

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 authority to levy ad valorem taxes
 9 and non-ad valorem assessments; providing for the
 10 authority's fiscal year; providing for the deposit of
 11 authority funds; authorizing the authority to borrow
 12 money; providing for bonds; providing for use of authority
 13 funds; authorizing the board to adopt policies and
 14 regulations; providing for powers, duties, rights,
 15 obligations, immunities, and addition of lands to the
 16 Lakeland Area Mass Transit District; providing for liberal
 17 construction; providing severability; requiring a
 18 referendum; providing an effective date.

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

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

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

29 and for the authority.

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

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

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

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

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

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

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

59 Section 3. Purpose.--

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

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

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

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

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

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

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

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

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

113 becomes law.

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

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

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

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

141 funding for the authority.

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

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

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

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

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

166 (1) The authority shall have all powers to carry out the
 167 purposes of this act and the functions and duties provided for
 168 herein, including the following powers, which shall be in

169 addition to and supplement any other privileges, benefits, and
 170 powers granted by this act or general law:

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

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

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

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

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

196 (f) To lease or rent any of its easements, real property

197 interests, or facilities to other mass transit providers that
 198 are owned by a municipality, county, or special district, or
 199 that hold a franchise from a municipality or county, when such
 200 lease or rental is for joint use by the authority and the other
 201 provider.

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

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

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

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

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

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

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

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

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

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

246 (q) Subject to such provisions and restrictions as may be
 247 set forth in any financing documents, to sell or otherwise
 248 dispose of the authority's facilities, or any portion thereof,
 249 upon such terms as the board deems appropriate, and to enter
 250 into acquisition or other agreements to effect such
 251 dispositions.

252 (r) To acquire by purchase, gift, devise, or otherwise,

253 and to dispose of, real or personal property or any estate
 254 therein.

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

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

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

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

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

272 (x) To assess, levy, impose, collect, and enforce special
 273 assessments upon all or any portion of the lands located within
 274 the authority. Such special assessments may be apportioned among
 275 benefited property in a manner proportionate with the benefits
 276 received or commensurate with the burdens alleviated by the use
 277 of the property based upon such factors or combination or
 278 factors as determined by resolution of the board. Such special
 279 assessments may, in the discretion of the board, be imposed,
 280 collected, and enforced using any methods and procedures

281 authorized by law, including section 197.3632, Florida Statutes;
282 or the board may adopt by resolution its own method or
283 procedures or use any other method or means for levy,
284 imposition, collection, and enforcement not inconsistent with
285 law.

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

291 (z) To invest its moneys in such investments as directed
292 by the board in accordance with state law. Such investments
293 shall be consistent in all instances with the applicable
294 provisions of the financing documents.

295 (aa) To purchase such insurance as the authority deems
296 appropriate.

297 (bb) To develop transportation plans and to coordinate the
298 authority's planning and programs with those of appropriate
299 municipal, county, state, special district, and federal agencies
300 and other political subdivisions of the state.

301 (cc) To prescribe and promulgate necessary rules and
302 regulations consistent with the provisions of this act.

303 (dd) To market and promote the authority and its
304 facilities and services.

305 (ee) To adopt a budget in accordance with applicable law
306 and to appropriate and expend revenue in accordance with that
307 budget.

308 (ff) To do all acts and to exercise all powers necessary,

309 convenient, incidental, implied, or proper, both within and
310 outside the boundaries of the authority, in connection with any
311 of the powers, duties, obligations, or purposes authorized by
312 this act, general law, or any interlocal agreement entered into
313 by the authority.

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

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

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

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

327 (6) Requirements for financial disclosure, meeting
328 notices, reporting, public records maintenance, and per diem
329 expenses for directors, officers, and employees shall be as set
330 forth in this act and chapters 112, 119, 189, and 286, Florida
331 Statutes.

332 Section 6. Ad valorem taxing authority; non-ad valorem
333 assessments.--

334 (1) (a) In order to provide funding for the purposes of the
335 authority, the authority shall have the right, power, and
336 authority to levy and assess an ad valorem tax on all taxable

337 real property and tangible personal property within the
338 boundaries of the authority, subject to approval by referendum
339 of the qualified electors in the authority. The total amount of
340 ad valorem taxes levied in any single year shall not exceed 3
341 mills.

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

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

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

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

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

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

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

365 (3) The authority may finance or refinance the
366 acquisition, construction, expansion, and improvement of such
367 facilities relating to a governmental function or purpose
368 through the issuance of its bonds, notes, or other obligations
369 under this section or as otherwise authorized by law. The
370 authority has all the powers that are necessary to finance, own,
371 operate, or manage the public facility, including, without
372 limitation, the power to establish rates, charges, and fees for
373 products or services provided by it, the power to levy special
374 assessments, the power to sell or finance all or a portion of
375 such facility, and the power to contract with a public or
376 private entity to manage and operate such facilities or to
377 provide or receive facilities, services, or products.

378 (4) The authority may also issue bond anticipation notes
379 in connection with the authorization, issuance, and sale of
380 bonds. The bonds may be issued as serial bonds or as term bonds
381 or both. The authority may issue capital appreciation bonds or
382 variable rate bonds. Any bonds, notes, or other obligations must
383 be authorized by resolution of the authority and bear the date;
384 mature at the time, not exceeding 40 years from their respective
385 dates; bear interest at the rate; be payable at the time; be in
386 the denomination; be in the form; carry the registration
387 privileges; be executed in the manner; be payable from the
388 sources and in the medium or payment and at the place; and be
389 subject to the terms of redemption, including redemption prior
390 to maturity, as the resolution may provide. If any officer whose
391 signature, or a facsimile of whose signature, appears on any
392 bonds, notes, or other obligations ceases to be an officer

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393 before the delivery of the bonds, notes, or other obligations,
394 the signature or facsimile is valid and sufficient for all
395 purposes as if he or she had remained in office until the
396 delivery. The bonds, notes, or other obligations may be sold at
397 public or private sale for such price as the authority shall
398 determine in accordance with chapter 189, Florida Statutes.
399 Pending preparation of the definitive bonds, the authority may
400 issue interim certificates, which shall be exchanged for the
401 definitive bonds. The bonds may be secured by a form of credit
402 enhancement, if any, as the authority deems appropriate. The
403 bonds may be secured by an indenture of trust or trust
404 agreement. In addition, the authority may delegate to an
405 officer, official, or agent of the authority as the governing
406 body of the authority may select, the power to determine the
407 time; manner of sale, public or private; maturities; rate of
408 interest, which may be fixed or may vary at the time and in
409 accordance with a specified formula or method of determination;
410 and other terms and conditions as may be deemed appropriate by
411 the officer, official, or agent so designated by the governing
412 body of the authority. However, the amount and maturity of the
413 bonds, notes, or other obligations and the interest rate of the
414 bonds, notes, or other obligations must be within the limits
415 prescribed by the governing body of the authority and its
416 resolution delegating to an officer, official, or agent the
417 power to authorize the issuance and sale of the bonds, notes, or
418 other obligations.

419 (5) Bonds, notes, or other obligations issued under this
420 section may be validated as provided in chapter 75, Florida

421 Statutes.

422 (6) The accomplishment of the authorized purposes of the
 423 authority is in all respects for the benefit of the people of
 424 the state, for the increase of their commerce and prosperity,
 425 and for the improvement of their health and living conditions.
 426 Since the authority will perform essential governmental
 427 functions in accomplishing its purposes, the authority is not
 428 required to pay any taxes or assessments of any kind whatsoever
 429 upon any property acquired or used by it for such purposes or
 430 upon any revenues at any time received by it. The bonds, notes,
 431 and other obligations of the authority, their transfer, and the
 432 income therefrom, including any profits made on the sale
 433 thereof, are at all times free from taxation of any kind by the
 434 state or by any political subdivision or other agency or
 435 instrumentality thereof. The exemption granted in this paragraph
 436 is not applicable to any tax imposed by chapter 220, Florida
 437 Statutes, on interest, income, or profits on debt obligations
 438 owned by corporations.

439 Section 10. Board action; compliance with open government
 440 laws and public records laws; authority to adopt policies and
 441 regulations.--

442 (1) A record shall be kept of all meetings of the board
 443 and in such meetings a majority vote of the directors, providing
 444 that a quorum is present, shall be necessary for any affirmative
 445 action by the board.

446 (2) The board shall comply with chapter 286, Florida
 447 Statutes, to preserve the right of the people to attend public
 448 meetings.

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

452 (4) The board may adopt policies and regulations not
 453 inconsistent with any portion of this act or chapter 189,
 454 Florida Statutes, as it may deem necessary for the transaction
 455 of its business and in implementing and carrying out the
 456 provisions of this act. The board shall have authority to
 457 provide all things necessary for the operation of transit
 458 services in the authority.

459 Section 11. Lakeland Area Mass Transit District; powers,
 460 duties, rights, obligations, and immunities; addition of
 461 lands.--

462 (1) Notwithstanding any provision in this act to the
 463 contrary, neither this act nor the creation of the authority
 464 shall have any effect on the powers, duties, rights,
 465 obligations, and immunities of the Lakeland Area Mass Transit
 466 District, which is an independent special taxing district in
 467 Polk County. This act is intended to comply with the provisions
 468 of Art. VIII, Section 4, of the Florida Constitution regarding
 469 transfer of powers after referendum approval or as otherwise
 470 provided by law.

471 (2) Notwithstanding any provision in this act to the
 472 contrary, neither this act nor the creation of the authority
 473 have any effect on the right, power, and authority of the
 474 Lakeland Area Mass Transit District to revise its boundaries to
 475 include additional lands.

476 Section 12. This act shall be liberally construed to

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477 promote the purpose for which it is intended.

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

481 Section 14. This act shall take effect upon becoming a
482 law, except that the provisions of subsection (1) of section 6
483 authorizing the levy of ad valorem taxation shall take effect
484 only upon express approval by a majority vote of those qualified
485 electors of the area described in subsection (2) of section 2
486 voting in a referendum to be called by the Polk Transit
487 Authority and held in accordance with the provisions of law
488 currently in force.