

By Representatives Miller, Maygarden, Melvin and Benson

1                                   A bill to be entitled  
2           An act relating to Escambia County; codifying,  
3           repealing, amending, and reenacting special  
4           laws relating to the Escambia County Utilities  
5           Authority; providing legislative intent;  
6           declaring the authority to be an independent  
7           special district; restoring words inadvertently  
8           omitted in the preparation of House Bill 1517,  
9           which was enacted as chapter 97-364, Laws of  
10          Florida; repealing obsolete provisions;  
11          deleting gender-specific references; providing  
12          a district charter; providing an effective  
13          date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17           Section 1. Pursuant to section 189.429, Florida  
18 Statutes, this act constitutes the codification of all special  
19 acts relating to the Escambia County Utilities Authority. It  
20 is the intent of the Legislature in enacting this law to  
21 provide a single, comprehensive special act charter for the  
22 authority, including all current legislative powers granted to  
23 the authority by its several legislative enactments, to repeal  
24 certain obsolete provisions, to restore words inadvertently  
25 omitted in the preparation of House Bill 1517, and to delete  
26 gender-specific references.

27           Section 2. Chapters 92-248, 93-365, 95-497, and  
28 97-364, Laws of Florida, relating to the Escambia County  
29 Utilities Authority, are codified, reenacted, amended, and  
30 repealed as herein provided.

31

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

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

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

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

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.

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

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

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



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.

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

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

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 of county commissioners shall continue to  
11 exercise such powers, duties, and functions with regard to  
12 such privately owned utilities to the same extent as exercised  
13 or allowed prior to August 1, 1981. Any rates set or approved  
14 for any privately owned utility by the board between August 1,  
15 1981, and the effective date of chapter 83-404, Laws of  
16 Florida, shall remain in full force and effect and shall not  
17 be subject to challenge because of any provisions of chapter  
18 81-376, Laws of Florida. The board and the authority are  
19 authorized to utilize the provisions of section 367.081(4)(b),  
20 Florida Statutes, as it may be amended, and the rules of the  
21 Florida Public Service Commission adopted pursuant thereto,  
22 for the purpose of automatically increasing or decreasing the  
23 rates of any privately owned utility over which the board  
24 exercises ratemaking authority or approval, subject to the  
25 limitations of such statutes and rules. Any publicly owned or  
26 privately owned water utility operating within Escambia County  
27 on or after August 1, 1981, under any franchise, permit, or  
28 other authorization from the authority, the board, or the  
29 state shall:

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

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) All powers granted to the authority by this act  
23 regarding natural gas shall only apply to areas outside the  
24 present franchised area of the City of Pensacola.

25 (g) The city is hereby specifically authorized and  
26 directed to convey to the authority those assets of its gas  
27 system located north of the Ten Mile Road in Escambia County,  
28 and the authority is authorized and directed to accept such  
29 assets upon the authority providing written notice to the city  
30 that the authority is capable of providing natural gas service  
31 with their own distribution system within the authority's

1 franchise areas that the city is currently serving with  
2 permission of the present franchisee without causing  
3 interruption of natural gas service to the customers thereto;  
4 provided, however, that such conveyance by the city is  
5 conditioned upon payment by the authority to the city of the  
6 appraised value of such assets. The appraisal method shall be  
7 replacement cost, less accrued depreciation. Such appraisal  
8 value shall be determined by an appraiser selected by the  
9 city, one appraiser selected by the authority, and a third  
10 appraiser selected by those two appraisers. In the event of  
11 disagreement among the three appraisers, the value placed upon  
12 the assets by the third appraiser shall be final.

13 (h) Nothing herein shall be construed to affect the  
14 interstate transmission of natural gas. The authority shall  
15 have no power or authority over the interstate transmission of  
16 natural gas.

17 (i) The authority shall enter into an agreement with  
18 each entity furnishing solid waste collection service to  
19 customers who are required by the board to subscribe for such  
20 service. Upon certification to the authority by such entity  
21 that a customer has failed to pay charges for solid waste  
22 service furnished by it and has been given notice and a  
23 reasonable opportunity to pay such charges, the authority:

24 (1) Shall, if the customer is a customer of water from  
25 the authority, discontinue furnishing water to such customer  
26 and disconnect the water supply of such customer until all  
27 such charges, including interest and charges for the shutting  
28 off and discontinuance and the restoration of water service,  
29 are paid in full; or

30 (2) Shall certify the information provided by such  
31 entity to any utility providing water service to the customer,

1 if the customer is also a customer of water from the water  
2 utility. The entity shall promptly reimburse the authority for  
3 amounts paid to a water utility under subsection (e) on its  
4 behalf.

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

23 Section 7. Transfer of assets and liabilities.--  
24 (a) The City of Pensacola and Escambia County are  
25 hereby specifically authorized and directed to convey to the  
26 authority the water and sewer systems of each, and the  
27 authority is authorized and directed to accept such systems,  
28 upon payment to the City of Pensacola of \$10 million as fair  
29 compensation for the loss of revenues from its water systems,  
30 plus the amount necessary to defease all outstanding  
31 obligations of the city with respect to its water and sewer

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

26 (b) When such transfers have been completed, the  
27 authority shall assume all rights and obligations of ownership  
28 and management of the water and sewer systems of the City of  
29 Pensacola and Escambia County. Any and all legal commitments,  
30 contracts, or other obligations heretofore entered into or  
31 assumed by the City of Pensacola or Escambia County in



1 connection with the programs, activities, or functions  
2 transferred are hereby charged to and shall be performed by  
3 the authority. However, accounts receivable and debts of the  
4 city and the county that are due and payable prior to the date  
5 of such transfer shall remain the property or the obligation  
6 of the city or the county.

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

24 (d) The City of Pensacola, Escambia County, or any  
25 other governmental entity shall be authorized in its  
26 discretion to cooperate with or contract with the authority,  
27 on any matter necessary, incidental, or convenient, for such  
28 funding as will effectuate the purposes of this act,  
29 including, but not limited to, agreements authorizing the  
30 pledge of any legally available revenues as security for and  
31 for payment of any bonds, notes, revenue certificates, or

1 other evidence of indebtedness of the authority, interest or  
2 redemption premium thereon, and other necessary expenses or  
3 costs in connection with such bonds, notes, revenue  
4 certificates, or other evidence of indebtedness. Such legally  
5 available revenues may be so provided, used, or pledged,  
6 notwithstanding the provisions of any other law; provided,  
7 however, that ad valorem taxes may be so provided and used  
8 only after full compliance with the Constitution of the State  
9 of Florida, and provided further that nothing herein shall be  
10 deemed or operate to impair the rights of the holders of any  
11 outstanding obligations secured by such revenues, until such  
12 time as provision for payment of such obligations shall have  
13 been made.

14 Section 8. Franchise fees.--The Pensacola City Council  
15 is hereby authorized to impose a franchise fee upon the  
16 Escambia County Utilities Authority System; provided, however,  
17 that the authority is authorized to pass on said fee only to  
18 in-city users of the system, which shall be reflected on the  
19 city bills.

20 Section 9. Rate setting procedure.--

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

29 (b) After the system or systems shall have been in  
30 operation, the authority may revise such schedule of  
31 assessments, rates, fees, and charges from time to time. Such

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

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

26 (d) In cases where the amount of water or natural gas  
27 furnished to any building or premises is such that it imposes  
28 an unreasonable burden upon the water or natural gas supply  
29 systems, an additional charge may be made therefor, or the  
30 authority may, if it deems it advisable, require the owners or  
31 occupants of such building or premises to reduce the amount of

1 water or natural gas consumed thereon in a manner to be  
2 specified by the authority, or the authority may refuse to  
3 furnish water to such building or premises.

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

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

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

1           a. By publication in a newspaper of general  
2 circulation in the affected area;

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

6           c. By posting in appropriate places so that affected  
7 persons may be duly notified.

8  
9 Such publication, mailing, and posting of notice shall occur  
10 at least 14 days prior to the public hearing. Such hearing may  
11 be adjourned from time to time. After such hearing, such  
12 preliminary schedule or schedules, either as originally  
13 adopted or as modified or amended, shall be adopted and put  
14 into effect. The assessments, rates, fees, or charges so fixed  
15 for any users or property served shall be extended to cover  
16 any additional users or property thereafter served that fall  
17 within the same class or classes without the necessity of any  
18 hearing or notice.

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

27           (3) A copy of the schedule or schedules of such  
28 assessments, rates, fees, and charges as finally fixed in such  
29 resolution shall be kept on file in the headquarters of the  
30 authority and shall be open to inspection by all parties  
31 interested.

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

5           Section 10. Personnel.--

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

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

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

26       (d) Employees who are transferred to the authority and  
27 who are members of the retirement systems available to  
28 employees of the City of Pensacola or Escambia County shall  
29 not lose those pension or retirement rights or any reserves  
30 accrued to their benefit during the period of their employment  
31 by the city or the county. Such employees may elect to retain

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

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

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

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

12 Section 11. Personnel appeals board.--

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



1 counsel, and a reasonable budget for such purpose shall be  
2 provided by the authority. The executive director of the  
3 authority shall provide the administrative services required  
4 by the board.

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

11 Section 12. Process and procedure.--

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

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

29 (c) Decisions of the authority shall be in writing and  
30 shall contain findings of fact and conclusions of law. A  
31 person aggrieved by a decision of the authority shall have the

1 same rights and remedies that would have been available to him  
2 or her under general law if the action complained of had been  
3 taken by Escambia County or the City of Pensacola.

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

27 Section 14. Fiscal year and budget.--The fiscal year  
28 of the authority shall begin on the first day of October and  
29 end on the last day of September of the following year. Prior  
30 to the beginning of each fiscal year, the authority shall  
31 adopt an annual budget that shall be balanced and that shall

1 detail the anticipated expenses and revenues of the authority  
2 for the forthcoming fiscal year.

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

14 Section 16. Annual audit.--The authority shall be  
15 required to complete an annual compliance and financial audit  
16 of the fiscal activities of the authority by a private  
17 certified public accounting firm, which shall report to the  
18 authority concerning its findings and recommendations.

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

27 Section 18. Citizens' advisory committee.--The  
28 authority shall make provision for and appoint a citizens'  
29 advisory committee or committees. The appointees to such  
30 committees shall have no personal or business ties with the  
31 authority that could be construed as a conflict of interest.

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

4           Section 21. If any provision of this act or the  
5 application thereof to any person or circumstance is held  
6 invalid, the invalidity shall not affect other provisions or  
7 applications of the act that can be given effect without the  
8 invalid provision or application and to this end the  
9 provisions of this act are declared severable.

10           Section 4. Chapters 81-376, 82-390, 83-403, 83-404,  
11 84-427, 84-428, 85-410, 86-451, 89-473, 91-349, 91-403,  
12 92-248, 93-365, 95-497, and 97-364, Laws of Florida, and  
13 section 3 of chapter 91-335, Laws of Florida, are repealed.

14           Section 5. This act shall take effect upon becoming a  
15 law.

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