

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Regulatory Affairs
 2 Committee

3 Representative Perry offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 3.06 of Article III of section 1 of
 8 chapter 90-394, Laws of Florida, is repealed.

9 Section 2. Article VII is added to chapter 12760, Laws of
 10 Florida (1927), as amended by chapter 90-394, Laws of Florida,
 11 to read:

12
 13 ARTICLE VII GAINESVILLE REGIONAL UTILITIES AUTHORITY

14
 15 7.01 Establishment.—There is created a regional utilities
 16 authority to be known as the "Gainesville Regional Utilities
 17 Authority" ("Authority"). Gainesville Regional Utilities shall

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18 be governed by the Authority upon installation of the
19 Authority's members pursuant to this article. The Authority
20 shall operate as a unit of city government and, except as
21 otherwise provided in this article, shall be free from direction
22 and control of the Gainesville City Commission. The Authority is
23 created for the express purpose of managing, operating,
24 controlling, and otherwise having broad authority with respect
25 to the utilities owned by the City of Gainesville.

26 7.02 Definitions.—For the purposes of this article, unless
27 otherwise designated, or the context otherwise requires, the
28 following terms have the following meanings:

29 (1) "Authority" means the Gainesville Regional Utilities
30 Authority created in this article.

31 (2) "City" means the City of Gainesville.

32 (3) "City Commission" means the Gainesville City
33 Commission.

34 (4) "County" means Alachua County.

35 (5) "Customer" means a person or entity that makes
36 application for and is supplied with service by GRU for its
37 ultimate use.

38 (6) "GRU" means Gainesville Regional Utilities.

39 (7) "Member" means a member of the Authority.

40 (8) "Utilities" means the electric utility system, water
41 utility system, wastewater utility system, reuse water utility
42 system, natural gas utility system, communications utility

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43 system, and such other utility systems as may be acquired by GRU
44 in the future.

45 7.03 Powers and duties.-

46 (1) The Authority shall have the following powers and
47 duties, in addition to the powers and duties otherwise conferred
48 by this article:

49 (a) To manage, operate, and control the utilities, and to
50 do all things necessary to effectuate an orderly transition of
51 the management, operation, and control of the utilities from the
52 City to the Authority, consistent with this article;

53 (b) To establish and amend the rates, fees, assessments
54 charges, rules, regulations, and policies governing the sale and
55 use of services provided through the utilities;

56 (c) To acquire real or personal property and to construct
57 such projects as necessary to operate, maintain, enlarge,
58 extend, preserve, and promote the utilities system in a manner
59 that will ensure the economic, responsible, safe, and efficient
60 provision of utilities services, provided that title to all such
61 property shall be vested in the City.

62 (d) To exercise the power of eminent domain pursuant to
63 Chapter 166, Florida Statutes, and to use utility funds to
64 appropriate or acquire property, excluding federal or state
65 property, for the purpose of obtaining, constructing, and
66 maintaining utilities facilities, provided that title to all
67 such property shall be vested in the City.

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68 (e) To issue revenue bonds, upon resolution of the
69 Authority establishing the form, terms, and purpose of such
70 bonds, for the purpose of financing or refinancing utilities
71 system projects, and to exercise all powers in connection with
72 the authorization, issuance, and sale of such bonds as conferred
73 upon municipalities by Chapter 166, Part II, Florida Statutes,
74 provided that such bonds may be validated in accordance with
75 Chapter 75, Florida Statutes. The Authority may not issue
76 general obligation bonds.

77 (f) To dispose of utilities system assets only to the
78 extent and under the conditions that the City Commission may
79 dispose of such assets pursuant to Section 5.04 of Article V of
80 the City charter.

81 (g) To prepare and submit to the City Commission, at least
82 three months prior to the start of the City's fiscal year, an
83 annual budget for all Authority and GRU operations, including
84 the amount of any transfer to the City. The term of the budget
85 shall coincide with the City's fiscal year. Absent prior
86 approval of the City Commission, the Authority's budget may not
87 reduce the amount of any transfer to the City by more than 3
88 percent from the previous fiscal year.

89 (h) To appoint and remove a Chief Executive Officer/
90 General Manager as provided in this article.

91 (i) To recommend, by resolution to the City Commission,
92 the acquisition and operation of a utility system not owned or

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93 operated by GRU as of the date of transfer of governing
94 authority to the Authority.

95 7.04 Authority members.—

96 (1) There shall be five members of the Authority appointed
97 by a simple majority vote of the City Commission. Each member
98 shall be a person of recognized ability and good business
99 judgment as identified by the City Commission who is expected to
100 perform his or her official duties in the best interests of GRU
101 and its customers. Appointments shall be made as follows:

102 (a) One member shall be a residential customer with
103 substantial knowledge of GRU, its operations, and its history.

104 (b) One member shall be a private, nongovernment customer
105 consuming at least 10,000 kilowatt hours per month of electric
106 usage during each of the previous 12 months. This member may be
107 the owner or representative of the customer.

108 (c) Three members shall be competent and knowledgeable in
109 one or more specific fields substantially related to the duties
110 and functions of the Authority, including, but not limited to,
111 law, economics, accounting, engineering, finance, or energy.

112 (2) All members of the Authority shall:

113 (a) Maintain primary residence within the electric service
114 territory of GRU's electric utility system.

115 (b) Receive GRU electric utility system service at all
116 times during the term of appointment.

117 (c) Not have been convicted of a felony as defined by
118 general law.

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119 (d) Be a qualified elector of the City, except that a
120 minimum of one member must be a resident of the unincorporated
121 area of the County or a municipality in the County other than
122 the City of Gainesville.

123 (3) The composition of the Authority shall be adjusted
124 upon expiration of any member's term, or upon any Authority
125 vacancy, to reflect the ratio of total electric meters serving
126 GRU electric customers outside the City's jurisdictional
127 boundaries to total electric meters serving all GRU electric
128 customers. For example, upon expiration of a member's term or
129 upon an Authority vacancy, if the ratio of total electric meters
130 serving customers outside the City boundaries to total electric
131 meters serving all electric customers reaches 40 percent, the
132 City Commission must appoint a second member from outside the
133 City boundaries to serve the next term that would otherwise be
134 served by a qualified elector of the City. Conversely, upon
135 expiration of any member's term or upon any Authority vacancy,
136 if the ratio subsequently falls below 40 percent, the City
137 Commission must appoint a qualified elector of the City to serve
138 the next term that otherwise would have been served by a
139 resident from outside the City boundaries.

140 (4) Until January 1, 2022, no current or previous elected
141 official of the City or County having held office after January
142 1, 2000, may become a member, except that a member initially
143 appointed to the Authority may be considered for subsequent
144 reappointment if such individual remains otherwise qualified and

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145 chooses to be considered for reappointment.

146 (5) A member who is appointed for three full consecutive
147 4-year terms may not succeed herself or himself.

148 7.05 Member terms.—

149 (1) The City Commission shall make initial Authority
150 member appointments within 120 calendar days after the approval
151 at referendum of the creation of this article. The initial terms
152 of office for the five members shall commence at 12 a.m. on
153 October 1, 2017. The terms of the initial appointments shall be
154 as follows: one member shall be designated to serve until 12
155 a.m. October 1, 2018; one member shall be designated to serve
156 until 12 a.m. October 1, 2019; one member shall be designated to
157 serve until 12 a.m. October 1, 2020; and two members shall be
158 designated to serve until 12 a.m. October 1, 2021. Members
159 appointed for subsequent terms shall be appointed for 4-year
160 terms commencing at 12 a.m. on October 1 of the year in which
161 they are appointed. If a member is appointed to complete an
162 unexpired term, the member's term shall commence at the time of
163 appointment and shall continue through the remainder of the
164 unexpired term.

165 (2) The City Commission shall fill any vacancy for the
166 unexpired portion of a term within 60 days after the vacancy
167 becomes known if the remainder of the term exceeds 90 days.

168 7.06 Member compensation.—Beginning October 1, 2017, each
169 member shall be paid an annual salary of \$18,000, adjusted
170 annually to reflect changes in the most recently released

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171 Consumer Price Index for All Urban Consumers as defined by the
172 United States Department of Labor, Bureau of Labor Statistics.
173 Necessary expenses of members incurred in carrying out and
174 conducting the business of the Authority shall be paid in
175 accordance with Authority policy and procedures, subject to the
176 approval of a majority of the members of the Authority. No
177 supplemental benefits shall be provided for a member position.

178 7.07 Authority; oath; organization; and meeting.—

179 (1) The Authority shall initially meet at the chambers of
180 the City Commission at 6 p.m. on Wednesday, October 4, 2017.

181 (2) Before taking office for any term, each member shall
182 be given an oath or affirmation by the Mayor or his or her
183 designee similar to the oath or affirmation required of a member
184 of the City Commission.

185 (3) The first official action of the Authority shall be
186 election of a chairperson and a vice chairperson from among its
187 membership.

188 (4) The Authority shall meet at least once each month,
189 except in case of unforeseen circumstances. All meetings of the
190 Authority shall be noticed and open to the public, and minutes
191 shall be kept as required by law, except that meetings related
192 to settlement of then existing litigation may be held as allowed
193 by law.

194 (5) The GRU general manager or his or her designee shall
195 be responsible for making arrangements for and providing
196 adequate notice for the initial meeting of the Authority.

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7.08 Removal and suspension of members.-

(1) A member may be removed or suspended from office by the City Commission in accordance with Section 112.501, Florida Statutes. In addition to the grounds for removal set forth therein, a member may be removed by the City Commission for failure to maintain the qualifications specified in Section 7.04.

(2) The Authority may recommend to the City Commission that a member be removed or suspended from office if it finds, by vote of no fewer than three members, a reasonable basis for removal or suspension on one or more of the grounds set forth in Section 112.501, Florida Statutes, or for failure to maintain the qualifications specified in Section 7.04. The Authority shall give reasonable notice of any proceeding in which such action is proposed and must provide the member against whom such action is proposed a written statement of the basis for the proposed action and an opportunity to be heard. The member against whom such action is proposed may not participate in the Authority's debate or vote on the matter.

7.09 Management and Personnel.-

(1) A chief executive officer/general manager (CEO/GM) shall direct and administer all utilities functions, subject to the rules and resolutions of the Authority. The CEO/GM shall serve at the pleasure of the Authority. Appointment or removal of the CEO/GM shall be by majority vote of the Authority. Until such time as the Authority appoints a CEO/GM, the sitting

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223 general manager of GRU shall serve as the CEO/GM. A sitting
224 member of the Authority may not be selected as the CEO/GM.

225 (2) All officers and employees of the City who serve under
226 the supervision and direction of the sitting general manager of
227 GRU shall serve under the CEO/GM. The CEO/GM shall have the
228 exclusive authority to hire, transfer, promote, discipline, or
229 terminate employees under his or her supervision and direction.

230 (3) The Authority shall fix the salary of the CEO/GM, and
231 the CEO/GM shall fix the salaries of all other employees who
232 serve under his or her direction consistent with the annual
233 budget approved by the Authority. The sitting general manager of
234 GRU, as well as all officers and employees of the City who, by
235 virtue of this article, become subject to the supervision and
236 direction of the CEO/GM, shall continue without any loss of
237 rights or benefits as employees under the pension plans and
238 civil service merit system of the City existing as of the
239 creation of the Authority.

240 7.10 General Provisions.-

241 (1) The City and the Authority shall perform all acts
242 necessary and proper to effectuate an orderly transition of the
243 governance, operation, management, and control of the utilities
244 to the Authority, including but not limited to the creation of
245 such instruments as are necessary for the Authority to function
246 in accordance with this article.

247 (2) All City ordinances, policies, rates, fees,
248 assessments, charges, rules, regulations, and budgets related to

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249 operation of the utilities shall remain in effect until such
250 time as the Authority, pursuant to the powers granted in this
251 article, modifies any such item. In the event that any City
252 charter provision, ordinance, resolution, decree, or any part
253 thereof is in conflict with the provisions of this article, the
254 provisions of this article shall govern. This subsection is not
255 intended to and shall not interfere with existing contractual
256 arrangements between the City and County, regardless of whether
257 such arrangements are reflected in charter provisions,
258 ordinances, resolutions, decrees, or any part thereof.

259 (3) All rights, responsibilities, claims, and actions
260 involving GRU as of the transfer to the Authority shall
261 continue, except as may be modified by the Authority under the
262 powers granted by this article and consistent with law.

263 (4) No franchise, right-of-way, license, permit or usage
264 fee or tax may be levied by the City upon the Authority or the
265 utilities unless allowed by general law.

266 (5) Any utility advisory board created by the City
267 Commission shall have no role with respect to the Authority.

268 (6) No member of the Authority shall be individually
269 responsible for Authority debts or liabilities.

270 (7) The Authority shall develop an ethics policy and a
271 code of business conduct which shall be reviewed at least
272 biennially.

273 Section 3. In order to provide for the transitional
274 administrative needs and orderly compliance with the provisions

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275 in this act, the chairperson of the Authority or his or her
276 designee is authorized to execute documents required for the
277 transition.

278 Section 4. The ballot statement shall read as follows:
279 "Shall the Charter of the City of Gainesville be amended by
280 creating the Gainesville Regional Utilities Authority as the
281 governing board of Gainesville Regional Utilities and appointed
282 by the City Commission of the City of Gainesville?"

283 Yes

284 No

285 Section 5. This act shall take effect only upon its
286 approval by a majority vote of those qualified electors of the
287 City of Gainesville voting in a referendum to be held in March
288 2017, in conjunction with the citywide election to be held in
289 the City of Gainesville, except that this section and section 4
290 shall take effect upon becoming a law.

291

292

293 **T I T L E A M E N D M E N T**

294 Remove everything before the enacting clause and insert:

295 A bill to be entitled

296 An act relating to the City of Gainesville, Alachua County;
297 amending chapter 12760, Laws of Florida (1927), as amended
298 by chapter 90-394, Laws of Florida, relating to the city's
299 charter; repealing section 3.06 of the charter, relating to
300 the general manager for utilities of Gainesville Regional

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1355 (2016)

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301 Utilities; creating the Gainesville Regional Utilities
302 Authority and establishing it as the governing board over
303 Gainesville Regional Utilities; providing definitions;
304 providing a ballot statement; requiring a referendum;
305 providing an effective date.