

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Local Government & Veterans Affairs offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the Escambia County Utilities Authority. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the authority, including all current legislative powers granted to the authority by its several legislative enactments, to repeal certain obsolete provisions, to restore words inadvertently omitted in the preparation of Chapter 97-364, Laws of Florida, and to delete gender-specific references.

Section 2. Chapters 92-248, 93-365, 95-497, and 97-364, Laws of Florida, relating to the Escambia County Utilities Authority, are codified, reenacted, amended, and repealed as herein provided.

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1 Section 3. The charter for the Escambia County
2 Utilities Authority is re-created and reenacted to read:

3 Section 1. Authority created.--There is hereby created
4 and established a local governmental body, corporate and
5 politic, to be known as the "Escambia County Utilities
6 Authority," hereinafter referred to as the "authority." The
7 authority is hereby declared to be an independent special
8 district.

9 Section 2. Legislative findings.--The Legislature
10 finds and declares that the health, welfare, and safety of the
11 inhabitants of Escambia County and of the City of Pensacola
12 would be enhanced by the consolidation of certain utility
13 systems and the creation of an independent authority for the
14 purposes hereinafter enumerated: that the consolidation of
15 said utility systems will serve a public purpose; that the
16 consolidated systems will be able to utilize economies of
17 scale and thereby achieve cost savings to the public; that the
18 increased size of the combined utility systems will enhance
19 the likelihood of more favorable financing for the city and
20 county; that the present sewer system of the county is near
21 maximum capacity, while the sewer system of the city presently
22 has excess capacity and is underutilized; and that the
23 consolidation of utility systems may eliminate duplicative
24 staff functions and positions.

25 Section 3. Purposes.--The authority is created for the
26 purpose of acquiring, constructing, financing, owning,
27 managing, providing, promoting, improving, expanding,
28 maintaining, operating, regulating, franchising, and otherwise
29 having plenary authority with respect to certain utility
30 systems within the territorial limits of Escambia County,
31 Florida, and areas adjacent thereto. It is further the purpose

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1 of this act to repose in the authority all powers with respect
2 to water, sewer, and such other additional utilities as may be
3 hereafter designated as provided in sections 5(c) and 7(c)
4 herein, which are now, in the future could be, or could have
5 been, but for this act, exercised by the City of Pensacola or
6 Escambia County, Florida.

7 Section 4. Governing body.--

8 (a) The governing body of the authority shall consist
9 of five members. Members shall be elected by a majority of
10 their electors in partisan elections utilizing the primary and
11 general election system provided for in chapter 100, Florida
12 Statutes. Candidates shall qualify for nomination to such
13 offices in the manner provided in chapter 99, Florida
14 Statutes, for the qualification of candidates for the office
15 of county commissioner, and shall qualify with the Supervisor
16 of Elections of Escambia County.

17 (b) Members shall be elected, in the primary and
18 general elections held in 1984, by districts under the
19 district plan of the Board of County Commissioners of Escambia
20 County (hereinafter referred to as the "Board"). Each member
21 shall be an elector of the district from which he or she is
22 elected and shall be elected by the qualified electors of that
23 respective district. Members elected for Districts Two and
24 Four at the general election held in 1984 shall be elected to
25 a 2-year term. Members elected for Districts One, Three, and
26 Five at the general election held in 1984 shall serve for a
27 4-year term. Thereafter each member shall be elected for a
28 term of 4 years. Beginning in 1996, the term of office of each
29 member shall commence on the second Tuesday following the
30 general election in which such member is elected. Upon the
31 expiration of a term of office, a successor to the office

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1 shall be elected as designated in this paragraph; however,
2 upon the occasion of a vacancy for any elected office which
3 vacancy occurs prior to the expiration of the then present
4 term of that office, a successor shall be appointed by the
5 Governor and the successor shall be a resident of the district
6 in which the vacancy occurred. Any person appointed to fill a
7 vacancy shall be appointed to serve only for the unexpired
8 term and until a successor is duly elected.

9 (c) Members shall be eligible for reelection.

10 (d) Before entering upon his or her duties, each
11 member shall take an oath to administer the duties of office
12 faithfully and impartially, and a record of such oath shall be
13 filed in the office of the Secretary of State.

14 (e) As compensation for performance of duties and
15 responsibilities set forth herein, members of the authority
16 and their successors shall receive from the authority monthly
17 an amount to be determined by majority vote of the members of
18 the authority, not to exceed the amount of compensation
19 received monthly by members of the District School Board of
20 Escambia County, and shall also receive from the authority
21 \$200 per month to be used in defraying regular expenses
22 incurred in the performance of the duties of office. Members
23 may receive reimbursement from the authority for additional,
24 unusual, or extraordinary expenses upon approval by the
25 authority.

26 (f) The authority shall elect a chair and a vice chair
27 from the members of the authority, each of whom shall serve
28 for 1 year or until his or her successor is chosen. The chair,
29 or the vice chair in the chair's absence, shall preside at all
30 meetings of the authority and shall perform such additional
31 duties prescribed by the members or in the bylaws of the

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1 authority. The authority shall hold regular meetings at least
2 monthly at such times and places as it may designate and may
3 hold more frequent special meetings. A majority of the
4 membership shall constitute a quorum for the purpose of
5 meeting and transacting business. Each member of the authority
6 shall have one vote. The authority may adopt bylaws and may
7 make all policies, procedures, rules, and regulations not
8 inconsistent with this act which it may deem necessary
9 respecting the conduct of its affairs, including, but not
10 limited to, the operation of its utility systems. Such
11 policies, procedures, rules, and regulations shall provide for
12 notice of all public meetings and shall provide that an agenda
13 shall be prepared by the authority in time to ensure that a
14 copy of the agenda will be available at least 3 days before
15 any regular meeting of the authority. After the agenda has
16 been made available, change shall be only for good cause, as
17 determined by the person designated to preside at the meeting,
18 and stated in the record. Special or emergency meetings may be
19 called by the chair upon no less than 24 hours' notice. The
20 authority shall publish and thereafter codify and index all
21 rules, regulations, and resolutions formulated, adopted, or
22 used by the authority in the discharge of its functions. Such
23 rules, regulations, and resolutions shall be made available
24 for public inspection and copying, at no more than cost. The
25 authority shall not be deemed an "agency" within the meaning
26 of chapter 120, Florida Statutes. The authority shall be
27 deemed to be an "agency" within the meaning of chapter 119,
28 Florida Statutes, and all records of the authority shall be
29 open to the public. The authority shall be deemed an "agency"
30 or "authority of the county" for purposes of section 286.011,
31 Florida Statutes, the "Government in the Sunshine Law." In

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1 addition to the provisions of the Code of Ethics for Public
2 Officers and Employees, part III of chapter 112, Florida
3 Statutes, no consultant to the authority shall have or hold
4 any employment or contractual relationship with a business
5 entity other than the authority in connection with any
6 contract in which the consultant personally participated
7 through decision, approval, disapproval, recommendation,
8 rendering of advice, or investigation while the consultant.
9 However, this provision shall not preclude the award of any
10 contract to a consultant if such contract is awarded after
11 open competitive bidding, and if the consultant submits the
12 low bid.

13 Section 5. Powers.--

14 (a) The authority shall have all powers and
15 authorities necessary, convenient, or desirable to accomplish
16 the purposes of this act. In furtherance thereof, the
17 authority shall have:

18 (1)a. The power to borrow and expend money to pay for
19 any of the purposes of the authority, and to issue its bonds,
20 notes in anticipation of the issuance of bonds, revenue
21 certificates, or other evidences of indebtedness, including
22 obligations issued to refund or refinance same, and to pledge
23 for the repayment of same any revenues of the authority,
24 including any revenues provided to the authority by
25 governmental or other entities for pledge by the authority as
26 security for payment of such obligations, all in the manner
27 and subject to such limitations as may be prescribed by
28 resolution of the authority, including, but not limited to,
29 the powers granted under chapter 125, part I of chapter 153,
30 part I of chapter 159, part II of chapter 166, and chapter
31 170, Florida Statutes, and chapter 57-1313, Laws of Florida.

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1 The bonds, notes, certificates, or other evidences of
2 indebtedness authorized to be issued by this act may be
3 validated in the manner prescribed in chapter 75, Florida
4 Statutes. Any complaint for validation permitted by the
5 preceding sentence shall be filed in the Circuit Court of
6 Escambia County. The authority may enter into trust agreements
7 with banks or other corporate entities possessing trust powers
8 within or without the State of Florida. The authority may
9 create liens upon or security interests in its assets,
10 properties, funds, or revenues, of whatever kind or nature,
11 and may specify the priority or order of such liens or
12 security interests. Such creation and specification of
13 priority or ordering may be made by resolution of the
14 authority or in a trust agreement to which the authority is a
15 party. The passage of such resolution or the execution of such
16 trust agreement is sufficient to the creation and
17 specification of priority and order of such liens and security
18 interests, and it shall not be necessary to comply with the
19 requirements of the Uniform Commercial Code respecting the
20 filing of a financing statement to perfect a security interest
21 granted by the authority.

22 b. In the exercise of the powers granted by this
23 paragraph, the authority shall comply in all respects with the
24 requirements of chapter 218, Florida Statutes, as the same may
25 be amended from time to time.

26 (2) All power and authority heretofore possessed
27 pursuant to law, ordinance, franchise, or otherwise by
28 Escambia County, the Board, the City of Pensacola, or the City
29 Council of the City of Pensacola (hereinafter referred to as
30 the "Council"), or hereafter granted by law, ordinance,
31 franchise, or otherwise to any county, municipality, special

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1 district, or other unit of local government insofar as such
2 powers and authority are related to sewage collection and
3 disposal, and water supply, including, but not limited to, the
4 powers granted under chapter 125, chapter 127, part I of
5 chapter 153, part I of chapter 159, part I of chapter 163,
6 part II of chapter 166, chapter 170, and chapter 180, Florida
7 Statutes, and chapter 57-1313, Laws of Florida.

8 (3) All powers granted to municipalities with regard
9 to sewage collection and disposal and water supply granted to
10 municipalities pursuant to chapters 170 and 180, Florida
11 Statutes, including the issuance of bonds or notes in
12 anticipation thereof payable from special assessments under
13 chapter 170, Florida Statutes.

14 (4) The power to establish service districts and
15 reasonable rate classifications for purposes of providing
16 utilities services. The authority shall endeavor to provide
17 that the costs of any improvements to or expansions of the
18 systems are borne by those users of the systems who benefit
19 from such improvements or expansions.

20 (5) The power to set, fix, pledge to establish, or
21 establish, levy, or impose assessments, rates, fees, and other
22 charges for the use of and for the services furnished or to be
23 furnished by the authority's systems, and to alter and amend
24 same from time to time, which assessments, rates, fees, and
25 charges, together with other revenues and receipts, shall
26 result in the authority's receiving or possessing an amount
27 not less than is required to operate and maintain a
28 self-liquidating or self-sustaining utility system.

29 (6) The power of eminent domain, as provided by
30 general law, to carry out the purposes described in this act.
31 As a condition precedent to instituting eminent domain

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1 proceedings, the authority shall first receive the approval of
2 the governing body (either the Board or the Council) of the
3 jurisdiction in which the subject property is located.

4 (7) The power to apply for and accept grants, loans,
5 and subsidies from any governmental entity for the
6 construction, operation, and maintenance of the systems,
7 facilities, or functions under jurisdiction of the authority,
8 and to comply with all requirements and conditions imposed in
9 connection therewith.

10 (8) The power and authority to perform any of its
11 functions by lease or contract with any other public or
12 private entity.

13 (9) All other powers, not expressly prohibited by the
14 United States or Florida Constitutions or by general law,
15 necessary to effectuate and carry out the purposes and intent
16 of this act.

17 (10) All privileges, immunities, and exemptions
18 accorded political subdivisions of this state under the
19 provisions of the constitution and laws of the state. Neither
20 the members of the authority nor any person executing any
21 contract or obligation on its behalf shall be personally
22 liable or accountable thereon or by reason thereof.

23 (11) Only those powers granted by general law to
24 counties or municipalities with respect to mandatory sewer
25 taps or sewer utilization or with respect to the acquisition
26 of privately owned water systems.

27 (12) The power to purchase, own, convey, sell, lease,
28 rent, or encumber air space, development rights, tower space,
29 or any other interests in property above the surface of any
30 land pursuant to such terms and conditions as the authority in
31 its discretion may determine.

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1 (13) The power to provide any and all utilities
2 services authorized by this act to areas outside the
3 territorial limits of Escambia County, but adjacent thereto,
4 if capacity is available.

5 (14) The power to establish civil penalties, including
6 the imposition of fines, for the violation of rules or
7 regulations of the authority pertaining to the disposal of
8 waste or the use of the authority's systems, facilities, or
9 services. The authority may enforce the rules and regulations
10 adopted pursuant to this section, by suit for injunction or
11 other appropriate action in the courts of the state.

12 (15) All powers granted to municipalities and to
13 counties with respect to membership and participation in and
14 ownership of any separate legal entity created for the
15 purposes of any financing program or loan pool as set forth in
16 section 163.01(7)(d), Florida Statutes, as the same may be
17 amended from time to time.

18 (b) Any power granted herein may be exercised by
19 resolution of the authority duly adopted, and any such
20 resolution shall be recorded in the minutes of the authority.

21 (c)(1) If the authority determines that it is
22 necessary or appropriate for the authority to provide,
23 operate, or maintain resource recovery systems or solid waste
24 collection, distribution, or disposal systems, the authority
25 may specify such additional utility systems by resolution.
26 Upon approval of such resolution by the governmental body of
27 the jurisdiction which such other additional utility system or
28 systems shall serve, the authority, with respect to these
29 specified utility systems, shall be vested with all power set
30 forth herein or in general law that would, but for the
31 provisions of this act, apply to such specified utility

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1 systems. All powers granted to the authority by this act
2 regarding such specified utilities systems shall only apply to
3 areas outside the corporate limits of the city unless the
4 Council, by resolution, irrevocably relinquishes its powers to
5 provide, operate, or maintain such specified utilities systems
6 or any one of them within the corporate limits of the city.

7 (2) In providing, operating, or maintaining resource
8 recovery systems or solid waste collection, distribution, or
9 disposal systems, the authority shall use the most
10 cost-effective means of providing such systems and is
11 encouraged to contract with private persons on a competitive
12 basis for any and all such systems in order to ensure that
13 such services are provided on the most cost-effective basis.
14 In accordance with section 403.7063, Florida Statutes, the
15 authority shall not discriminate against private persons who
16 provide resource recovery systems or solid waste collection,
17 distribution, or disposal systems.

18 (3) The authority shall seek competitive bids for all
19 construction-related activities pertaining to resource
20 recovery systems or solid waste collection, distribution, or
21 disposal systems when the estimated total cost of construction
22 will exceed \$5,000.

23 (d) No listing of powers included in this act is
24 intended to be exclusive or restrictive. On the contrary, it
25 is intended that the authority should have all implied powers
26 necessary or incidental to carrying out the expressed powers
27 and the expressed purposes for which the authority is created.
28 These implied powers include, but are not limited to, the
29 authority to employ personnel, to borrow and expend money, to
30 enter into contractual obligations, to employ legal counsel,
31 and to purchase, lease, sell, or exchange real or personal

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1 property. The fact that this act specifically states that the
2 authority possesses a certain power does not mean that the
3 authority must exercise such power unless the act specifically
4 so requires. The authority's power to levy special assessments
5 shall not be deemed to be the power to levy taxes.

6 (e) Except as is hereinafter provided, nothing herein
7 shall be construed to affect any privately owned water or
8 sewer utility operating within Escambia County on August 1,
9 1981, under any franchise, permit, or other authorization from
10 the Board. The Board shall continue to exercise such powers,
11 duties, and functions with regard to such privately owned
12 utilities to the same extent as exercised or allowed prior to
13 August 1, 1981. Any rates set or approved for any privately
14 owned utility by the Board between August 1, 1981, and the
15 effective date of chapter 83-404, Laws of Florida, shall
16 remain in full force and effect and shall not be subject to
17 challenge because of any provisions of chapter 81-376, Laws of
18 Florida. The Board and the authority are authorized to utilize
19 the provisions of section 367.081(4)(b), Florida Statutes, as
20 it may be amended, and the rules of the Florida Public Service
21 Commission adopted pursuant thereto, for the purpose of
22 automatically increasing or decreasing the rates of any
23 privately owned utility over which the Board exercises
24 ratemaking authority or approval, subject to the limitations
25 of such statutes and rules. Any publicly owned or privately
26 owned water utility operating within Escambia County on or
27 after August 1, 1981, under any franchise, permit, or other
28 authorization from the authority, the Board, or the state
29 shall:

30 (1) Promptly provide to the authority as soon as it is
31 available a copy of its complete water service consumption

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1 information with regard to water service customers of such
2 utility who are also sewer service or solid waste service
3 customers of the authority or of an entity with which the
4 authority has an agreement under subsection (i); and

5 (2) Upon certification by the authority that any such
6 customer has failed to pay charges for sewer service or solid
7 waste service furnished by the authority or by an entity with
8 which the authority has an agreement under subsection (i) and
9 has been given notice and a reasonable opportunity to pay such
10 charges, discontinue furnishing water to such customer and
11 disconnect the water supply system of such customer until all
12 such charges and other charges, including interest and charges
13 for the shutting off and discontinuance and the restoration of
14 water service, are paid in full.

15
16 For purposes of interpreting Florida Administrative Code Rule
17 25-30.320, the authority shall be considered an "affiliated
18 utility" of any such water utility. The authority shall
19 promptly reimburse to such cooperating water utility the
20 reasonable cost of providing a copy of its water service
21 billing information and of disconnecting its water service.

22 (f) The authority shall enter into an agreement with
23 each entity furnishing solid waste collection service to
24 customers who are required by the Board to subscribe for such
25 service. Upon certification to the authority by such entity
26 that a customer has failed to pay charges for solid waste
27 service furnished by it and has been given notice and a
28 reasonable opportunity to pay such charges, the authority:

29 (1) Shall, if the customer is a customer of water from
30 the authority, discontinue furnishing water to such customer
31 and disconnect the water supply of such customer until all

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1 such charges, including interest and charges for the shutting
2 off and discontinuance and the restoration of water service,
3 are paid in full; or

4 (2) Shall certify the information provided by such
5 entity to any utility providing water service to the customer,
6 if the customer is also a customer of water from the water
7 utility. The entity shall promptly reimburse the authority for
8 amounts paid to a water utility under subsection (e) on its
9 behalf.

10 Section 6. Public purpose.--The Legislature finds and
11 declares that the creation of the authority and the carrying
12 out of its purposes are in all respects for the benefit of the
13 people of this state, Escambia County, and the City of
14 Pensacola; that the authority is performing an essential
15 governmental function; that all property of such authority is
16 and shall in all respects be considered to be public property,
17 and title to such property shall be held by the authority for
18 the benefit of the public; that the use of such property,
19 until disposed of upon such terms as the authority may deem
20 just, shall be for essential public and governmental purposes;
21 and that all bonds, notes, revenue certificates, or other
22 evidences of indebtedness and interest or income thereon and
23 all of the property, facilities, services, and activities of
24 the authority are declared to be nontaxable for any and all
25 purposes by the state or any unit of government herein to the
26 same extent as if owned or issued by or on behalf of a county
27 or municipality of the state.

28 Section 7. Transfer of assets and liabilities.--

29 (a) The City of Pensacola and Escambia County are
30 hereby specifically authorized and directed to convey to the
31 authority the water and sewer systems of each, and the

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1 authority is authorized and directed to accept such systems,
2 upon payment to the City of Pensacola of \$10 million as fair
3 compensation for the loss of revenues from its water systems,
4 plus the amount necessary to defease all outstanding
5 obligations of the city with respect to its water and sewer
6 systems and upon payment to the county of the amount necessary
7 to defease all outstanding obligations of the county with
8 respect to its water and sewer systems. However, if adequate
9 provisions can be made to protect the rights of the county and
10 the holders of the obligations relating to the county's Water
11 and Sewer District Number One, then such obligations shall be
12 transferred to the authority; otherwise, the authority shall
13 pay to the county such amount as is necessary to defease the
14 outstanding obligations of Water and Sewer District Number
15 One. Furthermore, the rights of the holders of outstanding
16 obligations issued by the City of Pensacola and Escambia
17 County to finance their respective water and sewer systems
18 shall be protected and shall not be deemed to be abridged or
19 denied by the transfer herein authorized. Upon the transfer of
20 any such systems to the authority, adequate provision shall be
21 made for the payment of such obligations; whereupon, all
22 rights of the holder in the property of the city or county or
23 authority shall terminate. Upon payment of the compensation
24 mentioned above, the city and county shall transfer to the
25 authority all properties, both real and personal,
26 improvements, facilities, and assets of the city's and
27 county's water and sewer systems. To consummate the sale as
28 aforementioned, revenue bonds shall be issued and sold by the
29 authority as soon as practicable after the authority organizes
30 and commences its activities.

31 (b) When such transfers have been completed, the

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1 authority shall assume all rights and obligations of ownership
2 and management of the water and sewer systems of the City of
3 Pensacola and Escambia County. Any and all legal commitments,
4 contracts, or other obligations heretofore entered into or
5 assumed by the City of Pensacola or Escambia County in
6 connection with the programs, activities, or functions
7 transferred are hereby charged to and shall be performed by
8 the authority. However, accounts receivable and debts of the
9 city and the county that are due and payable prior to the date
10 of such transfer shall remain the property or the obligation
11 of the city or the county.

12 (c) Upon majority vote of the authority and of the
13 governmental body affected, and upon payment of fair
14 compensation by the authority, such governmental body shall be
15 authorized to transfer to the authority, and the authority
16 shall be authorized to accept, any resource recovery system or
17 solid waste collection, distribution, or disposal system of
18 such governmental body. The amount of such compensation shall
19 be agreed upon by the governmental body and the authority.
20 However, the rights of the holders of any outstanding bonds,
21 notes, revenue certificates, or other evidence of indebtedness
22 issued to finance such system shall be protected and shall not
23 be deemed to be abridged or denied by the transfer herein
24 authorized. Nothing herein contained shall preclude the
25 limitation or alteration of any and all such rights of such
26 holders if and when adequate provision shall be made for the
27 retirement of such bonds, notes, revenue certificates, or
28 other evidence of indebtedness.

29 (d) The City of Pensacola, Escambia County, or any
30 other governmental entity shall be authorized in its
31 discretion to cooperate with or contract with the authority,

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1 on any matter necessary, incidental, or convenient, for such
2 funding as will effectuate the purposes of this act,
3 including, but not limited to, agreements authorizing the
4 pledge of any legally available revenues as security for and
5 for payment of any bonds, notes, revenue certificates, or
6 other evidence of indebtedness of the authority, interest or
7 redemption premium thereon, and other necessary expenses or
8 costs in connection with such bonds, notes, revenue
9 certificates, or other evidence of indebtedness. Such legally
10 available revenues may be so provided, used, or pledged,
11 notwithstanding the provisions of any other law; provided,
12 however, that ad valorem taxes may be so provided and used
13 only after full compliance with the Constitution of the State
14 of Florida, and provided further that nothing herein shall be
15 deemed or operate to impair the rights of the holders of any
16 outstanding obligations secured by such revenues, until such
17 time as provision for payment of such obligations shall have
18 been made.

19 Section 8. Franchise fees.--The Council is hereby
20 authorized to impose a franchise fee upon the authority
21 system; provided, however, that the authority is authorized to
22 pass on said fee only to in-city users of the system, which
23 shall be reflected on the city bills.

24 Section 9. Rate setting procedure.--

25 (a) The authority shall fix the initial schedule of
26 assessments, rates, fees, and other charges for the use of and
27 for the services furnished or to be furnished by the
28 authority's facilities, to be paid by the owner, tenant, or
29 occupant of each lot or parcel of property which may be
30 connected with and use any such facility by or through any
31 part of the water, or other additional utility systems of the

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1 authority.

2 (b) After the system or systems shall have been in
3 operation, the authority may revise such schedule of
4 assessments, rates, fees, and charges from time to time. Such
5 assessments, rates, fees, and charges shall be so fixed and
6 revised as to provide funds, with other funds available for
7 such purposes, sufficient at all times to pay the cost of
8 maintaining, repairing, and operating the system or systems,
9 including the reserves for such purposes and for replacements
10 and depreciation and necessary extensions, to pay the
11 principal of and the interest on any bonds as the same shall
12 become due and the reserves therefor, and to provide a margin
13 of safety for making such payments, all in accordance with
14 section 5(a)(5). The authority shall charge and collect the
15 assessments, rates, fees, and charges so fixed or revised.

16 (c) Such assessments, rates, fees, and charges shall
17 be just and equitable and may be based or computed upon the
18 quantity of water consumed, upon the number and size of sewer
19 connections, upon the number and kind of plumbing fixtures in
20 use in the premises connected with the sewer system, upon the
21 number or average number of persons residing or working in or
22 otherwise connected with such premises, upon any other factor
23 affecting the use of the facilities furnished, or upon any
24 combination of the foregoing factors. Prior to fixing or
25 revising such schedule of rates, fees, and charges, the
26 authority shall cause to be prepared a statement of financial
27 impact. Such statement shall be made available to the public
28 during the rate-making procedure.

29 (d) In cases where the amount of water furnished to
30 any building or premises is such that it imposes an
31 unreasonable burden upon the water system, an additional

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1 charge may be made therefor, or the authority may, if it deems
2 it advisable, require the owners or occupants of such building
3 or premises to reduce the amount of water consumed thereon in
4 a manner to be specified by the authority, or the authority
5 may refuse to furnish water to such building or premises.

6 (e) In cases where the character of the sewage from
7 any manufacturing or industrial plant or any building or
8 premises is such that it imposes an unreasonable burden upon
9 any sewage disposal system, an additional charge may be made
10 therefor, or the authority may, if it deems it advisable,
11 require such manufacturing or industrial plant or such
12 building or premises to treat such sewage in such manner as
13 shall be specified by the authority before discharging such
14 sewage into any sewer lines owned or maintained by the
15 authority.

16 (f) The authority may charge any owner or occupant of
17 any building or premises receiving the services of the
18 facilities herein provided such initial installation or
19 connection charge or fee as the authority may determine to be
20 just and reasonable.

21 (g)(1) Except as hereinafter provided in paragraph
22 (2), no assessments, rates, fees, or charges shall be fixed
23 under the foregoing provisions of this section until after a
24 public hearing at which all of the users of the authority's
25 facilities and owners, tenants, and occupants of property
26 served or to be served thereby and all others interested shall
27 have an opportunity to be heard concerning the proposed
28 assessments, rates, fees, and charges. After the adoption by
29 the authority of a resolution setting forth the preliminary
30 schedule or schedules fixing such assessments, rates, fees,
31 and charges, notice of such public hearing setting forth the

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1 schedule or schedules of assessments, rates, fees, and charges
2 shall be given:

3 a. By publication in a newspaper of general
4 circulation in the affected area;

5 b. By mail to all persons and organizations that have
6 made requests for advance notice of the authority's
7 proceedings; and

8 c. By posting in appropriate places so that affected
9 persons may be duly notified.

10

11 Such publication, mailing, and posting of notice shall occur
12 at least 14 days prior to the public hearing. Such hearing may
13 be adjourned from time to time. After such hearing, such
14 preliminary schedule or schedules, either as originally
15 adopted or as modified or amended, shall be adopted and put
16 into effect. The assessments, rates, fees, or charges so fixed
17 for any users or property served shall be extended to cover
18 any additional users or property thereafter served that fall
19 within the same class or classes without the necessity of any
20 hearing or notice.

21 (2) The authority may fix the assessments, rates,
22 fees, and charges to be paid by any such user, owner, tenant,
23 or occupant as the authority reasonably finds to be unique
24 with respect to its use of the authority's systems or
25 facilities. Such assessments, rates, fees, and charges may be
26 fixed by resolution adopted at any regular meeting, or any
27 special meeting of the authority called for that purpose, and
28 such resolution shall state the basis for such finding.

29 (3) A copy of the schedule or schedules of such
30 assessments, rates, fees, and charges as finally fixed in such
31 resolution shall be kept on file in the headquarters of the

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1 authority and shall be open to inspection by all parties
2 interested.

3 (4) Any change or revision of any assessments, rates,
4 fees, or charges may be made in the same manner as such
5 assessments, rates, fees, or charges were originally
6 established as hereinabove provided.

7 Section 10. Personnel.--

8 (a) The authority is empowered to appoint, remove, and
9 suspend employees or agents of the authority and fix their
10 compensation within the guidelines established by the Escambia
11 County Civil Service Rules.

12 (b) The authority may provide social security for its
13 employees pursuant to the provisions of chapter 650, Florida
14 Statutes, and may bring its employees under the Florida
15 Retirement System, the State and County Officers and Employees
16 Retirement System, or any other qualified retirement program.

17 (c) On the effective date of the transfer of assets
18 set forth in section 7, all employees of the Escambia County
19 Department of Utilities and of the City of Pensacola
20 Department of Utilities that theretofore had been assigned to
21 the Escambia Water and Sewer Utilities Authority created by
22 virtue of that certain interlocal agreement dated November 25,
23 1980, and any other such employee who may be designated by the
24 city or the county prior to the effective date of the transfer
25 of assets referred to above, shall be transferred to the
26 authority and shall continue without loss of benefits as
27 employees of the authority.

28 (d) Employees who are transferred to the authority and
29 who are members of the retirement systems available to
30 employees of the City of Pensacola or Escambia County shall
31 not lose those pension or retirement rights or any reserves

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1 accrued to their benefit during the period of their employment
2 by the city or the county. Such employees may elect to retain
3 the pension and retirement rights accrued during the period of
4 their employment by the city or the county. Any employee so
5 electing shall give written notice of his or her election,
6 within 30 days or such longer period of time determined by the
7 authority after the effective date of the transfer, to the
8 City Manager of the City of Pensacola or to the County
9 Administrator of Escambia County, as appropriate, who shall
10 then process the notice. In the event any employees elect to
11 retain their pension and retirement rights accrued during the
12 period of their employment with the city or the county, or
13 prior to such election, the authority shall pay into the
14 appropriate retirement system during the period that such
15 employees remain as authority employees, such sums of money as
16 are paid by the city or the county for the benefit of such
17 employees in order to guarantee their continuing participation
18 in such retirement program. The authority may make appropriate
19 deductions from the employees' salaries to preserve their
20 retirement benefits.

21 (e) Employees who, prior to being transferred to the
22 authority, were members of the general pension system of the
23 City of Pensacola and who do not elect to continue to accrue
24 additional rights to benefits thereunder shall be entitled to
25 the same rights under such system as would be afforded to
26 persons who had voluntarily left the employ of the City of
27 Pensacola as of September 30, 1981. Such rights shall be
28 determined in accordance with the special laws governing such
29 system, and shall include, but shall not be limited to, the
30 right to receive a pension effective as of September 30, 1981,
31 or such later date as the employee attains the age or length

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1 of service as an employee of the City of Pensacola as is
2 required for eligibility to receive a pension, to retain
3 vested rights, or to withdraw contributions, depending on the
4 employee's length of service as of September 30, 1981. The
5 enjoyment of such rights shall not be deemed to be a change of
6 benefits within the meaning of section 112.63(3), Florida
7 Statutes. The payment of such benefits as may be payable on
8 account of service as an employee of the City of Pensacola
9 shall be the obligation of the City of Pensacola, through its
10 general pension and retirement fund.

11 (f) Employees of the authority are subject to the
12 civil service system of Escambia County and to the policies
13 and rules of the Civil Service Board.

14 Section 11. Personnel appeals board.--

15 (a) There shall be appointed a personnel appeals board
16 comprised of two members appointed by the authority, two
17 members chosen by employees of the authority classified below
18 the level of department head, and one member appointed by the
19 other four members. The members of the board shall serve a
20 term of 1 year. An appointment to a vacant position on the
21 board shall be filled in the manner of the original
22 appointment to that position. The board shall hear appeals
23 from suspensions, demotions, or dismissals or of employees of
24 the authority classified below the level of department head
25 and not designated as other key staff personnel by the
26 authority as provided in section 13. The decisions of the
27 board on such appeals shall be final, subject to review by the
28 Circuit Court of Escambia County. The board may investigate
29 and make recommendations to the executive director of the
30 authority on major policy and procedural questions relating to
31 personnel management and on individual grievances by

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1 employees. However, the recommendations of the board on such
2 matters shall be advisory only. The board may employ legal
3 counsel, and a reasonable budget for such purpose shall be
4 provided by the authority. The executive director of the
5 authority shall provide the administrative services required
6 by the board.

7 (b) Notwithstanding anything provided herein or in any
8 special or general act to the contrary, the rights and
9 benefits herein granted shall be in lieu of and substitution
10 for any rights and benefits such employees may have had under
11 any civil service or personnel system of the City of Pensacola
12 or Escambia County.

13 Section 12. Process and procedure.--

14 (a) Any person wishing to appeal an action of the
15 authority that directly affects his or her substantial
16 interests may file a petition for review within 10 days of the
17 date the complained of action is taken. The authority shall
18 consider such petitions for review and shall take action at a
19 public meeting to grant or deny such petitions within 40 days
20 of receipt.

21 (b) If the petition is granted, the petitioner, or his
22 or her counsel, shall be afforded an opportunity, at a
23 mutually convenient time and place and after reasonable
24 written notice, to present to the authority or its designee
25 written or oral evidence in opposition to the authority's
26 action. If a material issue of disputed fact is involved, the
27 authority shall appoint a hearing officer to preside. The
28 hearing officer shall hear the evidence and shall prepare
29 recommended findings of fact and conclusions of law for
30 approval of the authority.

31 (c) Decisions of the authority shall be in writing and

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1 shall contain findings of fact and conclusions of law. A
2 person aggrieved by a decision of the authority shall have the
3 same rights and remedies that would have been available to him
4 or her under general law if the action complained of had been
5 taken by Escambia County or the City of Pensacola.

6 Section 13. Executive director.--The authority shall
7 employ and fix the compensation of an executive director, who
8 shall manage the affairs of the utilities systems under the
9 supervision of the authority and direct the activities of the
10 employees of the authority. The executive director shall
11 devote his or her entire working time to the performance of
12 his or her duties and not have outside employment or business.
13 The executive director shall be a college graduate. The
14 executive director must either possess a degree in science,
15 engineering, business management, or public administration or,
16 alternatively, must be a licensed and registered engineer. The
17 executive director shall have at least 6 years of experience
18 in the field of engineering, operations, or management of a
19 utility system of size comparable to or larger than the water
20 and sewer system of the City of Pensacola in 1981. The
21 authority may allow the substitution of additional years of
22 administrative or management experience in lieu of the
23 specific educational or professional requirements set forth
24 above. The executive director, the assistant executive
25 director, the department heads, and such other key staff
26 personnel so designated by the authority shall not be included
27 within any civil service system or be under the jurisdiction
28 of the personnel appeals board.

29 Section 14. Fiscal year and budget.--The fiscal year
30 of the authority shall begin on the first day of October and
31 end on the last day of September of the following year. Prior

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1 to the beginning of each fiscal year, the authority shall
2 adopt an annual budget that shall be balanced and that shall
3 detail the anticipated expenses and revenues of the authority
4 for the forthcoming fiscal year.

5 Section 15. Execution of documents; payment of
6 bills.--All instruments in writing necessary to be executed by
7 the authority shall be executed by the executive director upon
8 authorization by the authority or by such other officer,
9 agent, or employee of the authority as it may by resolution
10 designate. The authority shall provide for the examination of
11 all payrolls, bills, and other claims and demands against the
12 authority to determine, before the same are paid, that they
13 are duly authorized, in proper form, correctly computed, and
14 legally due and payable and that the authority has funds on
15 hand to make payment.

16 Section 16. Management efficiency audit.--The
17 authority shall contract for a management efficiency audit by
18 a private firm within 1 year of the effective date of the act,
19 and at intervals of at least 3 years thereafter, to review
20 program results and make recommendations for the proper,
21 efficient, and economical operation and maintenance of the
22 utilities systems, facilities, and functions under supervision
23 of the authority.

24 Section 17. Citizens' advisory committee.--The
25 authority shall make provision for and appoint a citizens'
26 advisory committee or committees. The appointees to such
27 committees shall have no personal or business ties with the
28 authority that could be construed as a conflict of interest.

29 Section 18. Enforcement and penalties.--Any violation
30 of rules or regulations of the authority pertaining to the
31 disposal of waste or the use of the authority's systems,

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1 facilities, or services is declared to be a noncriminal
2 violation and shall be punishable by fine, forfeiture, or
3 penalty. Such fine, forfeiture, or penalty shall be
4 established by resolution of the authority, and shall not
5 exceed \$500 for each violation. However, the authority may
6 specify, by resolution, that violation of a rule or regulation
7 of the authority is punishable by fine, forfeiture, or penalty
8 in an amount exceeding \$500 but not exceeding \$2,000 per day,
9 if the authority must have authority to punish a violation of
10 such rule or regulation by a fine, forfeiture, or penalty in
11 an amount greater than \$500 in order for the authority to
12 carry out a federally mandated program. Any resolution of the
13 authority establishing such fine, forfeiture, or penalty may
14 provide that each day of a continuing violation shall
15 constitute a separate violation. Violations of such authority
16 rules and regulations may be prosecuted in the same manner as
17 misdemeanors, or pursuant to section 5(a)(14) of this act. If
18 such violations are prosecuted in the same manner as
19 misdemeanors, they may be enforced by local law enforcement
20 agencies and prosecuted in the name of the state in a court
21 having jurisdiction of misdemeanors by the prosecuting
22 attorney thereof. All fines, forfeitures, and penalties
23 imposed for violations of authority rules and regulations
24 shall be paid to the authority, provided that the local law
25 enforcement agency be reimbursed from such fines, forfeitures,
26 and penalties for its cost of enforcement.

27 Section 19. The provisions of this act shall be
28 liberally construed to effectuate the purposes set forth
29 herein.

30 Section 20. If any provision of this act or the
31 application thereof to any person or circumstance is held

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1 invalid, the invalidity shall not affect other provisions or
2 applications of the act that can be given effect without the
3 invalid provision or application and to this end the
4 provisions of this act are declared severable.

5 Section 4. Chapters 81-376, 82-390, 83-403, 83-404,
6 84-427, 84-428, 85-410, 86-451, 89-473, 91-349, 91-403,
7 92-248, 93-365, 95-497, and 97-364, Laws of Florida, and
8 section 3 of chapter 91-335, Laws of Florida, are repealed.

9 Section 5. This act shall take effect upon becoming a
10 law.

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