

1 A bill to be entitled
 2 An act relating to Polk County; providing definitions;
 3 providing for creation of the Polk Transit Authority;
 4 providing purpose; providing for charter amendments;
 5 providing boundaries; providing for a board of directors;
 6 providing membership, powers, functions, and duties of the
 7 board; providing powers, functions, and duties of the
 8 authority; providing exceptions to general law; providing
 9 authority to levy ad valorem taxes and non-ad valorem
 10 assessments; providing for the authority's fiscal year;
 11 providing for the deposit of authority funds; authorizing
 12 the authority to borrow money; providing for bonds;
 13 providing an exception to general law; providing for use
 14 of authority funds; authorizing the board to adopt
 15 policies and regulations; providing for liberal
 16 construction; providing severability; requiring a
 17 referendum; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Definitions.--As used in this act, unless
 22 otherwise specified:

- 23 (1) "Authority" means the Polk Transit Authority.
 24 (2) "Board" and "board of directors" mean the Polk County
 25 Transit Authority Board of Directors.
 26 (3) "County" means Polk County.
 27 (4) "Director" means a member of the board of directors of
 28 and for the authority.

29 (5) "Lakeland Area Mass Transit District" and "LAMTD" mean
 30 the special district created by Polk County Ordinance 80-13
 31 pursuant to section 125.01(5), Florida Statutes.

32 (6) "Mass transit" means a system used for the
 33 transportation of people and goods by means of a street railway,
 34 an elevated railway, a commuter railroad, a subway, motor
 35 vehicles, motor buses, and other transportation facilities
 36 whether now or hereafter invented, and including a complete
 37 system of tracks, stations, rolling stock, and other facilities
 38 necessary to effectuate passenger and goods conveyance.

39 (7) "Polk Regional Transportation Organization" means the
 40 entity created in 2004 by the interlocal agreement pursuant to
 41 section 163.01, Florida Statutes, to serve as a countywide
 42 transit policy board.

43 Section 2. Authority; creation; boundaries; charter
 44 amendments.--

45 (1) There is hereby created an independent special
 46 district for purposes of providing mass transit services to the
 47 citizens of Polk County, incorporating lands in Polk County
 48 described in subsection (2), which shall be a public corporation
 49 having the powers, duties, rights, obligations, and immunities
 50 herein set forth, under the name of the Polk Transit Authority.
 51 The authority is organized and exists for the purposes and shall
 52 hold all powers set forth in this act and chapter 189, Florida
 53 Statutes.

54 (2) The lands to be included within the authority are all
 55 lands in Polk County, whether incorporated or unincorporated.

HB 777

2007

56 (3) The authority's charter may be amended only by special
57 act of the Legislature.

58 Section 3. Purpose.--

59 (1) The purpose of the authority shall be to plan,
60 finance, acquire, construct, operate, and maintain mass transit
61 facilities and systems, together with such supplementary
62 transportation assistance as may be necessary or advisable to
63 service the mass transit needs within the territorial boundaries
64 of the authority and of such areas with which the authority may
65 contract for service, subject to the provisions in section 11.

66 (2) The purpose of the authority shall also be to provide
67 for the consolidation of transit services in Polk County and to
68 provide for the transition to a countywide transit system,
69 subject to the provisions in section 11.

70 Section 4. Governing board; quorum; creation; employment
71 of personnel; compensation; organization; commissioners' bond.--

72 (1) The business and affairs of the authority shall be
73 conducted and administered by a board of nine voting directors
74 and one nonvoting director, and the presence of five members
75 shall constitute a quorum for official business. The board
76 memberships shall consist of the following:

77 (a) Six members of the board of directors shall be
78 appointed as follows: the Polk County Commission shall appoint
79 three of its commissioners as members of the board; the Lakeland
80 City Commission shall appoint two of its commissioners as
81 members of the board; and the Winter Haven City Commission shall
82 appoint one of its commissioners as a member of the board. Of
83 the initial directors appointed by the Polk County Commission,

HB 777

2007

84 one shall serve for a 1-year term, one shall serve for a 2-year
85 term, and one shall serve for a 3-year term. Of the initial
86 directors appointed by the Lakeland City Commission, one shall
87 serve for a 1-year term, and one shall serve for a 2-year term.
88 All other directors shall be initially appointed by their
89 respective city commissions for 2-year terms. At the end of any
90 initial term and any subsequent term, the successor shall serve
91 for a 2-year term.

92 (b) The Bartow City Commission and the Auburndale City
93 Commission shall, on a rotating basis for 2-year terms, appoint
94 one of its commissioners as a member of the board. The city
95 commission of the city that has the greater population as of the
96 effective date of this act shall appoint the member for the
97 initial 2-year term.

98 (c) The Haines City Commission and the Lake Wales City
99 Commission shall, on a rotating basis for 2-year terms, appoint
100 one of its commissioners as a member of the board. The city
101 commission of the city that has the greater population as of the
102 effective date of this act shall appoint the member for the
103 initial 2-year term.

104 (d) One member of the board of directors shall be
105 appointed on a rotating basis for 2-year terms by the governing
106 body of one of the following cities in Polk County: Fort Meade,
107 Lake Alfred, Mulberry, Frostproof, Dundee, Eagle Lake,
108 Davenport, Polk City, and Lake Hamilton. The order of rotation
109 shall be determined by population size in descending order,
110 based on the University of Florida Bureau of Economic and

111 Business Research population estimates at the time this act
 112 becomes law.

113 (e) The Secretary of the Department of Transportation
 114 shall appoint the district one secretary, or his or her
 115 designee, as a nonvoting member of the board.

116 (f) In order to facilitate the consolidation of transit
 117 services in Polk County, the initial appointments to the board
 118 of the authority shall be as follows: two of the Polk County
 119 Commissioners appointed shall be the same county commissioners
 120 who serve on the governing body of the Lakeland Area Mass
 121 Transit District, an existing independent special district in
 122 Polk County (LAMTD), the two Lakeland City Commissioners
 123 appointed to the board of the authority shall be the same as two
 124 of the Lakeland City Commissioners who serve on the governing
 125 body of the LAMTD, and the Winter Haven City Commissioner
 126 appointed to the board of the authority shall be one of the
 127 Winter Haven City Commissioners who serve on the Winter Haven
 128 Area Transit Policy Board.

129 (g) In order to facilitate the transition to a countywide
 130 transit system, the Polk Regional Transportation Organization
 131 shall oversee the formation of the authority's board of
 132 directors in accordance with this act.

133 (h) In order to facilitate the consolidation of the
 134 transit services in Polk County, and the transition to a
 135 countywide transit system, the board of the authority shall rely
 136 on the staff and the Executive Director of the Lakeland Area
 137 Mass Transit District and the staff and the Transit Director of
 138 the Polk County Transit Services to provide support, policy

139 recommendations, and strategic planning to obtain dedicated
 140 funding for the authority.

141 (2) The board may employ an executive director and
 142 authorize such other personnel as it deems necessary for the
 143 proper function and operation of the authority. The salaries of
 144 authority personnel, and any other wages, shall be determined by
 145 the board.

146 (3) Each appointed member of the board shall assume office
 147 10 days following the member's appointment. Annually, within 60
 148 days after the appointment of new members of said board, the
 149 members shall organize by electing from their number a chair, a
 150 vice chair, a secretary, and a treasurer. However, the same
 151 member may be both secretary and treasurer.

152 (4) The directors shall receive payment for actual
 153 expenses incurred while performing the duties of their office in
 154 accordance with general law governing per diem for public
 155 officials. The authority is empowered to adopt a resolution to
 156 exceed the state rates for per diem expenses. Directors may not
 157 receive compensation for their services.

158 (5) Each director, upon taking office and in accordance
 159 with chapter 189, Florida Statutes, shall execute to the
 160 Governor for the benefit of the authority a bond conditioned
 161 upon the faithful performance of the duties of the director's
 162 office. The premium for such bonds shall be paid from the funds
 163 of the authority.

164 Section 5. Powers; functions; and duties.--

165 (1) The authority shall have all powers to carry out the
 166 purposes of this act and the functions and duties provided for

HB 777

2007

167 herein, including the following powers, which shall be in
168 addition to and supplement any other privileges, benefits, and
169 powers granted by this act or general law:

170 (a) To study, plan, design, establish, acquire, construct,
171 own, lease, operate, manage, maintain, dispose of, improve, and
172 expand the mass transit facilities and services within the
173 boundaries of the authority.

174 (b) To execute all contracts and other documents, adopt
175 all proceedings, and perform all acts determined by the board as
176 necessary or advisable to carry out the purposes of this act.
177 The chair, vice chair, or executive director shall execute
178 contracts and other documentation on behalf of the authority.

179 (c) To fix, alter, levy, collect, and enforce rates,
180 fares, fees, charges, penalties, and fines from persons or
181 property, or both, for the provision and use of services,
182 facilities, and products of the authority or to pay the
183 operating or financing costs of the authority's facilities and
184 services that are available to potential users.

185 (d) To contract for the service of engineers, accountants,
186 attorneys, and other experts or consultants and such other
187 agents as the board may require or deem appropriate from time to
188 time.

189 (e) To acquire such lands and rights and interests
190 therein; to acquire such personal property as the authority may
191 deem necessary and appropriate in connection with the
192 acquisition, ownership, expansion, improvement, operation, and
193 maintenance of the authority's facilities; and to hold and
194 dispose of all real and personal property under its control.

195 (f) To lease or rent any of its easements, real property
 196 interests, or facilities to other mass transit providers that
 197 are owned by a municipality, county, or special district, or
 198 that hold a franchise from a municipality or county, when such
 199 lease or rental is for joint use by the authority and the other
 200 provider.

201 (g) To exercise exclusive jurisdiction, control, and
 202 supervision over the authority's services and facilities and to
 203 make and enforce such rules and regulations for the maintenance,
 204 management, and operation of the authority and its facilities
 205 and services as may be, in the judgment of the board, necessary
 206 or desirable for the efficient operation of the authority in
 207 accomplishing the purposes of this act.

208 (h) To enter into interlocal agreements or join with any
 209 other general or special purpose local governments, public
 210 agencies, or authorities in the exercise of common powers.

211 (i) To accomplish construction directly or by letting
 212 contracts to other entities, whether public or private, for all
 213 or any part of the construction of improvements to the
 214 authority's facilities as determined by the board in accordance
 215 with applicable law.

216 (j) To receive and accept from any federal or state agency
 217 grants or loans for or in the aid of the planning, construction,
 218 reconstruction, operation, promotion, or financing of the
 219 authority's facilities or services and to receive and accept
 220 aid, contributions, or loans from any other source of money,
 221 labor, or other things of value, to be held, used, and applied

222 only for the purpose for which the grants, contributions, or
 223 loans may be made.

224 (k) To purchase or to assume ownership, lease, operation,
 225 management, or control of any publicly or privately owned mass
 226 transit facilities, including the assumption, defeasance, or
 227 payment of the financial liabilities associated with such
 228 facilities.

229 (l) To divide the authority facilities into separate
 230 units, benefit areas, or subsystems for the purpose of imposing
 231 special assessments; setting rates, fees, or charges; for
 232 accounting or financing improvements or additions; or for any
 233 other purpose.

234 (m) To appoint advisory boards and committees to assist
 235 the board in the exercise and performance of the powers and
 236 duties provided in this act.

237 (n) To sue and be sued in the name of the authority and to
 238 participate as a party in any civil, administrative, or other
 239 action.

240 (o) To adopt and use a seal and authorize the use of a
 241 facsimile thereof.

242 (p) To employ or contract with any public entity or person
 243 to manage and operate the authority and its facilities, or any
 244 portion thereof, upon such terms as the board deems appropriate.

245 (q) Subject to such provisions and restrictions as may be
 246 set forth in any financing documents, to sell or otherwise
 247 dispose of the authority's facilities, or any portion thereof,
 248 upon such terms as the board deems appropriate, and to enter

HB 777

2007

249 into acquisition or other agreements to effect such
250 dispositions.

251 (r) To acquire by purchase, gift, devise, or otherwise,
252 and to dispose of, real or personal property or any estate
253 therein.

254 (s) To provide such deferred compensation, retirement
255 benefits, or other benefits and programs as the board deems
256 appropriate.

257 (t) To maintain an office or offices at such place or
258 places as the board may designate from time to time.

259 (u) To hold, control, and acquire by donation or purchase,
260 or to dispose of any public easements, dedications to public
261 use, platted reservations for public purposes, or any
262 reservations for those purposes authorized by this act and to
263 make use of such easements, dedications, and reservations for
264 the purposes authorized in this act.

265 (v) To lease, as lessor or lessee, to or from any person,
266 firm, corporation, association, or body, public or private,
267 facilities or property of any nature to carry out the purposes
268 authorized in this act.

269 (w) To borrow money and issue bonds, certificates,
270 warrants, notes, obligations, or other evidence of indebtedness.

271 (x) To assess, levy, impose, collect, and enforce special
272 assessments upon all or any portion of the lands located within
273 the authority. Such special assessments may be apportioned among
274 benefited property in a manner proportionate with the benefits
275 received or commensurate with the burdens alleviated by the use
276 of the property based upon such factors or combination or

HB 777

2007

277 factors as determined by resolution of the board. Such special
278 assessments may, in the discretion of the board, be imposed,
279 collected, and enforced using any methods and procedures
280 authorized by law, including section 197.3632, Florida Statutes;
281 or the board may adopt by resolution its own method or
282 procedures or use any other method or means for levy,
283 imposition, collection, and enforcement not inconsistent with
284 law.

285 (y) To apply for and accept grants, loans, and subsidies
286 from any governmental entity for the acquisition, construction,
287 operation, and maintenance of the authority's facilities and
288 services and to comply with all requirements and conditions
289 imposed in connection therewith.

290 (z) To the extent allowed by law and to the extent
291 required to effectuate the purposes of this act, to exercise all
292 privileges, immunities, and exemptions accorded municipalities
293 and counties of the state under the provisions of the
294 constitution and laws of the state.

295 (aa) To invest its moneys in such investments as directed
296 by the board in accordance with state law. Such investments
297 shall be consistent in all instances with the applicable
298 provisions of the financing documents.

299 (bb) To purchase such insurance as the authority deems
300 appropriate.

301 (cc) To develop transportation plans and to coordinate the
302 authority's planning and programs with those of appropriate
303 municipal, county, state, special district, and federal agencies
304 and other political subdivisions of the state.

305 (dd) To prescribe and promulgate necessary rules and
 306 regulations consistent with the provisions of this act.

307 (ee) To market and promote the authority and its
 308 facilities and services.

309 (ff) To adopt a budget in accordance with applicable law
 310 and to appropriate and expend revenue in accordance with that
 311 budget.

312 (gg) To do all acts and to exercise all powers necessary,
 313 convenient, incidental, implied, or proper, both within and
 314 outside the boundaries of the authority, in connection with any
 315 of the powers, duties, obligations, or purposes authorized by
 316 this act, general law, or any interlocal agreement entered into
 317 by the authority.

318 (2) In exercising the powers conferred by this act, the
 319 board shall act by resolution or motion made and adopted at a
 320 duly noticed and publicly held meetings in conformance with
 321 applicable law.

322 (3) The provisions of chapter 120, Florida Statutes, shall
 323 not apply to the authority.

324 (4) Nothing herein is intended to or shall be construed to
 325 limit the power of local self-government of a charter county or
 326 conflict with the Constitution of the State of Florida or the
 327 Polk County Home Rule Charter, which became effective on January
 328 1, 1999.

329 (5) The authority's planning requirements shall be as set
 330 forth in this act and chapter 189, Florida Statutes.

331 (6) Requirements for financial disclosure, meeting
 332 notices, reporting, public records maintenance, and per diem

HB 777

2007

333 expenses for directors, officers, and employees shall be as set
334 forth in this act and chapters 112, 119, 189, and 286, Florida
335 Statutes. Directors shall not receive other compensation for
336 their service on the authority. The authority may adopt a
337 resolution in accordance with general law to exceed the state
338 per diem rate.

339 Section 6. Ad valorem taxing authority; non-ad valorem
340 assessments.--

341 (1) (a) In order to provide funding for the purposes of the
342 authority, the authority shall have the right, power, and
343 authority to levy and assess an ad valorem tax on all taxable
344 real property and tangible personal property within the
345 boundaries of the authority, subject to approval by referendum
346 of the qualified electors in the authority. The total amount of
347 ad valorem taxes levied in any single year shall not exceed 3
348 mills.

349 (b) The authority shall levy and collect ad valorem taxes
350 in accordance with chapter 200, Florida Statutes.

351 (2) The authority is authorized to levy and enforce the
352 collection of non-ad valorem assessments in accordance with
353 chapters 189 and 197, Florida Statutes.

354 Section 7. Fiscal year.--The authority's fiscal year shall
355 begin on October 1 and end on September 30.

356 Section 8. Authority funds.--All funds of the authority
357 shall be deposited in qualified public depositories in
358 accordance with chapter 280, Florida Statutes.

359 Section 9. Authority to borrow money; procedures and
360 requirements for the issuance of bonds.--

361 (1) The board shall have the power and authority to borrow
 362 money or issue other evidences of indebtedness for the purposes
 363 of the authority in accordance with chapter 189, Florida
 364 Statutes. The board shall by resolution authorize the issuance
 365 of general obligation bonds payable from any lawful sources for
 366 construction of capital improvements or expansion purposes of
 367 the transit services that the authority exists to provide,
 368 subject to a referendum of the qualified electors of the
 369 authority in accordance with the requirements of general law.

370 (2) The authority is prohibited from lending its credit to
 371 corporations, associations, partnerships, or persons.

372 (3) The authority may finance or refinance the
 373 acquisition, construction, expansion, and improvement of such
 374 facilities relating to a governmental function or purpose
 375 through the issuance of its bonds, notes, or other obligations
 376 under this section or as otherwise authorized by law. The
 377 authority has all the powers that are necessary to finance, own,
 378 operate, or manage the public facility, including, without
 379 limitation, the power to establish rates, charges, and fees for
 380 products or services provided by it, the power to levy special
 381 assessments, the power to sell or finance all or a portion of
 382 such facility, and the power to contract with a public or
 383 private entity to manage and operate such facilities or to
 384 provide or receive facilities, services, or products. All of the
 385 privileges, benefits, powers, and terms of section 125.01,
 386 Florida Statutes, relating to counties, and section 166.021,
 387 Florida Statutes, relating to municipalities, are fully
 388 applicable to the authority.

389 (4) The authority may also issue bond anticipation notes
390 in connection with the authorization, issuance, and sale of
391 bonds. The bonds may be issued as serial bonds or as term bonds
392 or both. The authority may issue capital appreciation bonds or
393 variable rate bonds. Any bonds, notes, or other obligations must
394 be authorized by resolution of the authority and bear the date;
395 mature at the time, not exceeding 40 years from their respective
396 dates; bear interest at the rate; be payable at the time; be in
397 the denomination; be in the form; carry the registration
398 privileges; be executed in the manner; be payable from the
399 sources and in the medium or payment and at the place; and be
400 subject to the terms of redemption, including redemption prior
401 to maturity, as the resolution may provide. If any officer whose
402 signature, or a facsimile of whose signature, appears on any
403 bonds, notes, or other obligations ceases to be an officer
404 before the delivery of the bonds, notes, or other obligations,
405 the signature or facsimile is valid and sufficient for all
406 purposes as if he or she had remained in office until the
407 delivery. The bonds, notes, or other obligations may be sold at
408 public or private sale for such price as the authority shall
409 determine in accordance with chapter 189, Florida Statutes.
410 Pending preparation of the definitive bonds, the authority may
411 issue interim certificates, which shall be exchanged for the
412 definitive bonds. The bonds may be secured by a form of credit
413 enhancement, if any, as the authority deems appropriate. The
414 bonds may be secured by an indenture of trust or trust
415 agreement. In addition, the authority may delegate to an
416 officer, official, or agent of the authority as the governing

417 body of the authority may select, the power to determine the
418 time; manner of sale, public or private; maturities; rate of
419 interest, which may be fixed or may vary at the time and in
420 accordance with a specified formula or method of determination;
421 and other terms and conditions as may be deemed appropriate by
422 the officer, official, or agent so designated by the governing
423 body of the authority. However, the amount and maturity of the
424 bonds, notes, or other obligations and the interest rate of the
425 bonds, notes, or other obligations must be within the limits
426 prescribed by the governing body of the authority and its
427 resolution delegating to an officer, official, or agent the
428 power to authorize the issuance and sale of the bonds, notes, or
429 other obligations.

430 (5) Bonds, notes, or other obligations issued under this
431 section may be validated as provided in chapter 75, Florida
432 Statutes. Section 75.04(2), Florida Statutes, shall not apply to
433 a complaint for validation brought by the authority.

434 (6) The accomplishment of the authorized purposes of the
435 authority is in all respects for the benefit of the people of
436 the state, for the increase of their commerce and prosperity,
437 and for the improvement of their health and living conditions.
438 Since the authority will perform essential governmental
439 functions in accomplishing its purposes, the authority is not
440 required to pay any taxes or assessments of any kind whatsoever
441 upon any property acquired or used by it for such purposes or
442 upon any revenues at any time received by it. The bonds, notes,
443 and other obligations of the authority, their transfer, and the
444 income therefrom, including any profits made on the sale

445 thereof, are at all times free from taxation of any kind by the
446 state or by any political subdivision or other agency or
447 instrumentality thereof. The exemption granted in this paragraph
448 is not applicable to any tax imposed by chapter 220, Florida
449 Statutes, on interest, income, or profits on debt obligations
450 owned by corporations.

451 Section 10. Board action; compliance with open government
452 laws and public records laws; authority to adopt policies and
453 regulations.--

454 (1) A record shall be kept of all meetings of the board
455 and in such meetings a majority vote of the directors, providing
456 that a quorum is present, shall be necessary to any affirmative
457 action by the board.

458 (2) The board shall comply with chapter 286, Florida
459 Statutes, to preserve the right of the people to attend public
460 meetings.

461 (3) The board shall comply with the public records laws
462 set forth in chapter 119, Florida Statutes, to preserve the
463 right of the people to access public records.

464 (4) The board may adopt policies and regulations not
465 inconsistent with any portion of this act or chapter 189,
466 Florida Statutes, as it may deem necessary for the transaction
467 of its business and in implementing and carrying out the
468 provisions of this act. The board shall have authority to
469 provide all things necessary for the operation of transit
470 services in the authority.

HB 777

2007

471 Section 11. Lakeland Area Mass Transit District; powers,
472 duties, rights, obligations, and immunities; addition of
473 lands.--

474 (1) Notwithstanding any provision in this act to the
475 contrary, neither this act nor the creation of the authority
476 shall have any effect on the powers, duties, rights,
477 obligations, and immunities of the Lakeland Area Mass Transit
478 District, which is an independent special taxing district in
479 Polk County. This act is intended to comply with the provisions
480 of Art. VIII, Section 4, of the Florida Constitution regarding
481 transfer of powers after referendum approval or as otherwise
482 provided by law.

483 (2) Notwithstanding any provision in this act to the
484 contrary, neither this act nor the creation of the authority
485 have any effect on the right, power, and authority of the
486 Lakeland Area Mass Transit District to revise its boundaries to
487 include additional lands.

488 Section 12. This act shall be liberally construed to
489 promote the purpose for which it is intended.

490 Section 13. In the event that any part of this act should
491 be held void for any reason, such holding shall not affect any
492 other part thereof.

493 Section 14. This act shall take effect upon becoming a
494 law, except that the provisions of subsection (1) of section 6
495 authorizing the levy of ad valorem taxation shall take effect
496 only upon express approval by a majority vote of those qualified
497 electors of the area described in subsection (2) of section 2
498 voting in a referendum to be called by the Polk Transit

HB 777

2007

499 Authority and held in accordance with the provisions of law
500 currently in force.