166.041(3) ... must be strictly enacted pursuant to the statute’s notice provisions[.]’ (citation omitted). Thus, if an ordinance is not strictly enacted pursuant to section 166.041(3)’s notice provisions, the ordinance is ‘null and void.’”); Anderson v. City of St. Pete Beach, 161 So.3d 548, 551 (Fla. 2d DCA 2014) (“[W]e conclude that Ordinance 2011–19 is null and void because the City did not comply with the notice provisions of section 166.041(c)(3).”).¹²

¹² The cases cited above all have to do with the enactment of zoning ordinances. That is a natural consequence of the fact that we reside in a rapidly developing state. However, the requirement of strict compliance with enactment requirements is in no way limited to land use ordinances, but is a

The public policy behind notice requirements is obvious: a democracy cannot function without an informed electorate:

Leaving public participation in governmental meetings to chance due to inadequate notice is not the intent of the Sunshine Law and is incongruent with good governance.

Providing published notice of the adoption of an ordinance ensures that all interested members of the public are aware of the adoption of a municipal ordinance, rather than limiting notice to individuals who, by chance, happened to be present at the properly noticed meeting.

Testa, 360 So.3d at 732; See, *also*, Introductory comments by Attorney General Moody in *Government-In-The-Sunshine-Manual* (2023) at xii (“Our system of open government is a valued and intrinsic part of the heritage of our state... As James Madison said: ‘Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives.’”).¹³

universal feature of Florida law. See, *e.g.*, Homestead-Miami Speedway, LLC v. City of Miami, 828 So.2d 411, 413 (Fla. 3d DCA 2002) (Striking lease agreement for city waterfront property for failure to notice the opportunity for competitive bidding as required by city charter). See *also*, Vosilla v. Rosado, 944 So.2d 289, 291 (Fla. 2006), Weingarten Associates, Inc. v. Jocalbro, Inc. etc., 974 So.2d 559, (5th DCA 2008), and Horne v. Miami Dade Co., 89 So. 3d 987 (Fla. 3rd DCA 2012), which held that the failure to properly notice a tax deed sale was a violation of due process.

¹³ Accessible online at <https://www.myfloridalegal.com/sites/default/files/2023-05/2023GovernmentInTheSunshineManual.pdf> (last accessed 9/14/23).

Chapter 2023-348, Laws of Fla. has a specific public notice requirement which the Governor must follow when appointing members to the GRU Authority. Section 7.05(1) directs the Governor to “issue a public notice soliciting citizen nominations for Authority members” and to keep the “nomination solicitation period... open for at least 30 days after the date of the public notice.” It is clear on the face of the Law that notice is a statutory precondition to the appointment of Authority members.¹⁴

In this instance, the record shows, at a minimum, that the Governor appointed members to the Authority Board without waiting for the expiration of the 30-day period. In all likelihood, the Governor gave no public notice at all. The failure to comply with the public notice requirement of Ch. 2023-348 renders the Governor’s appointments null and void. See, Cardoza v. State, 98 So.3d 1217, 1219–20 (Fla. 3d DCA 2012) ([B]ecause the statutory conditions precedent to the exercise of the Clerk’s authority to enter a final

¹⁴ Because the law is plain on its face, it must be applied in accordance with its terms. See, Decks N Such Marine, Inc. v. Daake, 297 So. 3d 653, 656 (Fla. 1st DCA 2020) (“The Legislature understands the meaning of words and where words in a statute have a well-defined meaning, there is no place for construction, and the popular or generally accepted meaning must be taken.... ‘When the language of the statute is clear and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretation and construction; the statute must be given its plain and obvious meaning.’” (citations omitted)).

judgment did not exist, the judgment entered by the Clerk is void.”); See, *also*, Bhoola v. City of St. Augustine Beach, FL, 588 So.2d 666 (5th DCA 1991) (*citing* Renard v. Dade County, 261 So.2d 832 (Fla. 1972) for the proposition that a city ordinance adopted without complying with notice requirements is void.)

Cases specifically addressing quo warranto claims also provide strong support for Petitioners’ claims. In Thompson v. DeSantis, *supra*, the Supreme Court considered Governor DeSantis’ attempt to appoint a jurist to that Court who did not meet the qualifications for that position. In particular, the Judge had not been a member of the Florida Bar for ten years. In the initial decision, the Court found that the petitioner had standing to bring a quo warranto action and that the Governor had no authority to appoint his preferred nominee. However, relief was initially denied because the petitioner requested relief which the Court deemed to be inappropriate.

The Governor did not take any remedial action in response to the Court’s finding that he lacked authority to select an unqualified judge. Instead he waited – presumably intending to keep the position open until his preferred candidate met the eligibility requirements. The Supreme Court found that inaction unacceptable.

The original petitioner amended her petition to request relief which was targeted to the immediate problem: the Governor's refusal to appoint a qualified judge. The Court held that quo warranto was appropriate and granted the writ:

The constitution's ten-year Bar membership requirement and sixty-day appointment deadline are bright-line textual mandates that impose rules rather than standards and prioritize certainty over discretion. To some, enforcing rules like these might seem needlessly formalistic when the result is to preclude the appointment of an otherwise qualified candidate. But "formalism," as Justice Scalia observed, "is what makes a government a government of laws and not of men." Antonin Scalia, *A Matter of Interpretation: Federal Courts and the Law* 25 (rev. ed. 2018).

In these circumstances, the constitution and directly on-point precedent dictate the remedy. We hold that the constitution requires the Governor immediately to appoint and commission a constitutionally eligible nominee from among the seven remaining candidates already certified by the judicial nominating commission. See Pleus v. Crist, 14 So.3d 941 (Fla. 2009). We reject the Governor's suggestion that this remedy somehow intrudes on the judicial nominating commission's constitutional prerogatives by "taking a red pen" to the JNC's certified list.

Thompson v. DeSantis, SC20-985, 2020 WL 5494603 at *1–2 (Fla. Sept. 11, 2020); See, *a/so*, Florida House of Representatives v. Crist, 999 So.2d 601 (Fla. 2008) (Quo warranto granted where Governor entered into a gambling compact with Indian tribe without legal authority).

Those precedents bind the Court in this case. Because the Governor did not comply strictly with the notice provisions of §7.05 of the Law, he was

without authority to appoint anyone to the GRU Authority Board. Petitioners are entitled to an effective writ which corrects that abuse of authority. See, *generally*, Belle Island Inv. Co. v. Feingold, 453 So.2d 1143, 1146 (Fla. 3d DCA 1984), (“Quo warranto is a remedial writ and its use may be extended to new situations on a proper showing.”).

II. THE INDIVIDUALS NOMINATED BY THE GOVERNOR TO SERVE ON THE GAINESVILLE REGIONAL UTILITIES AUTHORITY BOARD DO NOT MEET THE QUALIFICATION STANDARDS OF §7.04 BECAUSE THEY ARE NOT “ELECTORS OF THE CITY” OF GAINESVILLE.

Petitioners assert that the individuals selected to fill the Authority Board are statutorily unqualified to serve and that, as a consequence, the Governor had no authority to appoint them. It is black letter law that a quo warranto proceeding is the correct vehicle to bring such a challenge. See, e.g., Fouts v. Bolay, 795 So. 2d 1116, 1117 (Fla. 5th DCA 2001) (“Quo warranto is a writ of inquiry through which a court determines the validity of a party's claim that an individual is exercising a public office illegally.”); State ex rel. Bruce v. Kiesling, 632 So. 2d 601, 603 (Fla. 1994) (“[T]he common law remedy of quo warranto is employed... to determine the right of an individual to hold public office...”); Whiley, 79 So.3d at 707 (“The term “quo warranto” means “by what authority,” and the writ is the proper means for inquiring into whether a

particular individual has improperly exercised a power or right derived from the State.”).

Petitioners previously discussed the case of Thompson v. DeSantis, 2020 WL 5494603, where the Governor had attempted to appoint an individual to the Florida Supreme Court who did not qualify because she had not been a member of the Florida Bar for the requisite period of time. The Court found that “Judge Renatha Francis was constitutionally ineligible for the office of justice of the supreme court...”. Id. at 1. As a result, the Court held that the Governor had no authority to appoint her because “[t]he constitution's ten-year Bar membership requirement and sixty-day appointment deadline are bright-line textual mandates that impose rules rather than standards and prioritize certainty over discretion.” Id. The Court observed that it was not at liberty to ignore the Bar membership requirement just because the nominee was otherwise a qualified candidate. Id.

Exactly the same standards and result must apply under these facts. Section 7.04 of the Law includes an exhaustive list of qualifications for someone to serve on the Authority:

7.04 Authority members.–

- (1) There shall be five members of the Authority appointed by the Governor. Each member shall be a person of recognized ability and good business judgment as identified by the Governor

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) 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. This member may be the owner or representative of the 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) Maintain primary residence within the electric service territory of GRU's electric utility system.

(b) Receive GRU electric utility system service at all times during the term of appointment.

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

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

The qualification at issue in this proceeding is the requirement in (2)(d) that a member “[b]e a qualified elector of the City”. It is notable that this qualification is mandatory as the statute states that “[a]ll members of the

Authority ***shall***” meet the listed criteria. See *generally*, Neal v. Bryant, 149 So. 2d 529, 532 (Fla. 1962) (“[U]se of the word ‘shall’ in the statute in question which, according to its normal usage, has a mandatory connotation.”); Meglodon, Inc. v. Vill. of Pinecrest, __ F.Supp.3d __, 2023 WL 2324344 at *13 (S.D. Fla. Mar. 2, 2023) (“The word ‘will’ - like the word ‘shall’ - indicates the imposition of a mandatory condition.”). The statute also makes it clear that it applies to “[a]ll members” which, on its face, includes both original appointments and appointments to fill subsequent vacancies.

The City of Gainesville defines by Code what it means to be an “elector” of the City:

Sec. 9-13. - Qualifications of electors.

Electors in the city shall have the qualifications as set forth in F.S. §§ 97.041 and 166.032.

Section 97.041, Fla.Stat. sets forth the general requirement for voters in the State of Florida:

(1)(a) A person may become a registered voter only if that person:

1. Is at least 18 years of age;
2. Is a citizen of the United States;
3. Is a legal resident of the State of Florida;

4. Is a legal resident of the county in which that person seeks to be registered; and

5. Registers pursuant to the Florida Election Code.

And §166.032, Fla.Stat. sets forth the particular requirements for voters in municipal elections:

Any person who is a resident of a municipality, who has qualified as an elector of this state, and who registers in the manner prescribed by general law and ordinance of the municipality shall be a qualified elector of the municipality.

When read together, the Gainesville Code and the Florida Statutes essentially provide that an “elector” is a registered voter who resides in the City.

Messrs. Coats, Karow and Lawson do not reside within the city limits of Gainesville. Accordingly, they are not “electors of the City” and at least two of the three are statutorily ineligible to serve as members of the Authority Board.¹⁵

¹⁵ The disqualifying consequences of a residency requirement should come as no surprise to the Governor. In 2021, Governor DeSantis appointed a replacement for Diyonne McGraw, an otherwise qualified member of the Alachua County School Board, elected to that office, because it was discovered that she did not live in the district she served. See, <https://www.gainesville.com/story/news/2022/04/05/court-sides-gov-ron-desantis-removal-school-board-member/9474449002/> (last accessed 9/28/23)

There is a nuance in the law concerning the number of non-resident Board members which must be addressed. While §7.04(2) applies to all members and generally requires that they be Gainesville residents (“electors”), §7.04(2)(d) specifies that “a minimum of one member must be a resident of the unincorporated area of the county or a municipality in the county other than the City of Gainesville.” Thus, there is a set aside, or exception, for at least one member who must be a non-resident.

Does the language referring to a “minimum of one member” mean that the Governor can appoint as many non-residents as he wants up to the full complement of five members? No. That clause must be read *in pari materia* with the following subsection which contemplates that the number of non-resident members will vary depending upon whether the proportion of GRU customers living outside the City limits goes up or down:

(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 Governor 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 Governor 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.

Currently, the number of GRU's 93,000 customers living outside the City is between 30 and 40%.¹⁶ Accordingly, only one non-resident member may be appointed. If the proportion of non-resident customers ever exceeds 40%, the statute provides that "a second member from outside the City boundaries" will be appointed. There are no circumstances in which three non-resident members may be appointed under the Law.

Applying the statutory qualifications to the current circumstances, it is clear that, at most, one of the Governor's appointees is qualified to serve. That necessarily means that the Governor lacked the authority to appoint the other, unqualified, members. *Compare, Thompson v. DeSantis*, 2020 WL 5494603. The proper remedy under these circumstances may be in the alternative: the Court should issue a writ prohibiting Messrs. Coats, Karow and Lawson from serving as members of the Authority Board or the Governor

¹⁶ Source: Mainstreet Daily News, 6/28/23, "DeSantis signs bill changing GRU control" <https://www.mainstreetdailynews.com/govt-politics/ron-desantis-signs-gru-bill> ("Between 30% and 40% of GRU customers live outside city limits depending on the utility service.") (last accessed 9/28/23).

should be directed to select one of the non-resident appointees to fill the single slot allocated to a member with those qualifications.

CONCLUSION

Petitioners have an interest in making sure that the Authority is representative of *all* the people it serves. The Governor does not have plenary authority to appoint whomever he wishes to the GRU Authority. Section 7.05 of the Law clearly requires that the Governor solicit applications from the public at large to serve as Board members. The statute mandates a thirty (30) period between the date of public notice and the date when the Governor can appoint Board members. Because public notice is a statutory precondition to the appointment power, the Governor lacks the authority to appoint anyone before he fully complies with the notice requirement. In this case, either notice was never given at all, or the Governor appointed members to the Board before the thirty day statutory period expired. In either case, he acted without authority.

In addition, the Governor appointed three members to the Authority Board who cannot simultaneously serve in that capacity because none of them satisfy the statutory qualifications set forth in §704(2)(d). If the Court declines to issue a Writ based on the failure to provide public notice of the application period, it must grant Petitioners relief based on the lack of

qualified appointees. The Court should issue a writ either disqualifying all three of the non-resident individuals (because they cannot all serve as members simultaneously) or directing the Governor to select one of the members who can fill the position reserved for a non-resident of the City.

A Writ of Quo Warranto should therefore issue which provides the following relief:

A. A declaration that the Governor's appointment of members to the Gainesville Regional Utilities Authority Board is void *ab initio*;

B. A declaration that the individuals who were nominally appointed to the Authority Board have no power or authority to act in that capacity;

C. Requiring the Governor to issue a public notice soliciting citizen nominations for the Authority Board for at least thirty (30) days before making any appointments to the Board; and

D. Disqualifying James Coats IV, Robert Karow and Eric Lawson from serving as Authority members, or requiring the Governor to select one of those individuals to occupy the single position reserved for a non-resident.

DATED: October 2, 2023.

Respectfully Submitted,

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I HEREBY CERTIFY that a true and correct copy of the foregoing Petition has been forwarded to Attorney General, Ashley Moody, by E-mail directed to oag.civil.eserve@myfloridalegal.com and by U.S. Mail sent to the Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399; with a courtesy copy sent by E-mail to NICHOLAS J.P. MEROS, Esquire [Nicholas.Meros@eog.myflorida.com], Executive Office of the Governor, The Capitol, PL-5 400 S. Monroe Street, this 2nd day of October, 2023.

/s/ Gary S. Edinger
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CERTIFICATE OF COMPLIANCE WITH FONT REQUIREMENTS

Undersigned counsel certifies that this Petition is typewritten using 14 point Arial font and complies with the font requirements of Rule 9.045, Fla.R.App.P. This Petition contains 8,849 words which complies with the word count provisions of Rule 9.210(a)(2), Fla.R.App.P.

/s/ Gary S. Edinger
GARY S. EDINGER, Esquire

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BASIS FOR INVOKING JURISDICTION OF THE COURT

A. This Court has Original Jurisdiction over Extraordinary Writs, including Quo Warranto

Petitioners challenge Governor DeSantis' authority to appoint five (5) members to the Board of the Gainesville Regional Utilities Authority.

This Court has original jurisdiction over this matter pursuant to Art. V, §5(b) of the Florida Constitution:

(b) Jurisdiction. - The circuit courts ... shall have the power to issue writs of mandamus, *quo warranto*, certiorari, prohibition and habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction. (Emphasis added).

See, *also*, Rule 9.030(c)(3), Fla.R.App.P. ("Original Jurisdiction. Circuit courts may issue writs of ... quo warranto... and all writs necessary to the complete exercise of the courts' jurisdiction."). While Florida's other courts also have jurisdiction over quo warranto proceedings,¹ it is appropriate to file this action in Circuit Court. See, Whiley v. Scott, 79 So.3d 702, 707 (Fla. 2011) ("As a general rule, unless there is a compelling reason for invoking the original jurisdiction of a higher court, a quo warranto proceeding should

¹ See, Whiley, 79 So.3d at 707 ("[I]t is clear that the Florida Constitution authorizes this Court as well as the district and circuit courts to issue writs of quo warranto.").

be commenced in circuit court.”). Rule 9.100, Fla.R.App.P. provides that the original jurisdiction of the Court is invoked by filing a petition for quo warranto with the Clerk; See, *a/so*, Rule 1.630, Fla.R.Civ.P.

Quo warranto proceedings are the proper vehicle to challenge the authority of a state officer to act. As noted in a leading quo warranto case, Governor DeSantis is a state officer:

The term “quo warranto” means “by what authority,” and the writ is the proper means for inquiring into whether a particular individual has improperly exercised a power or right derived from the State. See Fla. House of Reps. v. Crist, 999 So.2d 601, 607 (Fla. 2008); Martinez, 545 So.2d at 1339. This Court “may” issue a writ of quo warranto which renders this Court’s exercise of jurisdiction discretionary. Art. V, §3(b)(8), Fla. Const. Furthermore, the Court is limited to issuing writs of quo warranto only to “state officers and state agencies.” Id. The Governor is a state officer. See art. III, § 1(a), Fla. Const. (“The governor shall be the chief administrative officer of the state....”).

Whiley, 79 So.3d at 707; See, *a/so*, Boan v. Fla. Fifth Dist. Ct. of Appeal Jud. Nominating Comm’n, 352 So.3d 1249, 1252 (Fla. 2022) (“The writ of quo warranto ‘historically has been used to determine whether a state officer or agency has improperly exercised a power or right derived from the State.’” (citation omitted)); Martinez v. Martinez, 545 So.2d 1338, 1339 (Fla. 1989) (Citing collected cases).

Venue is proper in this Court pursuant to §47.011, Fla.Stat. because Respondent resides in Leon County, Florida and because the home venue

privilege applies here. *See, generally, Scott v. Thompson*, 326 So.3d 123, 126 (Fla. 1st DCA 2021).

B. Petitioners have Standing to Sue

Petitioner, ROBERT HUTCHINSON is an individual, *sui juris*, residing within the territory of electric service provided by City of Gainesville Utilities (“GRU”), but outside the corporate limits of the City. Petitioner has been a customer of Gainesville Regional Utilities since the mid-1980s.

Petitioner JEFFREY SHAPIRO is an individual, *sui juris*, residing within the City of Gainesville. He has also been a customer of Gainesville Regional Utilities since the mid-1980s.

Petitioners are concerned that Authority members may not be knowledgeable concerning the needs of the entire community served by GRU. The likelihood of inexperienced, non-representative members is much greater if appropriate public notice is not given to solicit the broadest possible pool of applicants for the Board.

Petitioners have standing to bring this action as “citizens and taxpayers”. The Supreme Court has recognized that standing is appropriate for any individual in the geographic area subject to the challenged government action:

As to standing, we see a close analogy to cases where this Court has recognized “citizen and taxpayer” standing to challenge a governor’s alleged noncompliance with constitutional provisions regulating the judicial appointment process. See Thompson v. DeSantis, 301 So.3d 180 (Fla. 2020); Pleus v. Crist, 14 So.3d 941 (Fla. 2009).

Boan, 352 So.3d at 1252.

There is no requirement that a petitioner seeking a writ of quo warranto prove any special injury.

In addition to her status as a citizen and taxpayer, Whiley also alleged that as a blind food stamp recipient ... she is negatively impacted by the operation of Executive Order 11–01. We need not address Whiley’s allegations on this point, however, as the extent of harm to the petitioner is not pertinent to the Court’s inquiry under quo warranto, and is simply an attempt by the dissent to divert attention. See Polston, J., dissenting op. at 719–20. Rather, a petition for writ of quo warranto is directed at the action of the state officer and whether such action exceeds that position’s constitutional authority. See Martinez v. Martinez, 545 So.2d 1338, 1339 (Fla. 1989) (in addressing the issue of standing, stating that “[i]n quo warranto proceedings seeking the enforcement of a public right the people are the real party to the action and the person bringing suit ‘need not show that he has any real or personal interest in it.’ ”) (emphasis added; *citing State ex rel. Pooser v. Wester*, 126 Fla. 49, 170 So. 736, 737 (1936)). Thus, when bringing a petition for writ of quo warranto, individual members of the public have standing as citizens and taxpayers. See Chiles v. Phelps, 714 So.2d 453, 456 (Fla. 1998).

Whiley, 79 So.3d at 706; See, *also*, Martinez, 545 So.2d at 1339 (“In quo warranto proceedings seeking the enforcement of a public right the people are the real party to the action and the person bringing suit ‘need not show

that he has any real or personal interest in it.” (citation omitted)).

Petitioners are seeking a determination that the appointment of authority members is void because of non-compliance with public notice and advertising requirements and because the appointees fail to meet the statutory residency requirements. This action is entirely analogous to a challenge against an ordinance for failure to strictly comply with enactment requirements, including public notice, found in the charter or authorizing statute. Like quo warranto actions in general, cases seeking to invalidate a law based on enactment defects recognize that any resident will have standing to sue. See, Parsons v. City of Jacksonville, 295 So.3d 892, 894 (Fla. 1st DCA 2020) (“Under Florida law, no special injury is required for actions attacking void ordinances; i.e., ordinances adopted without proper notice or legislative authority, or in excess of police powers. Renard v. Dade Cty., 261 So.2d 832, 838 (Fla. 1972) (holding “[a]ny affected resident, citizen or property owner of the governmental unit in question has standing to challenge” an ordinance that is void as improperly enacted) (additional citation omitted))”).

C. This Action is Ripe

The Florida Supreme Court has held that actions for quo warranto are ripe only after the responsible official has acted. See, Thompson v. DeSantis,

301 So.3d at 191 *quoting* League of Women Voters of Fla. v. Scott, 232 So.3d 264, 265 (Fla. 2017) (“[T]he history of the extraordinary writ reflects that petitions for relief in quo warranto are properly filed only after a public official has acted.”).

Petitioners challenge the Governor’s failure to comply with the legal conditions precedent to appointment of members to the Board of the Gainesville Regional Utilities Authority. Chapter 2023-348, Laws of Florida, which creates the Authority and authorizes the Governor to appoint qualified members, also requires the Governor to publicly advertise the positions.

The Governor appointed three Authority members on September 26, 2023. According to §7.05(1) of Ch. 2023-348, Laws of Florida, the advertising for those positions should have occurred at least thirty (30) days prior to the appointments:

The nomination solicitation period shall remain open for at least 30 days after the date of the public notice.

Accordingly, the last day the Governor could have given public notice to accommodate the statutory 30-day period was August 26, 2023.

Section 7.04 of the Law prescribes the qualifications and requirements for persons appointed to the Authority Board. Section 7.04(2) includes specific residency standards for the appointees:

(2) **All members of the Authority shall:**

...

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

It is indisputable that the three individuals nominated by the Governor (James Coats IV, Robert Karow and Eric Lawson) do not reside within the City of Gainesville and are not electors of the City.

Here, the Governor has appointed Board members without advertising for the position, in violation of the express terms of Ch. 2023-348, Laws of Fla.² In addition, the Governor has appointed Board members who are disqualified from serving because they are not electors of the City. Because the Governor has already appointed those Board members, his actions are complete and capable of being challenged through an action for quo warranto. This action is ripe.

NATURE OF THE RELIEF SOUGHT

This action concerns the Governor's authority under the Law of the Florida Legislature (Ch. 2023-348, Laws of Fla.) amending chapter 12760, Laws of Florida (1927) (as amended by chapter 90-394, Laws of Florida)

² This fact was confirmed through multiple public records request. See, discussion, *infra*.

(hereinafter “the “Law” or “Ch. 2023-348, Laws of Fla.””). A copy of the Law is attached as Exhibit “A” to this Petition. That Law creates the Gainesville Regional Utilities Authority, sets forth the qualifications of its members and authorizes the Governor to appoint those members following a specific process.

In particular, Ch. 2023-348, Laws of Fla. §7.05(1) requires the Governor to publicly advertise for those positions at least thirty (30) days before the appointments are made:

7.05 Member nominations and terms.–

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

(2) The Governor 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, 2023. ...

(Emphasis added.)

The Governor failed to issue a public notice as required by the Law. As a result, the public at large was not informed of their opportunity to apply for consideration as a member of the Authority. Despite his failure to comply with the express statutory precondition for appointment of Authority Board

members, Governor DeSantis announced his appointments to the Board on September 26, 2023.

The Law also includes specific residency requirements. Of the five members, four must be residents (“electors”) of the City of Gainesville:

(2) **All members of the Authority shall:**

...

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

However, all of the appointees announced on September 26, 2023, live outside the Gainesville city limits and none is an “elector of the City”. Accordingly, none of those appointees meet the statutory qualifications.³

Petitioners maintain that the Governor’s appointments are a legal nullity and that no member has been properly appointed to the Authority Board.

This action challenges that Governor’s right and authority to appoint members of the Gainesville Regional Utilities Authority Board without complying with the express language of the Law. Petitioners pray for an

³ It is possible that one of those appointees may qualify as a resident of the unincorporated county. The appointment of one such non-resident requires that *all* other appointees be electors of the City. As a result, at least two out of three of the appointees are unqualified to serve.

effective Writ which: (1) declares that the appointment of members to the Gainesville Regional Utilities Authority Board is void *ab initio*; (2) declares that the individuals who were nominally appointed to the Authority Board by the Governor have no power or authority to act in that capacity;⁴ and (3) requires that the Governor issue a public notice soliciting citizen nominations for the Authority Board at least thirty (30) days before appointing anyone to that position.

STATEMENT OF THE CASE AND OF THE FACTS

As noted above, Petitioners are customers of GRU and live within the area serviced by that facility. Petitioner Shapiro is a resident of Gainesville and previously had the right to exercise control over GRU through his elected representatives, the City of Gainesville Commission. This year the Legislature enacted Ch. 2023-348, Laws of Fla. which gave Governor DeSantis the obligation and authority to appoint members to the Gainesville Regional Utilities Authority which was to operate GRU independent of any

⁴ If Petitioners' argument based on failure to provide public notice is unavailing and the Governor claims that one of his appointees is qualified to serve as an extra-jurisdictional member, the Governor must be directed to select which of the otherwise unqualified individuals is to serve in that capacity. Petitioner notes that the Law requires a five-person Board and that no action may be taken by a single member.

oversight by the City Commission.⁵ Governor DeSantis effectively assumed the position previously occupied by Gainesville voters and their elected representatives.

The Law prescribes an exact process for the advertisement of Board positions and imposes a time frame for appointments from the pool of applicants. The Law also requires that four of the appointees be electors of the City. The Law instructs the Governor to advertise the position of Authority Board member within 120 days from the effective date of the Law. See, §7.05(1). Section 3 of the Law specifies that the Law went into effect on July 1, 2023. While there is no starting date for the advertisements, the Law specifies that at least thirty days must be allowed between the public notice and the closing of the application process:

7.05 Member nominations and terms.–

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

⁵ The law creates an unprecedented hybrid in which the Authority, although independent of the City Commission under the terms of the Law, is nonetheless treated as a legal “unit” of the City. That structure has obvious problems in terms of fundamental unconstitutionality and the impossibility of implementation. However, the resolution of this case does not turn on any of those issues.

The Law also states that the Governor is obligated to “appoint initial members to the Authority from among the nominees.” See, §7.05(2).

Petitioners confirmed through a public records request, sent directly to the Governor’s Office, that the Governor did not issue a public notice for Authority members as of September 6, 2023. See, Public Records Request and E-mailed response dated September 6, 2023, a copy of which is attached as Composite Exhibit “B” to this Petition.⁶ Petitioners conducted additional due diligence by directing a similar public records request on September 18, 2023, to Gainesville’s legislative delegation. The Office of the Senate General Counsel (responding for Senator Keith Perry) advised on September 25, 2023, that it too had no records of any advertisement. A copy of the September 18, 2023 request and response is attached as Composite Exhibit “C” to this Petition. Under the guidelines established by §7.05(1), the Governor could not have appointed any members to the Authority Board before October 1, 2023, because there would not have been enough time to

⁶ Petitioners have conducted a daily search of local newspapers in general circulation in Alachua County as well as a search of the Internet to determine whether any public notice has been given subsequent to September 6, 2023. On information and belief, Petitioner represents that no advertisement or other public notice has been given as of the date this Petition is filed.

accommodate the 30-day notice requirement.

On September 26, 2023, the Governor purportedly appointed three members to the Authority Board: James Coats IV, Robert Karow and Eric Lawson. See, Governor’s Press Release dated September 26, 2023, attached as Exhibit “D” to this Petition.⁷ Those appointments are void *ab initio* because they did not comply with the public notice requirements of HB 1645.

Section §7.04 of the Law establishes the qualifications required of any potential Board member. Those qualifications include a residency requirement within the city limits of Gainesville:

(2) ***All members of the Authority shall:***

...

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

See, §7.04(2)(d), HB 1645.

James Coats IV, Robert Karow and Eric Lawson all reside outside of Gainesville, and none are “electors of the City”. Publicly available information concerning their respective residences discloses the following:

⁷ A copy of the September 26, 2023 press release is accessible on-line at: <https://www.flgov.com/2023/09/26/governor-ron-desantis-appoints-three-to-the-gainesville-regional-utilities-authority/> (last accessed 10/1/23).

A. James Coats IV resides at 6109 NW 60th Place Gainesville, Florida 32653. That residence lies outside the municipal limits of Gainesville, as reflected by Composite Exhibit “E” consisting of the following:

- (1) Deed recorded at O.R. Book 4579, page 2265, Public Records of Alachua County, Florida;
- (2) Tax information for Tax Parcel No.: 06026-004-037;
- (3) 2023 TRIM Notice showing homestead exemption;
- (4) Google Maps image showing location of property;
- (5) Gainesville Department of Sustainable Development GIS Map showing that the Coats property is outside of City limits.⁸

B. Robert Karow resides at 7008 S.W. 30th Way, Gainesville, Florida 32608. That residence lies outside the municipal limits of Gainesville, as reflected by Composite Exhibit “F” consisting of the following:

- (1) Deed recorded at O.R. Book 1791, page 1048, Public Records of Alachua County, Florida;

⁸ Mr. Coats’ property is identified with a black dot to the center-left; Gainesville’s municipal boundary is the bold black line to the right (i.e., to the East). This map is accessible on-line at: <https://gainesvillefl.maps.arcgis.com/apps/webappviewer/index.html?id=4e5bf13c90bf406da07444ecbbd58cb2> (last accessed 10/1/23).

- (2) Tax information for Tax Parcel No.: 07146-100-006;
- (3) 2023 TRIM Notice showing homestead exemption;
- (4) Google Maps image showing location of property;
- (5) Gainesville Department of Sustainable Development GIS

Map showing that the Karow property is outside of City limits.⁹

C. Eric Lawson resides at 7117 NW 20th Place, Gainesville, Florida 32605. That residence lies outside the municipal limits of Gainesville, as reflected by Composite Exhibit “G” consisting of the following:

(1) Deed recorded at O.R. Book 4666, page 2027, Public Records of Alachua County, Florida;

- (2) Tax information for Tax Parcel No.: 06348-003-000;
- (3) 2023 TRIM Notice showing homestead exemption;
- (4) Google Maps image showing location of property;
- (5) Gainesville Department of Sustainable Development GIS

⁹ Mr. Karow’s property is identified with a black dot to the bottom-right; Gainesville’s municipal boundary is the bold black line above (i.e., to the North). This map is accessible on-line at: <https://gainesvillefl.maps.arcgis.com/apps/webappviewer/index.html?id=4e5bf13c90bf406da07444ecbbd58cb2> (last accessed 10/1/23).

Map showing that the Lawson property is outside of City limits.¹⁰

Pursuant to §9-13 of the Gainesville Code of Ordinances, those individuals are not “electors of the City” because they are not residents of the City of Gainesville. Accordingly, those individuals are not qualified to serve on the Authority Board.¹¹

ARGUMENT

I. THE GOVERNOR’S APPOINTMENTS TO THE GAINESVILLE REGIONAL UTILITIES AUTHORITY BOARD ARE VOID *AB INITIO* BECAUSE HE FAILED TO COMPLY WITH THE PUBLIC NOTICE REQUIREMENT OF CH. 2023-348, LAWS OF FLA., §7.05, WHICH IS A CONDITION PRECEDENT TO THE APPOINTMENT PROCESS.

When the law specifies that public notice is required before official action of some kind is taken, a failure to strictly comply with the notice

¹⁰ Mr. Lawson’s property is identified with a black dot to the upper-left; Gainesville’s municipal boundary is the bold black line below (i.e., to the South-East). This map is accessible on-line at: <https://gainesvillefl.maps.arcgis.com/apps/webappviewer/index.html?id=4e5bf13c90bf406da07444ecbbd58cb2> (last accessed 10/1/23).

¹¹ Petitioners previously noted that it may be possible for one out of those three nominees to qualify under the Law. That possibility will be further explored, *infra*. The Law does not specify how many Authority members must be present to constitute a quorum, but that number must surely be larger than one-out-of-five. See, §166.041(5), Fla.Stat. (Stating that, for purposes of enacting municipal ordinances and resolutions “[a] majority of the members of the governing body shall constitute a quorum.”).

requirements renders that action void *ab initio*. Partial compliance or notice given in some way other than as specified in the enabling legislation will not suffice. Rather, strict compliance is required:

[T]his court and others have universally concluded that “[s]trict compliance with the notice requirements ... is a jurisdictional and mandatory prerequisite to the valid enactment of a zoning measure.” Webb v. Town Council of Town of Hilliard, 766 So.2d 1241, 1244 (Fla. 1st DCA 2000) (*quoting* Lady J. Lingerie, Inc. v. City of Jacksonville, 973 F. Supp. 1428, 1434 (M.D. Fla. 1997)).

Save Calusa, Inc. v. Miami-Dade Cnty., 355 So.3d 534, 539 (Fla. 3d DCA 2023), *reh’g den.* (Feb. 12, 2023); *See, also*, Testa v. Town of Jupiter Island, 360 So.3d 722, 730 (Fla. 4th DCA 2023) (“[O]rdinances which fall within the ambit of section 166.041(3) ... must be strictly enacted pursuant to the statute’s notice provisions[.]’ (citation omitted). Thus, if an ordinance is not strictly enacted pursuant to section 166.041(3)’s notice provisions, the ordinance is ‘null and void.’”); Anderson v. City of St. Pete Beach, 161 So.3d 548, 551 (Fla. 2d DCA 2014) (“[W]e conclude that Ordinance 2011–19 is null and void because the City did not comply with the notice provisions of section 166.041(c)(3).”).¹²

¹² The cases cited above all have to do with the enactment of zoning ordinances. That is a natural consequence of the fact that we reside in a rapidly developing state. However, the requirement of strict compliance with enactment requirements is in no way limited to land use ordinances, but is a

The public policy behind notice requirements is obvious: a democracy cannot function without an informed electorate:

Leaving public participation in governmental meetings to chance due to inadequate notice is not the intent of the Sunshine Law and is incongruent with good governance.

Providing published notice of the adoption of an ordinance ensures that all interested members of the public are aware of the adoption of a municipal ordinance, rather than limiting notice to individuals who, by chance, happened to be present at the properly noticed meeting.

Testa, 360 So.3d at 732; See, *also*, Introductory comments by Attorney General Moody in *Government-In-The-Sunshine-Manual* (2023) at xii (“Our system of open government is a valued and intrinsic part of the heritage of our state... As James Madison said: ‘Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives.’”).¹³

universal feature of Florida law. See, e.g., Homestead-Miami Speedway, LLC v. City of Miami, 828 So.2d 411, 413 (Fla. 3d DCA 2002) (Striking lease agreement for city waterfront property for failure to notice the opportunity for competitive bidding as required by city charter). See *also*, Vosilla v. Rosado, 944 So.2d 289, 291 (Fla. 2006), Weingarten Associates, Inc. v. Jocalbro, Inc. etc., 974 So.2d 559, (5th DCA 2008), and Horne v. Miami Dade Co., 89 So. 3d 987 (Fla. 3rd DCA 2012), which held that the failure to properly notice a tax deed sale was a violation of due process.

¹³ Accessible online at <https://www.myfloridalegal.com/sites/default/files/2023-05/2023GovernmentInTheSunshineManual.pdf> (last accessed 9/14/23).

Chapter 2023-348, Laws of Fla. has a specific public notice requirement which the Governor must follow when appointing members to the GRU Authority. Section 7.05(1) directs the Governor to “issue a public notice soliciting citizen nominations for Authority members” and to keep the “nomination solicitation period... open for at least 30 days after the date of the public notice.” It is clear on the face of the Law that notice is a statutory precondition to the appointment of Authority members.¹⁴

In this instance, the record shows, at a minimum, that the Governor appointed members to the Authority Board without waiting for the expiration of the 30-day period. In all likelihood, the Governor gave no public notice at all. The failure to comply with the public notice requirement of Ch. 2023-348 renders the Governor’s appointments null and void. See, Cardoza v. State, 98 So.3d 1217, 1219–20 (Fla. 3d DCA 2012) ([B]ecause the statutory conditions precedent to the exercise of the Clerk’s authority to enter a final

¹⁴ Because the law is plain on its face, it must be applied in accordance with its terms. See, Decks N Such Marine, Inc. v. Daake, 297 So. 3d 653, 656 (Fla. 1st DCA 2020) (“The Legislature understands the meaning of words and where words in a statute have a well-defined meaning, there is no place for construction, and the popular or generally accepted meaning must be taken.... ‘When the language of the statute is clear and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretation and construction; the statute must be given its plain and obvious meaning.’” (citations omitted)).

judgment did not exist, the judgment entered by the Clerk is void.”); See, *also*, Bhoola v. City of St. Augustine Beach, FL, 588 So.2d 666 (5th DCA 1991) (*citing* Renard v. Dade County, 261 So.2d 832 (Fla. 1972) for the proposition that a city ordinance adopted without complying with notice requirements is void.)

Cases specifically addressing quo warranto claims also provide strong support for Petitioners’ claims. In Thompson v. DeSantis, *supra*, the Supreme Court considered Governor DeSantis’ attempt to appoint a jurist to that Court who did not meet the qualifications for that position. In particular, the Judge had not been a member of the Florida Bar for ten years. In the initial decision, the Court found that the petitioner had standing to bring a quo warranto action and that the Governor had no authority to appoint his preferred nominee. However, relief was initially denied because the petitioner requested relief which the Court deemed to be inappropriate.

The Governor did not take any remedial action in response to the Court’s finding that he lacked authority to select an unqualified judge. Instead he waited – presumably intending to keep the position open until his preferred candidate met the eligibility requirements. The Supreme Court found that inaction unacceptable.

The original petitioner amended her petition to request relief which was targeted to the immediate problem: the Governor's refusal to appoint a qualified judge. The Court held that quo warranto was appropriate and granted the writ:

The constitution's ten-year Bar membership requirement and sixty-day appointment deadline are bright-line textual mandates that impose rules rather than standards and prioritize certainty over discretion. To some, enforcing rules like these might seem needlessly formalistic when the result is to preclude the appointment of an otherwise qualified candidate. But "formalism," as Justice Scalia observed, "is what makes a government a government of laws and not of men." Antonin Scalia, *A Matter of Interpretation: Federal Courts and the Law* 25 (rev. ed. 2018).

In these circumstances, the constitution and directly on-point precedent dictate the remedy. We hold that the constitution requires the Governor immediately to appoint and commission a constitutionally eligible nominee from among the seven remaining candidates already certified by the judicial nominating commission. See Pleus v. Crist, 14 So.3d 941 (Fla. 2009). We reject the Governor's suggestion that this remedy somehow intrudes on the judicial nominating commission's constitutional prerogatives by "taking a red pen" to the JNC's certified list.

Thompson v. DeSantis, SC20-985, 2020 WL 5494603 at *1–2 (Fla. Sept. 11, 2020); See, *a/so*, Florida House of Representatives v. Crist, 999 So.2d 601 (Fla. 2008) (Quo warranto granted where Governor entered into a gambling compact with Indian tribe without legal authority).

Those precedents bind the Court in this case. Because the Governor did not comply strictly with the notice provisions of §7.05 of the Law, he was

without authority to appoint anyone to the GRU Authority Board. Petitioners are entitled to an effective writ which corrects that abuse of authority. See, *generally*, Belle Island Inv. Co. v. Feingold, 453 So.2d 1143, 1146 (Fla. 3d DCA 1984), (“Quo warranto is a remedial writ and its use may be extended to new situations on a proper showing.”).

II. THE INDIVIDUALS NOMINATED BY THE GOVERNOR TO SERVE ON THE GAINESVILLE REGIONAL UTILITIES AUTHORITY BOARD DO NOT MEET THE QUALIFICATION STANDARDS OF §7.04 BECAUSE THEY ARE NOT “ELECTORS OF THE CITY” OF GAINESVILLE.

Petitioners assert that the individuals selected to fill the Authority Board are statutorily unqualified to serve and that, as a consequence, the Governor had no authority to appoint them. It is black letter law that a quo warranto proceeding is the correct vehicle to bring such a challenge. See, *e.g.*, Fouts v. Bolay, 795 So. 2d 1116, 1117 (Fla. 5th DCA 2001) (“Quo warranto is a writ of inquiry through which a court determines the validity of a party's claim that an individual is exercising a public office illegally.”); State ex rel. Bruce v. Kiesling, 632 So. 2d 601, 603 (Fla. 1994) (“[T]he common law remedy of quo warranto is employed... to determine the right of an individual to hold public office...”); Whiley, 79 So.3d at 707 (“The term “quo warranto” means “by what authority,” and the writ is the proper means for inquiring into whether a

particular individual has improperly exercised a power or right derived from the State.”).

Petitioners previously discussed the case of Thompson v. DeSantis, 2020 WL 5494603, where the Governor had attempted to appoint an individual to the Florida Supreme Court who did not qualify because she had not been a member of the Florida Bar for the requisite period of time. The Court found that “Judge Renatha Francis was constitutionally ineligible for the office of justice of the supreme court...”. Id. at 1. As a result, the Court held that the Governor had no authority to appoint her because “[t]he constitution's ten-year Bar membership requirement and sixty-day appointment deadline are bright-line textual mandates that impose rules rather than standards and prioritize certainty over discretion.” Id. The Court observed that it was not at liberty to ignore the Bar membership requirement just because the nominee was otherwise a qualified candidate. Id.

Exactly the same standards and result must apply under these facts. Section 7.04 of the Law includes an exhaustive list of qualifications for someone to serve on the Authority:

7.04 Authority members.–

- (1) There shall be five members of the Authority appointed by the Governor. Each member shall be a person of recognized ability and good business judgment as identified by the Governor

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) 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. This member may be the owner or representative of the 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) Maintain primary residence within the electric service territory of GRU's electric utility system.

(b) Receive GRU electric utility system service at all times during the term of appointment.

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

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

The qualification at issue in this proceeding is the requirement in (2)(d) that a member “[b]e a qualified elector of the City”. It is notable that this qualification is mandatory as the statute states that “[a]ll members of the

Authority ***shall***” meet the listed criteria. See *generally*, Neal v. Bryant, 149 So. 2d 529, 532 (Fla. 1962) (“[U]se of the word ‘shall’ in the statute in question which, according to its normal usage, has a mandatory connotation.”); Meglodon, Inc. v. Vill. of Pinecrest, __ F.Supp.3d __, 2023 WL 2324344 at *13 (S.D. Fla. Mar. 2, 2023) (“The word ‘will’ - like the word ‘shall’ - indicates the imposition of a mandatory condition.”). The statute also makes it clear that it applies to “[a]ll members” which, on its face, includes both original appointments and appointments to fill subsequent vacancies.

The City of Gainesville defines by Code what it means to be an “elector” of the City:

Sec. 9-13. - Qualifications of electors.

Electors in the city shall have the qualifications as set forth in F.S. §§ 97.041 and 166.032.

Section 97.041, Fla.Stat. sets forth the general requirement for voters in the State of Florida:

(1)(a) A person may become a registered voter only if that person:

1. Is at least 18 years of age;
2. Is a citizen of the United States;
3. Is a legal resident of the State of Florida;

4. Is a legal resident of the county in which that person seeks to be registered; and

5. Registers pursuant to the Florida Election Code.

And §166.032, Fla.Stat. sets forth the particular requirements for voters in municipal elections:

Any person who is a resident of a municipality, who has qualified as an elector of this state, and who registers in the manner prescribed by general law and ordinance of the municipality shall be a qualified elector of the municipality.

When read together, the Gainesville Code and the Florida Statutes essentially provide that an “elector” is a registered voter who resides in the City.

Messrs. Coats, Karow and Lawson do not reside within the city limits of Gainesville. Accordingly, they are not “electors of the City” and at least two of the three are statutorily ineligible to serve as members of the Authority Board.¹⁵

¹⁵ The disqualifying consequences of a residency requirement should come as no surprise to the Governor. In 2021, Governor DeSantis appointed a replacement for Diyonne McGraw, an otherwise qualified member of the Alachua County School Board, elected to that office, because it was discovered that she did not live in the district she served. See, <https://www.gainesville.com/story/news/2022/04/05/court-sides-gov-ron-desantis-removal-school-board-member/9474449002/> (last accessed 9/28/23)

There is a nuance in the law concerning the number of non-resident Board members which must be addressed. While §7.04(2) applies to all members and generally requires that they be Gainesville residents (“electors”), §7.04(2)(d) specifies that “a minimum of one member must be a resident of the unincorporated area of the county or a municipality in the county other than the City of Gainesville.” Thus, there is a set aside, or exception, for at least one member who must be a non-resident.

Does the language referring to a “minimum of one member” mean that the Governor can appoint as many non-residents as he wants up to the full complement of five members? No. That clause must be read *in pari materia* with the following subsection which contemplates that the number of non-resident members will vary depending upon whether the proportion of GRU customers living outside the City limits goes up or down:

(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 Governor 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 Governor 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.

Currently, the number of GRU's 93,000 customers living outside the City is between 30 and 40%.¹⁶ Accordingly, only one non-resident member may be appointed. If the proportion of non-resident customers ever exceeds 40%, the statute provides that "a second member from outside the City boundaries" will be appointed. There are no circumstances in which three non-resident members may be appointed under the Law.

Applying the statutory qualifications to the current circumstances, it is clear that, at most, one of the Governor's appointees is qualified to serve. That necessarily means that the Governor lacked the authority to appoint the other, unqualified, members. *Compare*, Thompson v. DeSantis, 2020 WL 5494603. The proper remedy under these circumstances may be in the alternative: the Court should issue a writ prohibiting Messrs. Coats, Karow and Lawson from serving as members of the Authority Board or the Governor

¹⁶ Source: Mainstreet Daily News, 6/28/23, "DeSantis signs bill changing GRU control" <https://www.mainstreetdailynews.com/govt-politics/ron-desantis-signs-gru-bill> ("Between 30% and 40% of GRU customers live outside city limits depending on the utility service.") (last accessed 9/28/23).

should be directed to select one of the non-resident appointees to fill the single slot allocated to a member with those qualifications.

CONCLUSION

Petitioners have an interest in making sure that the Authority is representative of *all* the people it serves. The Governor does not have plenary authority to appoint whomever he wishes to the GRU Authority. Section 7.05 of the Law clearly requires that the Governor solicit applications from the public at large to serve as Board members. The statute mandates a thirty (30) period between the date of public notice and the date when the Governor can appoint Board members. Because public notice is a statutory precondition to the appointment power, the Governor lacks the authority to appoint anyone before he fully complies with the notice requirement. In this case, either notice was never given at all, or the Governor appointed members to the Board before the thirty day statutory period expired. In either case, he acted without authority.

In addition, the Governor appointed three members to the Authority Board who cannot simultaneously serve in that capacity because none of them satisfy the statutory qualifications set forth in §704(2)(d). If the Court declines to issue a Writ based on the failure to provide public notice of the application period, it must grant Petitioners relief based on the lack of

qualified appointees. The Court should issue a writ either disqualifying all three of the non-resident individuals (because they cannot all serve as members simultaneously) or directing the Governor to select one of the members who can fill the position reserved for a non-resident of the City.

A Writ of Quo Warranto should therefore issue which provides the following relief:

A. A declaration that the Governor's appointment of members to the Gainesville Regional Utilities Authority Board is void *ab initio*;

B. A declaration that the individuals who were nominally appointed to the Authority Board have no power or authority to act in that capacity;

C. Requiring the Governor to issue a public notice soliciting citizen nominations for the Authority Board for at least thirty (30) days before making any appointments to the Board; and

D. Disqualifying James Coats IV, Robert Karow and Eric Lawson from serving as Authority members, or requiring the Governor to select one of those individuals to occupy the single position reserved for a non-resident.

DATED: October 2, 2023.

Respectfully Submitted,

BENJAMIN, AARONSON, EDINGER &
PATANZO, P.A.

/Joseph W. Little
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ANSBACHER LAW

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service

Primary: tkarlinelaw@gmail.com
terrell.arline@ansbacher.net
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jav@ansbacher.net

Attorney for Plaintiffs

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition has been forwarded to Attorney General, Ashley Moody, by E-mail directed to oag.civil.eserve@myfloridalegal.com and by U.S. Mail sent to the Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399; with a courtesy copy sent by E-mail to NICHOLAS J.P. MEROS, Esquire [Nicholas.Meros@eog.myflorida.com], Executive Office of the Governor, The Capitol, PL-5 400 S. Monroe Street, this 2nd day of October, 2023.

/s/ Gary S. Edinger
GARY S. EDINGER, Esquire
Florida Bar No.: 0606812

CERTIFICATE OF COMPLIANCE WITH FONT REQUIREMENTS

Undersigned counsel certifies that this Petition is typewritten using 14 point Arial font and complies with the font requirements of Rule 9.045, Fla.R.App.P. This Petition contains 8,849 words which complies with the word count provisions of Rule 9.210(a)(2), Fla.R.App.P.

/s/ Gary S. Edinger
GARY S. EDINGER, Esquire

EXHIBIT “A”

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CS/HB 1645

2023 Legislature

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.

**COMPOSITE
EXHIBIT “B”**

ANSBACHER LAW

CONDOMINIUMS • HOMEOWNER ASSOCIATIONS
REAL ESTATE • CONSTRUCTION • PERSONAL INJURY

8818 Goodbys Executive Drive
Jacksonville, FL 32217
(Primary mailing address)

3509 US Highway 17
Fleming Island, FL 32003

1650 US Hwy 1 South, Ste 201
St. Augustine, FL 32084

500 3rd Street South
Jacksonville Beach, FL 32250

300 Colonial Center Parkway
Suite 134, Lake Mary, FL 32746

September 6, 2023

Executive Office of the Governor
Ron DeSantis
400 S Monroe St
Tallahassee, FL 32399

VIA CERTIFIED MAIL:
70223330000189399810
& EMAIL:
DeSantis.OpenGov@eog.myflorida.com

RE: Public Records Act Request

Dear Sir/Madam:

Pursuant to Chapter 119, Florida Statutes, this letter will serve as our request to inspect the following public records maintained by Florida Governor Ron DeSantis:

1. A copy of the “public notice” referred to in Section 7.05(1) of CHAPTER 2023-348 (Committee Substitute for House Bill No. 1645).

Obtaining these records by email directly from the Executive Office of the Governor is the preferred method of production. We are willing to pay for obtaining the records and would request that you provide us with a cost estimate before undertaking the task of producing same.

In the event the Executive Office of the Governor determines that no public records exist for the particular items listed above, we request that the Executive Office of the Governor confirm such conclusion in writing. Similarly, to the extent any such public records do exist but are deemed by the Executive Office of the Governor to be exempt from disclosure pursuant to Florida law, we request that it provide written confirmation of such determination, including the specific statutory authority exempting such public records from disclosure.

Thank you for your assistance in this matter. Should you have any questions or request any additional information, please contact my office at (904) 737-4600.

Sincerely yours,



Terrell K. Arline
Attorney at Law

TKA/jav



Gary Edinger <gsedinger12@gmail.com>

RE: Ansbacher Law - Public Records Act Request

1 message

Desantis.OpenGovernment <Desantis.OpenGov@eog.myflorida.com>

Wed, Sep 6, 2023 at 12:34 PM

To: Julia Voss <Julia.Voss@ansbacher.net>, "Desantis.OpenGovernment" <Desantis.OpenGov@eog.myflorida.com>
Cc: "gsedinger12@gmail.com" <gsedinger12@gmail.com>, Terrell Arline <tkarlinelaw@gmail.com>, Terrell Arline <Terrell.Arline@ansbacher.net>, "littlegnv@gmail.com" <littlegnv@gmail.com>, Robert Hutchinson <hutchrk@aol.com>, "Meros, Nicholas" <Nicholas.Meros@eog.myflorida.com>, "Erik.Sayler@myfloridalegal.com" <Erik.Sayler@myfloridalegal.com>, "ComplexLitigation.eservice@myfloridalegal.com" <ComplexLitigation.eservice@myfloridalegal.com>, "ashley.davis@dos.myflorida.com" <ashley.davis@dos.myflorida.com>, "Anita.Patel@myfloridalegal.com" <Anita.Patel@myfloridalegal.com>, "VandeBogart, Joseph" <Joseph.VandeBogart@dos.myflorida.com>, "cindy.laquidara@akerman.com" <cindy.laquidara@akerman.com>, "kim.crenier@akerman.com" <kim.crenier@akerman.com>

Good afternoon,

The Governor's Office of Open Government received your request, a copy of which is below for your reference. A search of the Executive Office of the Governor's files produced no documents responsive to your request.

Sincerely,

Office of Open Government

From: Julia Voss <Julia.Voss@ansbacher.net>
Sent: Wednesday, September 6, 2023 9:46 AM
To: Desantis.OpenGovernment <Desantis.OpenGov@eog.myflorida.com>
Cc: gsedinger12@gmail.com; Terrell Arline <tkarlinelaw@gmail.com>; Terrell Arline <Terrell.Arline@ansbacher.net>; littlegnv@gmail.com; Robert Hutchinson <hutchrk@aol.com>; Meros, Nicholas <Nicholas.Meros@eog.myflorida.com>; Erik.Sayler@myfloridalegal.com; ComplexLitigation.eservice@myfloridalegal.com; ashley.davis@dos.myflorida.com; Anita.Patel@myfloridalegal.com; VandeBogart, Joseph <Joseph.VandeBogart@dos.myflorida.com>; cindy.laquidara@akerman.com; kim.crenier@akerman.com
Subject: Ansbacher Law - Public Records Act Request

Dear Sir/Madam:

Good morning. Please see the attached correspondence from Mr. Terrell K. Arline.

Kind regards,

Julia A. Voss

Legal Assistant

Julia.Voss@ansbacher.net

904.737.4600 ext120

ANSBACHER LAW

REAL ESTATE · CONSTRUCTION · PERSONAL INJURY
CONDOMINIUMS · HOMEOWNER ASSOCIATIONS
WWW.ANSBACHER.NET

Jacksonville: 904.737.4600
Clay County: 904.385.3444
St. Augustine: 904.429.4833
Orlando: 407.575.5092
Collections: 904.416.1511
Personal Injury: 904.737.
4700

Ansbacher Law strives to provide the highest level of service. If you have any comments or concerns, please send a note to our [CARE CENTER](#) or contact Mark Thompson at 904.737.4600 x129

This message (and any associated files) is intended only for the use of the intended recipient and may contain information that is confidential, and subject to privilege. If you are not the intended recipient note that any dissemination, copying or distribution of this message, or associated files is prohibited. Absent language to the contrary in the body of the message or attachment, this communication will not satisfy the requirements for a writing, and nothing contained herein shall constitute a contract or electronic signature under the Electronic Signatures in Global and National Commerce Act, any version of the Uniform Electronic Transactions Act or any other statute governing electronic transactions. If this communication relates to a debt, please note that this is a communication from a debt collector attempting to collect a debt and that any information obtained will be used for that purpose.

Please note that under Florida law correspondence sent to the Governor's Office, which is not confidential or exempt pursuant to chapter 119 of the Florida Statutes, is a public record made available upon request.

**COMPOSITE
EXHIBIT “C”**

ANSBACHER LAW

CONDOMINIUMS • HOMEOWNER ASSOCIATIONS
REAL ESTATE • CONSTRUCTION • PERSONAL INJURY

8818 Goodbys Executive Drive
Jacksonville, FL 32217
(Primary mailing address)

3509 US Highway 17
Fleming Island, FL 32003

1650 US Hwy 1 South, Ste 201
St. Augustine, FL 32084

500 3rd Street South
Jacksonville Beach, FL 32250

300 Colonial Center Parkway
Suite 134, Lake Mary, FL 32746

September 18, 2023

Senator Keith Perry
5700 SW 34th Street
Suite 225
Gainesville, FL 32608

VIA EMAIL:
toperry.keith.web@flsenate.gov

RE: Public Records Act Request

Dear Sir:

Pursuant to Chapter 119, Florida Statutes, this letter will serve as our request to inspect the following public records maintained by Senator Keith Perry:

1. A copy of the “public notice” referred to in Section 7.05(1) of CHAPTER 2023-348 (Committee Substitute for House Bill No. 1645).
2. Any and all electronic and written documents, applications, and correspondence regarding nominees for membership on the Gainesville Regional Utilities Authority pursuant to 7.05(2) of CHAPTER 2023-348 (Committee Substitute for House Bill No. 1645).

Obtaining these records by email directly from Senator Keith Perry is the preferred method of production. We are willing to pay for obtaining the records and would request that you provide us with a cost estimate before undertaking the task of producing same.

In the event Senator Keith Perry determines that no public records exist for the particular items listed above, we request that Senator Keith Perry confirm such conclusion in writing. Similarly, to the extent any such public records do exist but are deemed by Senator Keith Perry to be exempt from disclosure pursuant to Florida law, we request that Senator Keith Perry provide written confirmation of such determination, including the specific statutory authority exempting such public records from disclosure.

Thank you for your assistance in this matter. Should you have any questions or request any additional information, please contact my office at (904) 737-4600.

Sincerely yours,



Terrell K. Arline
Attorney at Law

From: PublicRecordsRequests <PublicRecordsRequests@leg.state.fl.us>
Sent: Monday, September 25, 2023 10:20 AM
To: Julia Voss; Terrell Arline
Cc: Betta, Katherine; Gray, Kyle; Perez, Michelle
Subject: Public Records Request #207 - No Responsive Records

Dear Mr. Arline,

Pursuant to your public records request submitted on September 18, 2023, the Senate has found no responsive records for the following request:

1. **“A copy of the “public notice” referred to in Section 7.05(1) of CHAPTER 2023-348 (Committee Substitute for House Bill No. 1645). [Senator Keith Perry]**
2. **Any and all electronic and written documents, applications, and correspondence regarding nominees for membership on the Gainesville Regional Utilities Authority pursuant to 7.05(2) of CHAPTER 2023-348 (Committee Substitute for House Bill No. 1645).”**

The Senate provides this response pursuant to Article 1, Section 24 of the Florida Constitution, Title III, Section 11.0431 of the Florida Statutes and Senate Rule 1.48. Under Art. 1, s. 24(c) of the Florida Constitution, each house of the Legislature is exclusively authorized to adopt rules governing the enforcement of the maintenance, control and disposition of public records with respect to their own public records.

Sincerely,

Michelle

Michelle Perez

Public Records Manager

Office of the Senate General Counsel

302 The Capitol

404 South Monroe Street

Tallahassee, FL 32399-1100

Phone: (850) 487-5237

Fax: (850) 487-6444

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EXHIBIT “D”



Ron DeSantis

46th Governor of Florida



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Governor Ron DeSantis Appoints Three to the Gainesville Regional Utilities Authority.

On September 26, 2023, in [News Releases](#), by Staff

TALLAHASSEE, Fla. — Today, Governor Ron DeSantis announced the appointment of James Coats IV, Robert Karow, and Eric Lawson to the Gainesville Regional Utilities Authority. These appointments are effective October 1, 2023.

James Coats IV

Coats is the Chief Executive Officer of Phalanx Defense Systems. Active in his community, he serves as a member of the Golden Key International Honor Society and was awarded the “Spirit of Gainesville” Award by the Alachua County Chamber of Commerce. Coats earned his bachelor’s degree and master’s degree in business administration from American Military University.

Robert Karow

Karow is currently retired, previously serving as the Manager, Legal Counsel, and Contracts Manager for Oleoductos de Crudos Pesados. He is a veteran of the United States Marine Corps, retiring with the rank of Lieutenant Colonel. Earning his bachelor’s degree in economics and business administration from Chapman College and his juris doctor from the University of Florida, Karow has over 40 years of energy experience with an emphasis in oil and natural gas, pipelines, facilities, and power generation.

Eric Lawson

Lawson is the Chief Executive Officer of HCA North Florida Regional Hospital. Holding multiple executive leadership positions in hospitals over the past 30 years, he most recently served as the Division Chief Financial Officer for HCA TriStar. Lawson earned his bachelor’s degree in accounting from Tennessee Technological University.

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Comments are closed.



COMPOSITE EXHIBIT “E”

