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CS/HB 777

2007 Legislature

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

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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,

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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

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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

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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

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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

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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.



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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,

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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

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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,

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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

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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.

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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

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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.



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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.