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CS/HB 1645

2023 Legislature

1  
 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 establishing it as the governing board of Gainesville  
 10 Regional Utilities; providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14 Section 1. Section 3.06 of Article III of section 1 of  
 15 chapter 90-394, Laws of Florida, is repealed.

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

19 ARTICLE VII

20 GAINESVILLE REGIONAL UTILITIES AUTHORITY

21 7.01 Establishment.—

22 There is created a regional utilities authority to be known as  
 23 the "Gainesville Regional Utilities Authority" ("Authority").  
 24 Gainesville Regional Utilities shall be governed by the  
 25 Authority upon installation of the Authority's members pursuant

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26 | to this article. The Authority shall operate as a unit of city  
 27 | government and, except as otherwise provided in this article,  
 28 | shall be free from direction and control of the Gainesville City  
 29 | Commission. The Authority is created for the express purpose of  
 30 | managing, operating, controlling, and otherwise having broad  
 31 | authority with respect to the utilities owned by the City of  
 32 | Gainesville.

33 | 7.02 Definitions.—

34 | For the purposes of this article, unless otherwise designated,  
 35 | or the context otherwise requires, the following terms have the  
 36 | following meanings:

37 | (1) "Authority" means the Gainesville Regional Utilities  
 38 | Authority created in this article.

39 | (2) "City" means the City of Gainesville.

40 | (3) "City Commission" means the Gainesville City  
 41 | Commission.

42 | (4) "County" means Alachua County.

43 | (5) "Customer" means a person or an entity that makes  
 44 | application for and is supplied with service by GRU for its  
 45 | ultimate use.

46 | (6) "Flow of funds" means the sum of required debt  
 47 | service, necessary operations and management expenses, a  
 48 | reasonable contribution to a utility plan improvement fund,  
 49 | identified SLA-related losses, and any other lawful purpose as  
 50 | provided in bond covenants.

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51       (7) "Government services contribution" or "GSC" means the  
 52 portion of revenues generated from rates, fees, assessments, and  
 53 charges for the provision of utility services by the utility  
 54 system which is annually transferred by the Authority to the  
 55 City for use in funding or financing its general government  
 56 municipal functions.

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

58       (9) "Member" means a member of the Authority.

59       (10) "Net revenues" means the gross revenues less fuel  
 60 revenues.

61       (11) "Service-level agreement" or "SLA" means a contract  
 62 entered into by the Authority that establishes a set of  
 63 deliverables that one party has agreed to provide another.

64       (12) "Utilities" means the electric utility system, water  
 65 utility system, wastewater utility system, reuse water utility  
 66 system, natural gas utility system, communications utility  
 67 system, and such other utility systems as may be acquired by GRU  
 68 in the future.

69       7.03 Powers and duties.-

70       (1) The Authority shall have the following powers and  
 71 duties, in addition to the powers and duties otherwise conferred  
 72 by this article:

73       (a) To manage, operate, and control the utilities, and to  
 74 do all things necessary to effectuate an orderly transition of  
 75 the management, operation, and control of the utilities from the

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76 City to the Authority, consistent with this article.

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

80 (c) To acquire real or personal property and to construct  
 81 such projects as necessary to operate, maintain, enlarge,  
 82 extend, preserve, and promote the utility systems in a manner  
 83 that will ensure the economic, responsible, safe, and efficient  
 84 provision of utility services, provided that title to all such  
 85 property is vested in the City.

86 (d) To exercise the power of eminent domain pursuant to  
 87 chapter 166, Florida Statutes, and to use utility funds to  
 88 appropriate or acquire property, excluding federal or state  
 89 property, for the purpose of obtaining, constructing, and  
 90 maintaining utility facilities, provided that title to all such  
 91 property is vested in the City.

92 (e) To authorize the issuance of revenue bonds and other  
 93 evidences of indebtedness of the City, secured by the revenues  
 94 and other pledged funds and accounts of the utility system,  
 95 pursuant to Florida law. Upon resolution of the Authority  
 96 establishing the authorized form, terms, and purpose of such  
 97 bonds, for the purpose of financing or refinancing utility  
 98 system projects, and to exercise all powers in connection with  
 99 the authorization of the issuance, and sale of such bonds by the  
 100 City as conferred upon municipalities by part II of chapter 166,

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101 Florida Statutes, other applicable state laws, and section 103  
 102 of the Internal Revenue Code of 1986. Such bonds may be  
 103 validated in accordance with chapter 75, Florida Statutes. The  
 104 Authority may not authorize the issuance of general obligation  
 105 bonds. Such bonds and other forms of indebtedness of the City  
 106 shall be executed and attested by the officers, employees, or  
 107 agents of the City, including the chief executive  
 108 officer/general manager (CEO/GM) or chief financial officer of  
 109 the utility system, the Authority has so designated as agents of  
 110 the City. The Authority may enter into hedging agreements or  
 111 options for the purpose of moderating interest rates on existing  
 112 and proposed indebtedness or price fluctuations of fuel or other  
 113 commodities, including agreements for the future delivery  
 114 thereof, or any combinations thereof.

115 (f) To dispose of utility system assets only to the extent  
 116 and under the conditions that the City Commission may dispose of  
 117 such assets pursuant to section 5.04 of Article V.

118 (g) To prepare and submit to the City Commission, at least  
 119 3 months before the start of the City's fiscal year, an annual  
 120 budget for all Authority and GRU operations, including the  
 121 amount of any transfer to the City. The term of the budget shall  
 122 coincide with the City's fiscal year. The amount of any transfer  
 123 is subject to the limitations specified in section 7.11.

124 (h) To appoint and remove a CEO/GM as provided in this  
 125 article.

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126 (i) To recommend, by resolution to the City Commission,  
 127 the acquisition and operation of a utility system not owned or  
 128 operated by GRU as of the date of transfer of governing  
 129 authority to the Authority.

130 7.04 Authority members.—

131 (1) There shall be five members of the Authority appointed  
 132 by the Governor. Each member shall be a person of recognized  
 133 ability and good business judgment as identified by the Governor  
 134 who is expected to perform his or her official duties in the  
 135 best interests of GRU and its customers. Appointments shall be  
 136 made as follows:

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

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

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

147 (2) All members of the Authority shall:

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

150 (b) Receive GRU electric utility system service at all

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151 times during the term of appointment.

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

154 (d) Be a qualified elector of the City, except that a  
 155 minimum of one member must be a resident of the unincorporated  
 156 area of the county or a municipality in the county other than  
 157 the City of Gainesville.

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

175 7.05 Member nominations and terms.-

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176       (1) The Governor shall issue a public notice soliciting  
177 citizen nominations for Authority members within 120 days after  
178 the effective date of this article. The nomination solicitation  
179 period shall remain open for at least 30 days after the date of  
180 the public notice.

181       (2) The Governor shall appoint initial members to the  
182 Authority from among the nominees within 60 days after the close  
183 of the nomination solicitation period. The initial terms of  
184 office for the five members shall commence at 12 a.m. on October  
185 1, 2023. The terms of the initial appointments shall be as  
186 follows: one member shall be designated to serve until 12 a.m.  
187 on October 1, 2024; one member shall be designated to serve  
188 until 12 a.m. on October 1, 2025; one member shall be designated  
189 to serve until 12 a.m. on October 1, 2026; and two members shall  
190 be designated to serve until 12 a.m. on October 1, 2027.

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

199       (4) The Governor shall fill any vacancy for the unexpired  
200 portion of a term within 60 days after the vacancy occurs if the



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201 remainder of the term exceeds 90 days.

202 7.06 Member compensation.—Beginning October 1, 2023,  
 203 necessary expenses of members incurred in carrying out and  
 204 conducting the business of the Authority shall be paid in  
 205 accordance with Authority policy and procedures, subject to the  
 206 approval of a majority of the members of the Authority. No  
 207 supplemental benefits shall be provided for a member position.

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 Wednesday, October 4, 2023.

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

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226 adequate notice for 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 Governor in accordance with s. 112.501, Florida Statutes. In  
 230 addition to the grounds for removal set forth therein, a member  
 231 may be removed by the Governor for failure to maintain the  
 232 qualifications specified in section 7.04.  
 233 (2) The Authority may recommend to the Governor that a  
 234 member be removed or suspended from office if it finds, by vote  
 235 of at least three members, a reasonable basis for removal or  
 236 suspension on one or more of the grounds set forth in s.  
 237 112.501, Florida Statutes, or for failure to maintain the  
 238 qualifications specified in section 7.04. The Authority shall  
 239 give reasonable notice of any proceeding in which such action is  
 240 proposed and must provide the member against whom such action is  
 241 proposed a written statement of the basis for the proposed  
 242 action and an opportunity to be heard. The member against whom  
 243 such action is proposed may not participate in the Authority's  
 244 debate or vote on the matter.  
 245 7.09 Management and personnel.—  
 246 (1) A chief executive officer/general manager (CEO/GM)  
 247 shall direct and administer all utility functions, subject to  
 248 the rules and resolutions of the Authority. The CEO/GM shall  
 249 serve at the pleasure of the Authority. Appointment or removal  
 250 of the CEO/GM shall be by majority vote of the Authority. Until

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251 such time as the Authority appoints a CEO/GM, the sitting  
 252 general manager of GRU shall serve as the CEO/GM. A sitting  
 253 member of the Authority may not be selected as the CEO/GM.

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

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

269 7.10 General provisions.—

270 (1) The City and the Authority shall perform all acts  
 271 necessary and proper to effectuate an orderly transition of the  
 272 governance, operation, management, and control of all utility  
 273 systems, properties, and assets held in the possession of GRU as  
 274 of January 1, 2023, to the Authority, including, but not limited  
 275 to, the creation of such instruments as are necessary for the

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276 Authority to function in accordance with this article.  
 277 Notwithstanding the reorganization of the governance structure  
 278 of the management of the utility system as provided in this  
 279 section, the utility system shall continue to be operated as a  
 280 single enterprise and there shall be no change to the ownership  
 281 of the utility system.

282 (2) All City ordinances, policies, rates, fees,  
 283 assessments, charges, rules, regulations, and budgets related to  
 284 operation of the utilities shall remain in effect until such  
 285 time as the Authority, pursuant to the powers granted in this  
 286 article, modifies any such item. In the event that any City  
 287 charter provision, ordinance, resolution, decree, or any part  
 288 thereof conflicts with the provisions of this article, the  
 289 provisions of this article shall govern. This subsection is not  
 290 intended to and shall not interfere with existing contractual  
 291 arrangements between the City and county, regardless of whether  
 292 such arrangements are reflected in charter provisions,  
 293 ordinances, resolutions, decrees, or any part thereof.

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

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

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

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

305 (7) The Authority shall develop an ethics policy and a  
 306 code of business conduct that shall be reviewed at least  
 307 biennially.

308 (8) In order to provide for the transitional  
 309 administrative needs and orderly compliance with the provisions  
 310 of this act, the chairperson of the Authority or his or her  
 311 designee is authorized to execute documents required for the  
 312 transition.

313 7.11 Limitation on government services contribution.—

314 (1) MAXIMUM CAP ON GSC.—For any fiscal year, the GSC may  
 315 not exceed aggregate utility system net revenues less flow of  
 316 funds.

317 (2) DEBT SERVICE AND AVOIDANCE.—Any remaining funds, after  
 318 deductions for flow of funds and GSC, shall be dedicated to  
 319 additional debt service or utilized as equity in future capital  
 320 projects.

321 7.12 Limitation on utility directives.—The Authority and  
 322 the CEO/GM, in making all policy and operational decisions over  
 323 the affairs of the utility system as contemplated under the  
 324 provisions of this act, shall consider only pecuniary factors  
 325 and utility industry best practices standards, which do not

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326 | include consideration of the furtherance of social, political,  
327 | or ideological interests. Appropriate pecuniary factors and  
328 | utility industry best practices are those which solely further  
329 | the fiscal and financial benefit of the utility system and  
330 | customers. This provision does not prohibit the establishment  
331 | and application of rate structures based on utility usage.

332 | Section 3. This act shall take effect July 1, 2023.