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| **Gainesville Residents United, Inc**.2619 SE 30th PlaceGainesville, FL 32641 | **A colorful logo with black text  Description automatically generated** |  **. . . to educate, advocate, negotiate, and litigate important issues  for our community** |

 **Litigation Update - A Gathering Storm**
 January 17, 2024

This Gainesville Residents United update summarizes the broader implications and ongoing legal confrontations arising from House Bill 1645 (2023). Gainesville Regional Utilities (GRU) stakeholders, including its customers, employees, financiers, and policymakers find themselves in an increasingly precarious situation due to the bill's manifest flaws.

**Judicial Responses to Litigation:** Challengers of HB 1645, including Gainesville Residents United, Inc., have faced significant setbacks. Three separate suits collectively presented two dozen allegations, claiming that the bill infringes on constitutional rights and is inconsistent with statutes and the City charter. In all three cases, a federal judge and a state judge, have chosen to sidestep these allegations. By dismissing most defendants, denying standing to a diverse group of plaintiffs, and refraining from addressing the substantive issues, the courts have effectively limited the ability of Gainesville citizens, GRU stakeholders, and community leaders to contest legally dubious legislation. This judicial stance poses an existential threat to our federal and state constitutional rights and the rule of law.

**Utility Authority appointments challenged:** The Governor appointed four Utility Authority board members, and may appoint a fifth member in the upcoming months. There are two pending cases challenging the legality of these appointments; a hearing on the first case regarding lack of proper notice and members not complying with residency requirements will be heard in late February. The second case is still in the process of initial motions, and likely won't be heard until after the end of the legislative session in early March.

**Utility Authority's Narrow Focus:** The new Utility Authority's activities have focused on the financial aspects of GRU's electric operations. This narrow directive has led the Authority to sever most ties with the City of Gainesville and its various officials, including the City Attorney, Auditor, Clerk, and departments providing services to GRU. This detachment from city governance raises concerns about the broader impacts on community relations, local governance, and accountability.

**Operational Changes and Accountability Concerns**: While the Utility Authority is concentrating on reducing electric rates and the utility's debt — undeniably crucial objectives — this shift marks a significant departure from GRU's historical operations. A lack of accountability to the citizenry, coupled with perceived legal immunity is causing internal turmoil. Utility staff, crucial in guiding inexperienced Authority members on utility and public governance matters, are now facing an uncertain environment.

**Resistance to Reform Proposals**: There have been calls for the Utility Authority to propose amendments to HB 1645 to align it with industry standards and constitutional norms. Unfortunately, the Authority has demonstrated little interest in considering these reforms, despite potential benefits in reassuring concerned lenders and stabilizing governance. Today, Gainesville Regional Utilities is the only electric utility in the nation that is not governed by a board appointed by elected bodies or with regulatory oversight from a public utility commission.

**Legislative Amendments and Time Sensitivity**: State Representative Yvonne Hinson will be introducing a bill to amend HB 1645 in coming weeks. These amendments, if passed, address many issues spawned by the original bill and would lead to the withdrawal of ongoing litigation by Gainesville Residents United, Inc. The time to act is short, as GRU's bond validation process is imminent, and the legislative sessions ends in March, 2024. Failure to amend the bill could have adverse financial implications for GRU's bond validation, credit rating, and ultimately, its ratepayers.

**The Bond Validation Process:** Bond validation involves a trial in Circuit Court. The process aims to affirm the municipality's legal authority to issue bonds for a valid public purpose. This validation is crucial for maintaining investor confidence, as it directly influences the credit rating and interest rates of the bonds. The assessment by financial analysts and advisors prior to issuing bonds considers the utility's revenue generation, financial stability, and creditworthiness, all factors integral to the utility's fiscal health and investment appeal. The City's bond advisors have made it clear that the current questions raised by the Utility's governance make the upcoming bond validation process risky.

In summary, House Bill 1645 has introduced significant challenges and uncertainties for GRU and its stakeholders. The legal, operational, and financial ramifications necessitate urgent attention and remedial action from all involved parties.

 *The mission of Gainesville Residents United, Inc. is to educate, advocate, negotiate, and litigate important issues for our community. We are a 501(c)4 non-profit organization operated by volunteers, and whose attorneys work pro bono or for reduced rates. Financial support for Gainesville Residents United is from private individuals, and will be refunded on a pro-rata basis at the conclusion of litigation. Contributions are not tax deductible.*

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