

HB 759

2017

1                   A bill to be entitled  
2           An act relating to the City of Gainesville, Alachua  
3           County; amending ch. 12760, Laws of Florida (1927), as  
4           amended by ch. 90-394, Laws of Florida, relating to  
5           the city's charter; repealing section 3.06 of the  
6           city's charter, relating to the appointment,  
7           qualifications, powers, and duties of the general  
8           manager for utilities of Gainesville Regional  
9           Utilities; creating the Gainesville Regional Utilities  
10          Authority and establishing it as the governing board  
11          of Gainesville Regional Utilities; providing  
12          definitions; specifying the powers and duties of the  
13          authority; specifying the composition of the authority  
14          and the selection and removal, terms, compensation,  
15          organization, and liability of its members; specifying  
16          certain management and personnel for the authority;  
17          specifying applicability to certain city ordinances,  
18          policies, rates, fees, assessments, charges, rules,  
19          regulations, budgets, and contracts; requiring the  
20          authority to develop and review an ethics policy and  
21          code of conduct; providing a ballot statement;  
22          requiring a referendum; providing an effective date.

23  
24   Be It Enacted by the Legislature of the State of Florida:  
25

26           Section 1. Section 3.06 of Article III of section 1 of  
 27 chapter 90-394, Laws of Florida, is repealed.

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

31  
 32                   ARTICLE VII GAINESVILLE REGIONAL UTILITIES AUTHORITY  
 33

34           7.01 Establishment.—There is created a regional utilities  
 35 authority to be known as the "Gainesville Regional Utilities  
 36 Authority." Gainesville Regional Utilities shall be governed by  
 37 the authority upon installation of the authority's members  
 38 pursuant to this article. The authority shall operate as a unit  
 39 of city government and, except as otherwise provided in this  
 40 article, shall be free from direction and control of the  
 41 Gainesville City Commission. The authority is created for the  
 42 express purpose of managing, operating, controlling, and  
 43 otherwise having broad authority with respect to the utilities  
 44 owned by the City of Gainesville.

45           7.02 Definitions.—For the purposes of this article, unless  
 46 otherwise designated or the context otherwise requires, the  
 47 following terms have the following meanings:

48           (1) "Authority" means the Gainesville Regional Utilities  
 49 Authority created in this article.

50           (2) "City" means the City of Gainesville.

51           (3) "City commission" means the Gainesville City  
 52 Commission.

53           (4) "County" means Alachua County.

54           (5) "Customer" means a person or entity that makes  
 55 application for and is supplied with service by GRU for its  
 56 ultimate use.

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

58           (7) "Member" means a member of the authority.

59           (8) "Utilities" means the electric utility system, water  
 60 utility system, wastewater utility system, reuse water utility  
 61 system, natural gas utility system, communications utility  
 62 system, and such other utility systems as may be acquired by GRU  
 63 in the future.

64           7.03 Powers and duties.—

65           (1) The authority shall have all of the following powers  
 66 and duties, in addition to the powers and duties otherwise  
 67 conferred by this article:

68           (a) To manage, operate, and control the utilities and to  
 69 do all things necessary to effectuate an orderly transition of  
 70 the management, operation, and control of the utilities from the  
 71 city to the authority, consistent with this article.

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

75           (c) To acquire real or personal property and to construct

76 such projects as necessary to operate, maintain, enlarge,  
77 extend, preserve, and promote the utility systems in a manner  
78 that will ensure the economic, responsible, safe, and efficient  
79 provision of utility services, provided that title to all such  
80 property is vested in the city.

81 (d) To exercise the power of eminent domain pursuant to  
82 part IV of chapter 166, Florida Statutes, and to use utility  
83 funds to appropriate or acquire property, excluding federal or  
84 state property, for the purpose of obtaining, constructing, and  
85 maintaining utility facilities, provided that title to all such  
86 property is vested in the city.

87 (e) To issue revenue bonds, upon resolution of the  
88 authority establishing the form, terms, and purpose of such  
89 bonds, for the purpose of financing or refinancing utility  
90 system projects, and to exercise all powers in connection with  
91 the authorization, issuance, and sale of such bonds as conferred  
92 upon municipalities by part II of chapter 166, Florida Statutes,  
93 provided that such bonds may be validated in accordance with  
94 chapter 75, Florida Statutes. The authority may not issue  
95 general obligation bonds.

96 (f) To dispose of utility system assets only to the extent  
97 and under the conditions that the city commission may dispose of  
98 such assets pursuant to section 5.04 of Article V.

99 (g) To prepare and submit to the city commission, at least  
100 3 months before the start of the city's fiscal year, an annual

101 budget for all authority and GRU operations, including the  
102 amount of any transfer to the city. The term of the budget shall  
103 coincide with the city's fiscal year. Absent prior approval of  
104 the city commission, the authority's budget may not reduce the  
105 amount of any transfer to the city by more than 3 percent from  
106 the previous fiscal year.

107 (h) To appoint and remove a chief executive  
108 officer/general manager as provided in this article.

109 (i) To recommend, by resolution to the city commission,  
110 the acquisition and operation of a utility system not owned or  
111 operated by GRU as of the date of transfer of governing  
112 authority to the authority.

113 7.04 Authority members.-

114 (1) There shall be five members of the authority appointed  
115 by a simple majority vote of the city commission. Each member  
116 shall be a person of recognized ability and good business  
117 judgment, as identified by the city commission, who is expected  
118 to perform his or her official duties in the best interests of  
119 GRU and its customers. Appointments shall be made as follows:

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

122 (b) One member shall be a private, nongovernment customer  
123 consuming at least 10,000 kilowatt hours per month of electric  
124 usage during each of the previous 12 months. If the customer is  
125 an entity, this member may be the owner or representative of

126 such customer.

127 (c) Three members shall be competent and knowledgeable in  
 128 one or more specific fields substantially related to the duties  
 129 and functions of the authority, including, but not limited to,  
 130 law, economics, accounting, engineering, finance, or energy.

131 (2) All members of the authority shall:

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

134 (b) Be a customer of GRU electric utility system at all  
 135 times during the term of appointment.

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

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

142 (3) The composition of the authority shall be adjusted  
 143 upon expiration of any member's term, or upon any authority  
 144 vacancy, to reflect the ratio of total electric meters serving  
 145 GRU electric customers outside the city's jurisdictional  
 146 boundaries to total electric meters serving all GRU electric  
 147 customers. For example, upon expiration of a member's term or  
 148 upon an authority vacancy, if the ratio of total electric meters  
 149 serving customers outside the city boundaries to total electric  
 150 meters serving all electric customers reaches 40 percent, the

151 city commission must appoint a second member from outside the  
152 city boundaries to serve the next term that would otherwise be  
153 served by a qualified elector of the city. Conversely, upon  
154 expiration of any member's term or upon any authority vacancy,  
155 if the ratio subsequently falls below 40 percent, the city  
156 commission must appoint a qualified elector of the city to serve  
157 the next term that otherwise would have been served by a  
158 resident from outside the city boundaries.

159 (4) Until January 1, 2022, a current or former elected  
160 official of the city or county having held office after January  
161 1, 2000, may not become a member, except that a member initially  
162 appointed to the authority may be considered for subsequent  
163 reappointment if such individual remains otherwise qualified and  
164 chooses to be considered for reappointment.

165 (5) A member who is appointed for three full consecutive  
166 4-year terms may not succeed herself or himself.

167 7.05 Member terms.—

168 (1) The city commission shall appoint initial members to  
169 the authority within 120 calendar days after the approval at  
170 referendum of the creation of this article. The initial terms of  
171 office for the five members shall commence at 12 a.m. on October  
172 1, 2018. The terms of the initial appointments shall be as  
173 follows: one member shall be designated to serve until 12 a.m.  
174 October 1, 2019; one member shall be designated to serve until  
175 12 a.m. October 1, 2020; one member shall be designated to serve

176 until 12 a.m. October 1, 2021; and two members shall be  
177 designated to serve until 12 a.m. October 1, 2022. Members  
178 appointed for subsequent terms shall be appointed for 4-year  
179 terms commencing at 12 a.m. on October 1 of the year in which  
180 they are appointed. If a member is appointed to complete an  
181 unexpired term, the member's term shall commence at the time of  
182 appointment and shall continue through the remainder of the  
183 unexpired term.

184 (2) The city commission shall fill any vacancy for the  
185 unexpired portion of a term within 60 days after the vacancy  
186 occurs if the remainder of the term exceeds 90 days.

187 7.06 Member compensation.—Members of the authority shall  
188 serve without compensation but may receive reimbursement for per  
189 diem and travel expenses incurred in the performance of their  
190 duties, as provided in s. 112.061, Florida Statutes.

191 7.07 Authority; oath; organization; and meeting.—

192 (1) The authority shall initially meet at the chambers of  
193 the city commission at 6 p.m. on Wednesday, October 4, 2018.

194 (2) Before taking office for any term, each member shall  
195 be given an oath or affirmation by the mayor or his or her  
196 designee similar to the oath or affirmation required of a member  
197 of the city commission.

198 (3) The first official action of the authority shall be  
199 election of a chairperson and a vice chairperson from among its  
200 membership.



201       (4) The authority shall meet at least once each month,  
202 except in case of unforeseen circumstances. All meetings of the  
203 authority shall be noticed and open to the public, and minutes  
204 shall be kept as required by law, except that meetings related  
205 to settlement of then existing litigation may be held as allowed  
206 by law.

207       (5) The GRU general manager or his or her designee shall  
208 be responsible for making arrangements for and providing  
209 adequate notice of the initial meeting of the authority.

210       7.08 Removal and suspension of members.—

211       (1) A member may be removed or suspended from office by  
212 the city commission in accordance with s. 112.501, Florida  
213 Statutes. In addition to the grounds for removal set forth  
214 therein, a member may be removed by the city commission for  
215 failure to maintain the qualifications specified in section  
216 7.04.

217       (2) The authority may recommend to the city commission  
218 that a member be removed or suspended from office if it finds,  
219 by vote of at least three members, a reasonable basis for  
220 removal or suspension on one or more of the grounds set forth in  
221 s. 112.501, Florida Statutes, or for failure to maintain the  
222 qualifications specified in section 7.04. The authority shall  
223 give reasonable notice of any proceeding in which such action is  
224 proposed and must provide the member against whom such action is  
225 proposed a written statement of the basis for the proposed

226 action and an opportunity to be heard. The member against whom  
227 such action is proposed may not participate in the authority's  
228 debate or vote on the matter.

229 7.09 Management and personnel.-

230 (1) A chief executive officer/general manager (CEO/GM)  
231 shall direct and administer all utility functions, subject to  
232 the rules and resolutions of the authority. The CEO/GM shall  
233 serve at the pleasure of the authority. Appointment or removal  
234 of the CEO/GM shall be by majority vote of the authority. Until  
235 the authority appoints a CEO/GM, the sitting general manager of  
236 GRU shall serve as the CEO/GM. A sitting member of the authority  
237 may not be selected as the CEO/GM.

238 (2) All officers and employees of the city who serve under  
239 the supervision and direction of the sitting general manager of  
240 GRU shall serve under the CEO/GM. The CEO/GM shall have the  
241 exclusive authority to hire, transfer, promote, discipline, or  
242 terminate employees under his or her supervision and direction.

243 (3) The authority shall fix the salary of the CEO/GM, and  
244 the CEO/GM shall fix the salaries of all other employees who  
245 serve under his or her direction consistent with the annual  
246 budget approved by the authority. The sitting general manager of  
247 GRU, as well as all officers and employees of the city who, by  
248 virtue of this article, become subject to the supervision and  
249 direction of the CEO/GM, shall continue without any loss of  
250 rights or benefits as employees under the pension plans and

251 civil service merit system of the city existing as of the  
252 creation of the authority.

253 7.10 General provisions.—

254 (1) The city and the authority shall perform all acts  
255 necessary and proper to effectuate an orderly transition of the  
256 governance, operation, management, and control of the utilities  
257 to the authority, including, but not limited to, the creation of  
258 such instruments as are necessary for the authority to function  
259 in accordance with this article.

260 (2) All city ordinances, policies, rates, fees,  
261 assessments, charges, rules, regulations, and budgets related to  
262 operation of the utilities shall remain in effect until the  
263 authority, pursuant to the powers granted in this article,  
264 modifies any such item. If any city charter provision,  
265 ordinance, resolution, decree, or any part thereof conflicts  
266 with the provisions of this article, the provisions of this  
267 article shall govern. This subsection is not intended to and may  
268 not interfere with existing contractual arrangements between the  
269 city and county, regardless of whether such arrangements are  
270 reflected in charter provisions, ordinances, resolutions,  
271 decrees, or any part thereof.

272 (3) All rights, responsibilities, claims, and actions  
273 involving GRU as of the transfer to the authority shall  
274 continue, except as may be modified by the authority under the  
275 powers granted by this article and consistent with law.

276       (4) A franchise, right-of-way, license, permit, or usage  
 277 fee or tax may not be levied by the city upon the authority or  
 278 the utilities unless allowed by general law.

279       (5) Any utility advisory board created by the city  
 280 commission has no role with respect to the authority.

281       (6) A member of the authority is not individually  
 282 responsible for authority debts or liabilities.

283       (7) The authority shall develop an ethics policy and a  
 284 code of business conduct that shall be reviewed at least  
 285 biennially.

286       Section 3. In order to provide for the transitional  
 287 administrative needs and orderly compliance with the provisions  
 288 of this act, the chairperson of the authority or his or her  
 289 designee is authorized to execute documents required for the  
 290 transition.

291       Section 4. Referendum.—At the special referendum election  
 292 called pursuant to this act, the ballot question shall read as  
 293 follows:

294  
 295 "Shall the Charter of the City of Gainesville be amended by  
 296 creating the Gainesville Regional Utilities Authority as the  
 297 governing board of Gainesville Regional Utilities and appointed  
 298 by the City Commission of the City of Gainesville?"

299       Yes....

300       No....

301           Section 5. This act shall take effect only upon its  
302 approval by a majority vote of those qualified electors of the  
303 City of Gainesville voting in a referendum to be held in March  
304 2018 in conjunction with the citywide election to be held in the  
305 City of Gainesville, except that this section and section 4  
306 shall take effect upon becoming a law.