

Amendment No.

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WITHDRAWN	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: Government Accountability
2 Committee

3 Representative Clemons offered the following:

4

5 **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8 chapter 90-394, Laws of Florida, is repealed.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

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

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42 system, natural gas utility system, communications utility
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 all of the following powers
47 and duties, in addition to the powers and duties otherwise
48 conferred 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 utility systems in a manner
59 that will ensure the economic, responsible, safe, and efficient
60 provision of utility services, provided that title to all such
61 property is vested in the city.

62 (d) To exercise the power of eminent domain pursuant to
63 part IV of chapter 166, Florida Statutes, and to use utility
64 funds to appropriate or acquire property, excluding federal or
65 state property, for the purpose of obtaining, constructing, and

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66 maintaining utility facilities, provided that title to all such
67 property is vested in the city.

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 utility
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 part II of chapter 166, 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 utility system assets only to the extent
78 and under the conditions that the city commission may dispose of
79 such assets pursuant to section 5.04 of Article V.

80 (g) To prepare and submit to the city commission, at least
81 four (4) months before the start of the city's fiscal year, an
82 annual budget for all Authority and GRU operations, including
83 the amount of any transfer to the city. The term of the budget
84 shall coincide with the city's fiscal year. Absent prior
85 approval of the city commission, the Authority's budget may not
86 reduce the amount of any transfer to the city by more than three
87 (3) percent from the previous fiscal year.

88 (h) To prepare and submit to the city commission, at least
89 four (4) months before the start of the city's fiscal year, an
90 Annual Customer Report (ACR) examining utility rates for all

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91 customers. The report shall include, but not be limited to,
92 comparisons of customer utility rates with peer municipal
93 utilities. The report shall include multi-year projections of
94 all customer utility rates.

95 (i) To appoint and remove a chief executive
96 officer/general manager as provided in this article.

97 (j) To recommend, by resolution to the city commission,
98 the acquisition and operation of a utility system not owned or
99 operated by GRU as of the date of transfer of governing
100 authority to the Authority.

101 7.04 Authority members.-

102 (1) There shall be five members of the Authority appointed
103 by a majority vote of the city commission. The Members shall be
104 diverse and representative of the community. Each member shall
105 be a person of recognized ability and good business judgment, as
106 identified by the city commission, who is expected to perform
107 his or her official duties in the best interests of GRU and its
108 customers. Appointments shall be made as follows:

109 (a) One (1) member shall be a residential customer with
110 substantial knowledge of GRU, its operations, and its history.

111 (b) At least one (1) member shall be a private,
112 nongovernment customer consuming at least 10,000 kilowatt hours
113 per month of electric usage during each of the previous twelve
114 (12) months. If the customer is an entity, this member may be
115 the owner or representative of such customer.

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116 (c) Three (3) members shall be competent and knowledgeable
117 in one or more specific fields substantially related to the
118 duties and functions of the Authority, including, but not
119 limited to, law, economics, accounting, engineering, finance, or
120 energy.

121 (2) All members of the Authority shall:

122 (a) Be a customer with an account history of no less than
123 five (5) years leading up to their appointment to the Authority.

124 (b) Be a customer during the term of appointment.

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

127 (d) At least one member shall be a customer whose service
128 is delivered to an address outside the City boundaries of
129 Gainesville. Should an annexation by the City of Gainesville
130 occur that affects a sitting member of the Authority, that
131 member shall be allowed to serve out his or her term. However,
132 that member will not be eligible for a subsequent term in the
133 capacity of a customer outside the city boundaries of
134 Gainesville.

135 (3) The composition of the Authority shall be adjusted
136 upon expiration of any member's term, or upon any Authority
137 vacancy, to reflect the ratio of total electric meters serving
138 GRU electric customers outside the city's jurisdictional
139 boundaries to total electric meters serving all GRU electric
140 customers. For example, upon expiration of a member's term or

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141 upon an Authority vacancy, if the ratio of total electric meters
142 serving customers outside the city boundaries to total electric
143 meters serving all electric customers reaches forty (40)
144 percent, the city commission must appoint a second member from
145 outside the city boundaries to serve the next term that would
146 otherwise be served by a qualified elector of the city.
147 Conversely, upon expiration of any member's term or upon any
148 Authority vacancy, if the ratio subsequently falls below forty
149 (40) percent, the city commission must appoint a qualified
150 elector of the city to serve the next term that otherwise would
151 have been served by a resident from outside the city boundaries.

152 (4) Until January 1, 2022, a current or former elected
153 official of the city or county having held office after January
154 1, 2000, may not become a member, except that a member initially
155 appointed to the Authority may be considered for subsequent
156 reappointment if such individual remains otherwise qualified and
157 chooses to be considered for reappointment.

158 (5) A member who is appointed for three full consecutive
159 4-year terms may not succeed herself or himself.

160 7.05 Member nominations and terms.—

161 (1) The city commission shall issue a public notice
162 soliciting citizen nominations for Authority Members within one
163 hundred and twenty (120) days after the approval at referendum
164 of the creation of this article. The nomination solicitation

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165 period shall remain open for a minimum of thirty (30) days from
166 the date of the public notice.

167 (2) The city commission shall appoint initial members to
168 the Authority from among the nominees within sixty (60) days
169 after the close of the nomination solicitation period. The
170 initial terms of office for the five (5) members shall commence
171 at 12 a.m. on October 1, 2019. The terms of the initial
172 appointments shall be as follows: one (1) member shall be
173 designated to serve until 12 a.m. October 1, 2020; one (1)
174 member shall be designated to serve until 12 a.m. October 1,
175 2021; one (1) member shall be designated to serve until 12 a.m.
176 October 1, 2022; and two members shall be designated to serve
177 until 12 a.m. October 1, 2023.

178 (3) The City commission shall have a citizen nomination
179 solicitation period for a minimum of thirty (30) days and
180 appoint members for subsequent terms from among the nominees.
181 Members appointed for subsequent terms shall be appointed for 4-
182 year terms commencing at 12 a.m. on October 1 of the year in
183 which they are appointed. If a member is appointed to complete
184 an unexpired term, the member's term shall commence at the time
185 of appointment and shall continue through the remainder of the
186 unexpired term.

187 (4) The city commission shall fill any vacancy for the
188 unexpired portion of a term within sixty (60) days after the

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189 vacancy occurs if the remainder of the term exceeds ninety (90)
190 days.

191 7.06 Member compensation.—Members of the authority shall
192 serve without compensation but may receive reimbursement for per
193 diem and travel expenses incurred in the performance of their
194 duties, as provided in s. 112.061, Florida Statutes.

195 7.07 Authority; oath; organization; and meeting.—

196 (1) The Authority shall initially meet at the chambers of
197 the city commission at 6 p.m. on Tuesday, October 1, 2019.

198 (2) Before taking office for any term, each member shall
199 be given an oath or affirmation by the mayor or his or her
200 designee similar to the oath or affirmation required of a member
201 of the city commission.

202 (3) The first official action of the Authority shall be
203 election of a chairperson and a vice chairperson from among its
204 membership.

205 (4) The Authority shall meet at least once each month,
206 except in case of unforeseen circumstances. All meetings of the
207 Authority shall be noticed and open to the public, and minutes
208 shall be kept as required by law, except that meetings related
209 to settlement of then existing litigation may be held as allowed
210 by law.

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

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214 7.08 Removal and suspension of members.-

215 (1) A member may be removed or suspended from office by
216 the city commission in accordance with s. 112.501, Florida
217 Statutes. In addition to the grounds for removal set forth
218 therein, a member may be removed by the city commission for
219 failure to maintain the qualifications specified in section
220 7.04.

221 (2) The Authority may recommend to the city commission
222 that a member be removed or suspended from office if it finds,
223 by vote of at least three (3) members, a reasonable basis for
224 removal or suspension on one or more of the grounds set forth in
225 s. 112.501, Florida Statutes, or for failure to maintain the
226 qualifications specified in section 7.04. The Authority shall
227 give reasonable notice of any proceeding in which such action is
228 proposed and must provide the member against whom such action is
229 proposed a written statement of the basis for the proposed
230 action and an opportunity to be heard. The member against whom
231 such action is proposed may not participate in the Authority's
232 debate or vote on the matter.

233 7.09 Management and personnel.-

234 (1) A chief executive officer/general manager (CEO/GM)
235 shall direct and administer all utility functions, subject to
236 the rules and resolutions of the Authority. The CEO/GM shall
237 serve at the pleasure of the Authority. Appointment or removal
238 of the CEO/GM shall be by majority vote of the Authority. Until

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239 the Authority appoints a CEO/GM, the sitting general manager of
240 GRU shall serve as the CEO/GM. A sitting member of the Authority
241 may not be selected as the CEO/GM.

242 (2) All officers and employees of the city who serve under
243 the supervision and direction of the sitting general manager of
244 GRU shall serve under the CEO/GM. The CEO/GM shall have the
245 exclusive authority to hire, transfer, promote, discipline, or
246 terminate employees under his or her supervision and direction.

247 (3) The Authority shall fix the salary of the CEO/GM, and
248 the CEO/GM shall fix the salaries of all other employees who
249 serve under his or her direction consistent with the annual
250 budget approved by the Authority. The sitting general manager of
251 GRU, as well as all officers and employees of the city who, by
252 virtue of this article, become subject to the supervision and
253 direction of the CEO/GM, shall continue without any loss of
254 rights or benefits as employees under the pension plans and
255 civil service merit system of the city existing as of the
256 creation of the Authority.

257 7.10 General provisions.—

258 (1) The city and the Authority shall perform all acts
259 necessary and proper to effectuate an orderly transition of the
260 governance, operation, management, and control of the utilities
261 to the Authority, including, but not limited to, the creation of
262 such instruments as are necessary for the Authority to function
263 in accordance with this article.

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264 (2) All city ordinances, policies, rates, fees,
265 assessments, charges, rules, regulations, and budgets related to
266 operation of the utilities shall remain in effect until the
267 Authority, pursuant to the powers granted in this article,
268 modifies any such item. If any city charter provision,
269 ordinance, resolution, decree, or any part thereof conflicts
270 with the provisions of this article, the provisions of this
271 article shall govern. This subsection is not intended to and may
272 not interfere with existing contractual arrangements between the
273 city and county, regardless of whether such arrangements are
274 reflected in charter provisions, ordinances, resolutions,
275 decrees, or any part thereof.

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

280 (4) A franchise, right-of-way, license, permit, or usage
281 fee or tax may not be levied by the city upon the Authority or
282 the utilities unless allowed by general law.

283 (5) Any utility advisory board created by the city
284 commission has no role with respect to the Authority.

285 (6) A member of the Authority is not individually
286 responsible for Authority debts or liabilities.

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287 (7) The Authority shall develop an ethics policy and a
288 code of business conduct that shall be reviewed at least
289 biennially.

290 Section 3. In order to provide for the transitional
291 administrative needs and orderly compliance with the provisions
292 of this act, the chairperson of the Authority or his or her
293 designee is authorized to execute documents required for the
294 transition.

295 Section 4. Referendum.—At the special referendum election
296 called pursuant to this act, the ballot question shall read as
297 follows:

298
299 "Shall the Charter of the City of Gainesville be amended to
300 create the Gainesville Regional Utilities Authority as the
301 governing board of Gainesville Regional Utilities (GRU), whose
302 responsibilities shall include, but not be limited to, examining
303 and establishing utility rates for all customers? Board members
304 shall be GRU customers, shall be diverse and representative of
305 the community, and shall be nominated by citizens and appointed
306 by the Gainesville City Commission."

307 Yes....

308 No....

309 Section 5. This act shall take effect only upon its
310 approval by a majority vote of those qualified electors of the
311 City of Gainesville voting in a referendum to be held in

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312 | November 2018 in conjunction with the general election to be
313 | held in the City of Gainesville, except that this section and
314 | section 4 shall take effect upon becoming a law.
315 |