

1 A bill to be entitled
 2 An act relating to the City of Gainesville, Alachua
 3 County; amending chapter 12760, Laws of Florida
 4 (1927), as amended by chapter 90-394, Laws of Florida,
 5 relating to the city's charter; repealing section 3.06
 6 of the charter, relating to the general manager for
 7 utilities of Gainesville Regional Utilities; creating
 8 the Gainesville Regional Utilities Authority and
 9 prescribing its authority over Gainesville Regional
 10 Utilities; providing definitions; repealing applicable
 11 existing and conflicting charter provisions and
 12 ordinances; providing a ballot statement; requiring a
 13 referendum; providing an effective date.

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

16
 17 Section 1. Section 3.06 of Article III of section 1 of
 18 chapter 90-394, Laws of Florida, is repealed.

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

22
 23 ARTICLE VII GAINESVILLE REGIONAL UTILITIES AUTHORITY

24
 25 7.01 Establishment.—There is created a regional utilities
 26 authority to be known as the "Gainesville Regional Utilities

27 Authority" ("authority"). After the effective date of this
 28 article, Gainesville Regional Utilities ("GRU") shall be
 29 governed by the authority. The authority shall operate as a unit
 30 of city government and, except as otherwise provided in this
 31 article, the authority shall be free from direction and control
 32 of the city commission and the city charter officers. The
 33 authority is created for the express purpose of acquiring,
 34 constructing, operating, providing utility-related products and
 35 services, financing, and otherwise having broad authority with
 36 respect to utilities. The authority has the power to make and
 37 adopt rules, policies, and regulations consistent with this act
 38 and applicable law for the management, administration,
 39 operation, and regulation of the fiduciary, business, and other
 40 affairs of the authority.

41 7.02 Definitions.—For the purposes of this article, unless
 42 otherwise designated, or the context otherwise requires, the
 43 following terms have the following meanings:

44 (1) "Authority" means the Gainesville Regional Utilities
 45 Authority of the City of Gainesville.

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

47 (3) "City commission" means the Gainesville City
 48 Commission.

49 (4) "County" means Alachua County.

50 (5) "GRU" means Gainesville Regional Utilities, a
 51 subdivision of the authority.

52 (6) "Member" means a member of the authority.

53 (7) "Utilities" means the electric utility system, water
54 utility system, wastewater utility system, reuse water utility
55 system, natural gas utility system, communications utility
56 system, and such other utility systems as may be acquired by GRU
57 in the future.

58 7.03 Authority members.—

59 (1) There shall be five members of the authority appointed
60 by a simple majority vote of the city commission. Each member
61 shall be a person of recognized ability and good business
62 judgment identified by the commission who can and will perform
63 his or her official duties in the best interests of the
64 citizens. Appointments shall be made as follows:

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

67 (b) One member shall be a private, nongovernment customer
68 consuming at least 10,000 kilowatt hours per month of electric
69 usage during the previous 12 months. This member may be the
70 owner or representative of the user.

71 (c) Three members shall be competent and knowledgeable in
72 specific fields, including, but not limited to, law, economics,
73 accounting, engineering, finance, or energy.

74 (2) All members of the authority shall:

75 (a) Reside year-round within the electric service
76 territory of GRU's electric utility system.

77 (b) Receive GRU electric utility system service at all
78 times.

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

81 (d) Be a qualified elector of the city, except that a
82 minimum of one voting member must be a resident of the
83 unincorporated area of Alachua County or a municipality in the
84 county other than the City of Gainesville.

85 (3) The composition of the authority shall be adjusted
86 upon expiration of any member's term, and upon any authority
87 vacancy, to reflect the ratio of total electric meters serving
88 customers in the unincorporated area of Alachua County to total
89 electric meters serving all electric customers. For example, at
90 such time as the ratio of total electric meters serving
91 customers in the unincorporated area of Alachua County to total
92 electric meters serving all electric customers reaches 40
93 percent, the city commission, upon expiration of a member's
94 term, or upon an authority vacancy, must appoint a second voting
95 member from a municipality in the county other than the city, or
96 from the unincorporated area of the county to serve the next
97 term that would otherwise be served by a qualified elector of
98 the city. For example, if the ratio subsequently falls below 40
99 percent, the city commission upon expiration of any member's
100 term, or upon any authority vacancy, must appoint a qualified
101 elector of the city to serve the next term that otherwise would
102 be served by a qualified elector from the unincorporated area of
103 the county or from a municipality in the county other than the
104 city.

105 (4) Until January 1, 2022, no current or previous elected
 106 or appointed officer or official of the city or county having
 107 held office after January 1, 2000, may become a member, except
 108 that a member initially appointed to the authority may be
 109 considered for subsequent reappointment if such individual
 110 remains otherwise qualified and chooses to be considered for
 111 reappointment.

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

114 7.04 Member terms.—

115 (1) The city commission shall make initial authority
 116 member appointments within 120 calendar days after the approval
 117 at referendum of the creation of this article. The initial terms
 118 of office for the five members shall commence at 12 a.m. on
 119 October 1, 2017. The initial appointments shall be as follows:
 120 one member shall be designated to serve until 12 a.m. October 1,
 121 2018; one member shall be designated to serve until 12 a.m.
 122 October 1, 2019; one member shall be designated to serve until
 123 12 a.m. October 1, 2020; and two members shall be designated to
 124 serve until 12 a.m. October 1, 2021. Members subsequently
 125 appointed shall be appointed for 4-year terms commencing at 12
 126 a.m. on October 1 of the year in which they are appointed, or
 127 until their successors in office are appointed, or as may
 128 otherwise be provided in this article.

129 (2) The city commission shall expeditiously schedule an
 130 appointment session and fill any authority voting member vacancy

131 within 60 days after a permanent vacancy occurs or becomes known
132 if such remaining term exceeds three months.

133 7.05 Member compensation.—Beginning October 1, 2017, each
134 member shall be paid an annual salary of \$18,000, adjusted
135 annually to the Consumer Price Index for All Urban Consumers as
136 defined by the United States Department of Labor, Bureau of
137 Labor Statistics. Necessary expenses of members incurred in
138 carrying out and conducting the business of the authority shall
139 be paid in accordance with authority policy and procedures,
140 subject to the approval of a majority of the members of the
141 authority. No supplemental benefits shall be provided for a
142 member position.

143 7.06 Authority; oath; organization; and meeting.—

144 (1) The first appointed authority shall initially meet at
145 the chambers of the city commission at 6 p.m. on Wednesday,
146 October 4, 2017.

147 (2) Before taking office for any term, each member shall
148 be given an oath or affirmation by the Mayor or his or her
149 designee similar to the oath or affirmation required of a member
150 of the city commission.

151 (3) The first official action of the authority shall be
152 election of a chairperson and a vice chairperson from among its
153 voting membership.

154 (4) The authority shall meet at least once each month,
155 except in case of emergency. All meetings of the authority shall
156 be noticed and open to the public, and minutes shall be kept of

157 all meetings as required by law, except that meetings related to
158 settlement of then existing litigation may be held in accordance
159 with law.

160 (5) The Gainesville Regional Utilities' sitting general
161 manager shall be responsible for providing adequate notice and
162 office space for the initial meeting.

163 7.07 Appointment and removal of chief executive
164 officer/general manager.—

165 (1) A chief executive officer/general manager ("CEO/GM")
166 shall direct and administer utility functions.

167 (2) The authority, by a majority vote, shall appoint or
168 remove the CEO/GM.

169 (3) The sitting general manager of GRU, absent action by
170 the authority, shall be retained in office as CEO/GM of the
171 authority.

172 (4) A sitting member of the authority may not be selected
173 as the CEO/GM.

174 7.08 Removal and suspension of members.—

175 (1) Members may be removed or suspended from office in
176 accordance with chapter 112, Florida Statutes.

177 (2) A member may be removed for failure to maintain all
178 voting member qualifications as specified in section 7.03 or for
179 violation of a provision of this article, or for violation of
180 rules or policies adopted by the authority.

181 (3) A member who is the subject of a proceeding to request
182 suspension or to remove under this section may not participate

183 in the authority's deliberations, debate, or vote on the matter.

184 (4) Request for suspension shall be by vote of at least
 185 three members of the authority.

186 (5) Removal or reinstatement shall be by vote of at least
 187 three members of the authority.

188 7.09 General provisions.—

189 (1) The city commission is required to create such
 190 instruments as are necessary for the authority to function in
 191 accordance with this article.

192 (2) Consistent with the provisions and effective date of
 193 this article, such previous applicable utilities-related
 194 ordinances, policies, rates, fees, rules, regulations, budgets,
 195 and other provisions previously adopted under the city charter
 196 are deemed adopted, reenacted, or assumed by the authority for
 197 transition purposes until such time that the authority shall
 198 make changes. However, to the extent of conflict with this act,
 199 the city and the county charter provisions, ordinances,
 200 resolutions, decrees, or parts thereof, are hereby repealed.
 201 This subsection is not intended to interfere with existing
 202 contractual arrangements between the city and the county,
 203 regardless of whether those arrangements are charter provisions,
 204 ordinances, resolutions, decrees, or parts thereof.

205 (3) No franchise, right-of-way, license, permit, tax, or
 206 usage fee may be levied upon the authority or its utilities by
 207 the city or by the county unless allowed by general law. No
 208 franchise, right-of-way, license, permit, tax, or usage fee may

209 be levied upon the authority or its utilities that impose an
210 unreasonable burden. Any additional allowable but not required
211 franchise, right-of-way, license, permit, tax or usage fee
212 assessed by the city as to the authority or any of the utilities
213 under the authority's jurisdiction after April 30, 2016, shall
214 be totaled for each fiscal year and a like amount subtracted
215 from each subsequent fiscal year's transfer to the city's
216 general fund, unless such subtraction is waived by a vote of
217 four members of the authority three months before the start of
218 each subsequent fiscal year.

219 (4) The rights or privileges, if any, of persons who were
220 GRU employees, including the general manager, immediately before
221 the effective date of this article are not impaired.

222 (5) Any utility advisory boards created by the commission
223 may continue to advise the city commission. However, such boards
224 shall have no advisory role as to the authority, the utilities
225 under its jurisdiction, or their employees.

226 7.10 Powers and duties.-

227 (1) The authority's powers and duties shall be no less
228 extensive than those exercised by the city commission with
229 respect to GRU as existed on January 1, 2016.

230 (2) The authority may not enact rules relating to the
231 disposal or sale of any GRU property which are more expansive
232 than the rules applicable to the city commission as were in
233 effect on January 1, 2016.

234 (3) The authority is authorized to exercise the power of
 235 eminent domain for utilities purposes.

236 (4) Upon the effective date of this article, all existing
 237 City of Gainesville authority, laws, ordinances, resolutions,
 238 and administrative regulations, interpretations, franchises, and
 239 controls directly or indirectly affecting and controlling said
 240 utilities are exclusively vested in said authority. All rights,
 241 claims, actions, orders, and legal or administrative proceedings
 242 involving the authority immediately before the effective date of
 243 this article shall continue, except as modified by the authority
 244 pursuant to the provisions of and authority granted by this
 245 article.

246 (5) No member of the authority shall be individually
 247 responsible for authority debts.

248 (6) The authority shall ensure the development of an
 249 ethics policy and a code of business conduct policy which aim to
 250 achieve best practices for municipal utilities, which shall be
 251 reviewed at least biennially.

252 Section 3. In order to provide for the transitional
 253 administrative needs and orderly compliance with the provisions
 254 in this act, the chairperson or designee of the authority is
 255 authorized to execute documents required for the transition.

256 Section 4. The ballot statement shall read as follows:

257
 258 "Shall the Charter of the City of Gainesville be amended by
 259 creating the Gainesville Regional Authority, to be the governing

260 board of Gainesville Regional Utilities and appointed by the
 261 City Commission of the City of Gainesville?"

262 Yes

263 No

264 Section 5. This act shall take effect only upon its
 265 approval by a majority vote of those qualified electors of the
 266 City of Gainesville voting in a referendum to be held in March
 267 2017, in conjunction with the citywide election to be held in
 268 the City of Gainesville, except that this section and section 4
 269 shall take effect upon becoming a law.