

1 A bill to be entitled

2 An act relating to the City of Gainesville, Alachua
3 County; amending ch. 12760, Laws of Florida (1927), as
4 amended by ch. 90-394, Laws of Florida, relating to
5 the city's charter; repealing section 3.06 of the
6 city's charter, relating to the appointment,
7 qualifications, powers, and duties of the general
8 manager for utilities of Gainesville Regional
9 Utilities; creating the Gainesville Regional Utilities
10 Authority and establishing it as the governing board
11 of Gainesville Regional Utilities; providing
12 definitions; specifying the powers and duties of the
13 authority; specifying the composition of the authority
14 and the selection and removal, terms, compensation,
15 organization, and liability of its members; specifying
16 certain management and personnel for the authority;
17 specifying applicability to certain city ordinances,
18 policies, rates, fees, assessments, charges, rules,
19 regulations, budgets, and contracts; requiring the
20 authority to develop and review an ethics policy and
21 code of conduct; providing a ballot statement;
22 requiring a referendum; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

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 27 chapter 90-394, Laws of Florida, is repealed.

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

31
 32 ARTICLE VII GAINESVILLE REGIONAL UTILITIES AUTHORITY

33
 34 7.01 Establishment.—There is created a regional utilities
 35 authority to be known as the "Gainesville Regional Utilities
 36 Authority." Gainesville Regional Utilities shall be governed by
 37 the authority upon installation of the authority's members
 38 pursuant to this article. The authority shall operate as a unit
 39 of city government and, except as otherwise provided in this
 40 article, shall be free from direction and control of the
 41 Gainesville City Commission. The authority is created for the
 42 express purpose of managing, operating, controlling, and
 43 otherwise having broad authority with respect to the utilities
 44 owned by the City of Gainesville.

45 7.02 Definitions.—For the purposes of this article, unless
 46 otherwise designated or the context otherwise requires, the
 47 following terms have the following meanings:

48 (1) "Authority" means the Gainesville Regional Utilities
 49 Authority created in this article.

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

51 (3) "City commission" means the Gainesville City
 52 Commission.

53 (4) "County" means Alachua County.

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

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

58 (7) "Member" means a member of the authority.

59 (8) "Utilities" means the electric utility system, water
 60 utility system, wastewater utility system, reuse water utility
 61 system, natural gas utility system, communications utility
 62 system, and such other utility systems as may be acquired by GRU
 63 in the future.

64 7.03 Powers and duties.—

65 (1) The authority shall have all of the following powers
 66 and duties, in addition to the powers and duties otherwise
 67 conferred by this article:

68 (a) To manage, operate, and control the utilities and to
 69 do all things necessary to effectuate an orderly transition of
 70 the management, operation, and control of the utilities from the
 71 city to the authority, consistent with this article.

72 (b) To establish and amend the rates, fees, assessments,
 73 charges, rules, regulations, and policies governing the sale and
 74 use of services provided through the utilities.

75 (c) To acquire real or personal property and to construct

76 such projects as necessary to operate, maintain, enlarge,
77 extend, preserve, and promote the utility systems in a manner
78 that will ensure the economic, responsible, safe, and efficient
79 provision of utility services, provided that title to all such
80 property is vested in the city.

81 (d) To exercise the power of eminent domain pursuant to
82 part IV of chapter 166, Florida Statutes, and to use utility
83 funds to appropriate or acquire property, excluding federal or
84 state property, for the purpose of obtaining, constructing, and
85 maintaining utility facilities, provided that title to all such
86 property is vested in the city.

87 (e) To issue revenue bonds, upon resolution of the
88 authority establishing the form, terms, and purpose of such
89 bonds, for the purpose of financing or refinancing utility
90 system projects, and to exercise all powers in connection with
91 the authorization, issuance, and sale of such bonds as conferred
92 upon municipalities by part II of chapter 166, Florida Statutes,
93 provided that such bonds may be validated in accordance with
94 chapter 75, Florida Statutes. The authority may not issue
95 general obligation bonds.

96 (f) To dispose of utility system assets only to the extent
97 and under the conditions that the city commission may dispose of
98 such assets pursuant to section 5.04 of Article V.

99 (g) To prepare and submit to the city commission, at least
100 4 months before the start of the city's fiscal year, an annual

101 budget for all authority and GRU operations, including the
102 amount of any transfer to the city. The term of the budget shall
103 coincide with the city's fiscal year. Absent prior approval of
104 the city commission, the authority's budget may not reduce the
105 amount of any transfer to the city by more than 3 percent from
106 the previous fiscal year.

107 (h) To prepare and submit to the city commission, at least
108 4 months before the start of the city's fiscal year, an Annual
109 Customer Report (ACR) examining utility rates for all customers.
110 The report shall include, but not be limited to, comparisons of
111 customer utility rates with peer municipal utilities. The report
112 shall include multiyear projections of all customer utility
113 rates.

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

116 (j) To recommend, by resolution to the city commission,
117 the acquisition and operation of a utility system not owned or
118 operated by GRU as of the date of transfer of governing
119 authority to the authority.

120 7.04 Authority members.—

121 (1) There shall be five members of the authority appointed
122 by a majority vote of the city commission. The members shall be
123 diverse and representative of the community. Each member shall
124 be a person of recognized ability and good business judgment, as
125 identified by the city commission, who is expected to perform

126 his or her official duties in the best interests of GRU and its
127 customers. Appointments shall be made as follows:

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

130 (b) At least one member shall be a private, nongovernment
131 customer consuming at least 10,000 kilowatt hours per month of
132 electric usage during each of the previous 12 months. If the
133 customer is an entity, this member may be the owner or
134 representative of such customer.

135 (c) Three members shall be competent and knowledgeable in
136 one or more specific fields substantially related to the duties
137 and functions of the authority, including, but not limited to,
138 law, economics, accounting, engineering, finance, or energy.

139 (2) All members of the authority shall:

140 (a) Be a customer with an account history of at least 5
141 years leading up to their appointment to the authority.

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

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

145 (d) At least one member shall be a customer whose service
146 is delivered to an address outside the city boundaries. Should
147 an annexation by the city occur that affects a sitting member of
148 the authority, that member shall be allowed to serve out his or
149 her term. However, that member will not be eligible for a
150 subsequent term in the capacity of a customer outside the city

151 boundaries.

152 (3) The composition of the authority shall be adjusted
153 upon expiration of any member's term, or upon any authority
154 vacancy, to reflect the ratio of total electric meters serving
155 GRU electric customers outside the city's jurisdictional
156 boundaries to total electric meters serving all GRU electric
157 customers. For example, upon expiration of a member's term or
158 upon an authority vacancy, if the ratio of total electric meters
159 serving customers outside the city boundaries to total electric
160 meters serving all electric customers reaches 40 percent, the
161 city commission must appoint a second member from outside the
162 city boundaries to serve the next term that would otherwise be
163 served by a qualified elector of the city. Conversely, upon
164 expiration of any member's term or upon any authority vacancy,
165 if the ratio subsequently falls below 40 percent, the city
166 commission must appoint a qualified elector of the city to serve
167 the next term that otherwise would have been served by a
168 resident from outside the city boundaries.

169 (4) Until January 1, 2022, a current or former elected
170 official of the city or county having held office after January
171 1, 2000, may not become a member, except that a member initially
172 appointed to the authority may be considered for subsequent
173 reappointment if such individual remains otherwise qualified and
174 chooses to be considered for reappointment.

175 (5) A member who is appointed for three full consecutive

176 4-year terms may not succeed herself or himself.

177 7.05 Member nominations and terms.—

178 (1) The city commission shall issue a public notice
179 soliciting citizen nominations for authority members within 120
180 days after the approval at referendum of the creation of this
181 article. The nomination solicitation period shall remain open
182 for at least 30 days after the date of the public notice.

183 (2) The city commission shall appoint initial members to
184 the authority from among the nominees within 60 days after the
185 close of the nomination solicitation period. The initial terms
186 of office for the five members shall commence at 12 a.m. on
187 October 1, 2019. The terms of the initial appointments shall be
188 as follows: one member shall be designated to serve until 12
189 a.m. October 1, 2020; one member shall be designated to serve
190 until 12 a.m. October 1, 2021; one member shall be designated to
191 serve until 12 a.m. October 1, 2022; and two members shall be
192 designated to serve until 12 a.m. October 1, 2023.

193 (3) The city commission shall have a citizen nomination
194 solicitation period for at least 30 days and appoint members for
195 subsequent terms from among the nominees. Members appointed for
196 subsequent terms shall be appointed for 4-year terms commencing
197 at 12 a.m. on October 1 of the year in which they are appointed.
198 If a member is appointed to complete an unexpired term, the
199 member's term shall commence at the time of appointment and
200 shall continue through the remainder of the unexpired term.

201 (4) The city commission shall fill any vacancy for the
202 unexpired portion of a term within 60 days after the vacancy
203 occurs if the remainder of the term exceeds 90 days.

204 7.06 Member compensation.—Members of the authority shall
205 serve without compensation but may receive reimbursement for per
206 diem and travel expenses incurred in the performance of their
207 duties, as provided in s. 112.061, Florida Statutes.

208 7.07 Authority; oath; organization; and meeting.—

209 (1) The authority shall initially meet at the chambers of
210 the city commission at 6 p.m. on Tuesday, October 1, 2019.

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

215 (3) The first official action of the authority shall be
216 election of a chairperson and a vice chairperson from among its
217 membership.

218 (4) The authority shall meet at least once each month,
219 except in case of unforeseen circumstances. All meetings of the
220 authority shall be noticed and open to the public, and minutes
221 shall be kept as required by law, except that meetings related
222 to settlement of then existing litigation may be held as allowed
223 by law.

224 (5) The GRU general manager or his or her designee shall
225 be responsible for making arrangements for and providing

226 adequate notice of the initial meeting of the authority.

227 7.08 Removal and suspension of members.—

228 (1) A member may be removed or suspended from office by
 229 the city commission in accordance with s. 112.501, Florida
 230 Statutes. In addition to the grounds for removal set forth
 231 therein, a member may be removed by the city commission for
 232 failure to maintain the qualifications specified in section
 233 7.04.

234 (2) The authority may recommend to the city commission
 235 that a member be removed or suspended from office if it finds,
 236 by vote of at least three members, a reasonable basis for
 237 removal or suspension on one or more of the grounds set forth in
 238 s. 112.501, Florida Statutes, or for failure to maintain the
 239 qualifications specified in section 7.04. The authority shall
 240 give reasonable notice of any proceeding in which such action is
 241 proposed and must provide the member against whom such action is
 242 proposed a written statement of the basis for the proposed
 243 action and an opportunity to be heard. The member against whom
 244 such action is proposed may not participate in the authority's
 245 debate or vote on the matter.

246 7.09 Management and personnel.—

247 (1) A chief executive officer/general manager (CEO/GM)
 248 shall direct and administer all utility functions, subject to
 249 the rules and resolutions of the authority. The CEO/GM shall
 250 serve at the pleasure of the authority. Appointment or removal

251 of the CEO/GM shall be by majority vote of the authority. Until
252 the authority appoints a CEO/GM, the sitting general manager of
253 GRU shall serve as the CEO/GM. A sitting member of the authority
254 may not be selected as the CEO/GM.

255 (2) All officers and employees of the city who serve under
256 the supervision and direction of the sitting general manager of
257 GRU shall serve under the CEO/GM. The CEO/GM shall have the
258 exclusive authority to hire, transfer, promote, discipline, or
259 terminate employees under his or her supervision and direction.

260 (3) The authority shall fix the salary of the CEO/GM, and
261 the CEO/GM shall fix the salaries of all other employees who
262 serve under his or her direction consistent with the annual
263 budget approved by the authority. The sitting general manager of
264 GRU, as well as all officers and employees of the city who, by
265 virtue of this article, become subject to the supervision and
266 direction of the CEO/GM, shall continue without any loss of
267 rights or benefits as employees under the pension plans and
268 civil service merit system of the city existing as of the
269 creation of the authority.

270 7.10 General provisions.—

271 (1) The city and the authority shall perform all acts
272 necessary and proper to effectuate an orderly transition of the
273 governance, operation, management, and control of the utilities
274 to the authority, including, but not limited to, the creation of
275 such instruments as are necessary for the authority to function

276 in accordance with this article.

277 (2) All city ordinances, policies, rates, fees,
278 assessments, charges, rules, regulations, and budgets related to
279 operation of the utilities shall remain in effect until the
280 authority, pursuant to the powers granted in this article,
281 modifies any such item. If any city charter provision,
282 ordinance, resolution, decree, or any part thereof conflicts
283 with the provisions of this article, the provisions of this
284 article shall govern. This subsection is not intended to and may
285 not interfere with existing contractual arrangements between the
286 city and county, regardless of whether such arrangements are
287 reflected in charter provisions, ordinances, resolutions,
288 decrees, or any part thereof.

289 (3) All rights, responsibilities, claims, and actions
290 involving GRU as of the transfer to the authority shall
291 continue, except as may be modified by the authority under the
292 powers granted by this article and consistent with law.

293 (4) A franchise, right-of-way, license, permit, or usage
294 fee or tax may not be levied by the city upon the authority or
295 the utilities unless allowed by general law.

296 (5) Any utility advisory board created by the city
297 commission has no role with respect to the authority.

298 (6) A member of the authority is not individually
299 responsible for authority debts or liabilities.

300 (7) The authority shall develop an ethics policy and a

301 code of business conduct that shall be reviewed at least
 302 biennially.

303 Section 3. In order to provide for the transitional
 304 administrative needs and orderly compliance with the provisions
 305 of this act, the chairperson of the authority or his or her
 306 designee is authorized to execute documents required for the
 307 transition.

308 Section 4. At the special referendum election called
 309 pursuant to this act, the ballot question shall read as follows:

311 "Shall the Charter of the City of Gainesville be amended to
 312 create the Gainesville Regional Utilities Authority as the
 313 governing board of Gainesville Regional Utilities (GRU), whose
 314 responsibilities shall include, but not be limited to, examining
 315 and establishing utility rates for all customers, and whose
 316 members shall be GRU customers, shall be diverse and
 317 representative of the community, and shall be nominated by
 318 citizens and appointed by the Gainesville City Commission?"

319 Yes....

320 No....

321 Section 5. This act shall take effect only upon its
 322 approval by a majority vote of those qualified electors of the
 323 City of Gainesville voting in a referendum to be held in
 324 conjunction with the general election to be held in the City of

325 | Gainesville in November 2018, except that this section and
326 | section 4 shall take effect upon becoming a law.