

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN _____ (Y/N)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

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8 chapter 90-394, Laws of Florida, is repealed.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

14
15 7.01 Establishment.—There is hereby created a regional
16 utilities commission to be known and designated as the
17 "Gainesville Regional Utilities Commission." Gainesville

474387 - h1325-strike.docx

Published On: 4/13/2015 11:07:36 PM

Amendment No. 1

18 Regional Utilities shall remain a legal entity but after the
19 effective date of this act shall be governed by the utilities
20 commission. The utilities commission shall operate as a
21 political subdivision of the City of Gainesville ("the city")
22 with no ad valorem taxing authority. The utilities commission is
23 created for the express purpose of acquiring, constructing,
24 operating, providing utility-related products and services,
25 financing, and otherwise having broad authority with respect to
26 utilities. The utilities commission shall have the power to make
27 and adopt rules, policies, and regulations consistent with and
28 not in violation of this act and applicable law, for the
29 management, administration, operation, and regulation of the
30 fiduciary, business, and other affairs of the utilities
31 commission.

32 7.02 Definitions.—For the purposes of this act, unless
33 otherwise designated, or the context otherwise requires:

34 (1) The term "city commission" shall mean the Gainesville
35 City Commission.

36 (2) The term "GRU" shall mean Gainesville Regional
37 Utilities, a subdivision of the utilities commission.

38 (3) The term "member" shall mean a member of the utilities
39 commission.

40 (4) The term "utilities" shall mean, unless otherwise
41 specified, the electric utility system, water utility system,
42 wastewater utility system, reuse water utility system, natural

Amendment No. 1

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

45 (5) The term "utilities commission" shall mean the
46 Gainesville Regional Utilities Commission of the City of
47 Gainesville.

48 7.03 Commission voting members.-

49 (1) There shall be five voting members of the utilities
50 commission. Each member shall be a person of recognized ability
51 of good business judgment who, in the opinion of the city
52 commission, can and will perform his or her official duties to
53 the best interest of the citizens. Meeting the above definition:
54 one appointment of each of the following shall make the
55 composition of the authority:

56 (a) A residential user with substantial knowledge of GRU,
57 its operations, and its history.

58 (b) A private (nongovernment account), large customer user
59 averaging at least 10,000 kilowatt hours per month of electric
60 usage during the last 12 months. This member may be the
61 customer, the owner of the customer, or representative of the
62 customer who has worked for the large customer account for more
63 than 12 months.

64 (c) A certified public accountant licensed in this state.

65 (d) A person with a bachelor of science degree in
66 engineering from an accredited university or a person with
67 utility industry experience.

68 (e) A person with a bachelor of science degree in finance

Amendment No. 1

69 or business administration from an accredited university or a
70 person who is a member in good standing of The Florida Bar.

71
72 Members shall be appointed by a simple majority vote of the city
73 commission to 4-year terms, with terms staggered as set forth in
74 this article.

75 (2) To qualify for appointment as a voting member, a
76 person must, at the time of appointment:

77 (a) Reside year-round within the electric service
78 territory of Gainesville Regional Utilities' electric utility
79 system.

80 (b) Receive service as a GRU customer at the time of the
81 appointment of the initial members, and, thereafter, be a
82 customer of GRU.

83 (c) Have not been convicted of a felony as defined by
84 applicable law.

85 (3) In addition to these qualifications, each voting
86 member must be, at the time of appointment and during the time
87 that person serves as a voting member, a qualified elector of
88 the City of Gainesville ("the city"), except that:

89 (a) At all times, a minimum of one voting member must be a
90 qualified elector of Alachua County ("the county"), residing in
91 the unincorporated area of the county or a municipality in the
92 county other than the City of Gainesville.

93 (b) The composition of the utilities commission shall be
94 adjusted upon the expiration of any utilities commissioner's

Amendment No. 1

95 term, or upon any utilities commission vacancy, to reflect the
96 ratio of total electric meters serving customers in the
97 unincorporated area of Alachua County to total electric meters
98 serving all electric customers based on the most recent annual
99 information provided by the utilities commission to the city
100 commission. For example, at such time as the ratio of total
101 electric meters serving customers in the unincorporated area of
102 Alachua County to total electric meters serving all electric
103 customers reaches 40 percent, upon the expiration of any
104 utilities commissioner's term or upon any utilities commission
105 vacancy, the city commission must appoint a second voting member
106 from a municipality in the county other than the City of
107 Gainesville, or from the unincorporated area of the county to
108 serve the next term that would otherwise be served by a
109 qualified elector of the City of Gainesville. If the ratio
110 subsequently falls below 40 percent, the city commission, upon
111 the expiration of any utilities commissioner's term or upon any
112 utilities commission vacancy, must appoint a qualified elector
113 of the City of Gainesville to serve the next term that would
114 otherwise be served by a qualified elector from the
115 unincorporated area of the county or from a municipality in the
116 county other than the City of Gainesville.

117 (4) Until January 1, 2020, no current or previous elected
118 or appointed officer or official of the city or county having
119 held office after January 1, 2000, shall become a member, except
120 that a qualified voting member initially first appointed to the

Amendment No. 1

121 utilities commission in 2016 as provided for in this act shall
122 be considered for subsequent reappointment provided that such
123 individual remains otherwise qualified and chooses to be
124 considered for reappointment.

125 (5) No voting member who has been appointed for three
126 full, consecutive 4-year terms shall succeed herself or himself.

127 7.04 Voting member terms.-

128 (1) The city commission shall make initial utilities
129 commission member appointments within 120 calendar days after
130 the approval of the referendum required by this act. The initial
131 terms of office for the five appointed members shall commence at
132 12:01 a.m. on October 1, 2016. The initial appointments called
133 for in this act and shall be as follows: one member will be
134 designated to serve until 12:01 a.m., October 1, 2017; one
135 member will be designated to serve until 12:01 a.m., October 1,
136 2018; one member will be designated to serve until 12:01 a.m.,
137 October 1, 2019; and two members will be designated to serve
138 until 12:01 a.m., October 1, 2020. Members subsequently
139 appointed will normally hold office for 4-year terms commencing
140 at 12:01 a.m. on October 1 in the year they are appointed, until
141 their successors in office are appointed, or as may be provided
142 elsewhere in this act.

143 (2) The city commission shall expeditiously schedule an
144 appointment session and fill any utilities commission voting
145 member vacancy within 2 months after a permanent vacancy occurs
146 or becomes known by virtue of resignation, death, or removal in

Amendment No. 1

147 order to fill the remaining period of the vacant member term
148 provided that such remaining term exceeds 3 months.

149 7.05 Member compensation.—Beginning October 1, 2015, each
150 member shall be paid an annual salary of \$18,000 to be paid
151 monthly. Necessary individual expenses of members incurred
152 solely in carrying on and conducting the business of the
153 utilities commission shall be paid in accordance with utilities
154 commission policy and procedures and subject to the approval of
155 a majority of the utilities commission. No supplemental benefits
156 are provided for a member position.

157 7.06 Utilities commission; initial meeting, organization,
158 and oath.—

159 (1) The first appointed utilities commission shall
160 initially meet at the utilities commission's headquarters at
161 6:00 p.m. on Wednesday October 5, 2016. The utilities commission
162 shall meet at least once each month at the offices of the
163 utilities commission or as otherwise may be determined. All
164 meetings of the utilities commission shall be noticed and open
165 to the public and minutes shall be kept of all meetings, except
166 that meetings related to settlement of then-existing litigation
167 may be held in accordance with law. The initial meeting of the
168 first appointed utilities commission and at each subsequent
169 first regular meeting of the utilities commission after each
170 regularly scheduled annual appointment occurs as specified in
171 section 7.03 shall include an organizational agenda item during
172 this organizational meeting in which the new utilities member

Amendment No. 1

173 shall be sworn by the Mayor of the City of Gainesville and the
174 voting members shall elect a chairperson and a vice chairperson
175 from among its voting membership.

176 (2) Before taking office for any term, each member shall
177 be given an oath or affirmation similar to the oath or
178 affirmation required of a member of the city commission.

179 7.07 Appointment of chief executive officer/general
180 manager.—

181 (1) The utilities commission shall appoint by a majority
182 vote of the utilities commission a chief executive
183 officer/general manager ("CEO/GM") to direct and administer
184 utilities functions under the policies and authority authorized
185 by the utilities commission.

186 (2) The utilities commission shall have full and exclusive
187 authority over the management, operation, and control over the
188 city's utilities, except that the utilities commission shall
189 employ and discharge all employees only with the concurrence of
190 the CEO/GM.

191 (3) A member shall not be selected as the first CEO/GM.

192 (4) The CEO/GM, through assigned staff, is responsible for
193 providing an orientation and training program for new members
194 which includes providing information designed to familiarize new
195 members with the utilities commission's business and general
196 industry; its strategic plans; its significant financial,
197 accounting, and risk management issues; its compliance programs;
198 its code of business conduct and ethics; its principal officers

Amendment No. 1

199 and executives; its internal and independent auditors; and its
200 key policies and practices. This orientation is to be conducted
201 within a reasonable period of time after the meeting at which
202 new members are sworn. In addition to the orientation program,
203 staff management also will periodically provide materials or
204 briefing sessions for all members on subjects that would assist
205 them in discharging their duties. Utilities commission members,
206 within 1 year after taking office, must complete each
207 installment of the American Public Power Association's Electric
208 Utility 101 Webinar Series and Public Utility Governance Webinar
209 Series.

210 7.08 Nonvoting members.—The utilities commission is
211 comprised of three nonvoting, noncompensated members.
212 Qualifications, duties, and rules applicable to nonvoting
213 members shall be established by the utilities commission.

214 7.09 Removal or suspension of members.—

215 (1) Voting members may only be removed or suspended from
216 office in accordance with chapter 112, Florida Statutes.

217 (2) A voting member may also be removed for failure to
218 maintain all voting-member qualifications as set forth in
219 section 7.03 or for violation of a provision of this act or
220 rules or policies as may be subsequently adopted and enforced by
221 the utilities commission.

222 (3) A voting member who is the subject of a proceeding to
223 request suspension or removal or a proceeding to consider
224 reinstatement under this section may not participate in the

Amendment No. 1

225 utilities commission's deliberations, debate, or vote on the
226 matter.

227 7.10 General provisions.-

228 (1) All business of the utilities commission shall be
229 overseen by its members.

230 (2) The city commission is required to create such
231 instruments as are necessary for the utilities commission to
232 exercise its authority in accordance with this act. The city
233 commission shall not encumber or allow to be encumbered any
234 property, rights, or future interests of GRU by establishing
235 conditions precedent or administrative requirements before or
236 after the effective date of this article.

237 (3) The utilities commission shall develop policies and
238 procedures for meetings with the city commission and regarding
239 any reporting to the city commission.

240 (4) No member of the utilities commission shall be
241 individually responsible for commission debts.

242 7.11 Powers and duties.-

243 (1) Consistent with the provisions and effective date of
244 this act, such previous applicable utilities-related ordinances,
245 policies, rates, fees, rules, regulations, budgets, and other
246 provisions previously adopted under the Charter of the City of
247 Gainesville are hereby considered as adopted, reenacted, or
248 assumed by the utilities commission for transition purposes
249 until such time that the utilities commission shall make
250 changes.

474387 - h1325-strike.docx

Published On: 4/13/2015 11:07:36 PM

Amendment No. 1

251 (2) The utilities commission is authorized to exercise the
252 power of eminent domain where permitted by law and in the manner
253 provided by law, but for utilities purposes only.

254 (3) The utilities commission has the exclusive power and
255 authority to prescribe, bill, and collect fees or charges for
256 all utilities and services under its control and, when
257 collected, to direct the flow of funds consistent with the
258 contracts, bond covenants, and other obligations of GRU under
259 existing and future law. The utilities commission also has the
260 obligation to transfer a percentage of revenue to the City of
261 Gainesville for the city's general fund use. The total amount of
262 such annual transfer shall be determined by the city commission
263 taking into account advice from the utilities commission. The
264 city commission shall, at its sole discretion, retain the power
265 to levy a transfer of funds to the city's general fund. Such
266 transfer shall not exceed 9 percent of the operating revenue of
267 the utility. The utilities commission shall place on each
268 monthly bill a percentage, set by the city commission annually,
269 a line item identified as "city transfer." The utilities
270 commission shall pass on the city transfer on a monthly basis
271 and no additional funds shall be transferred to the city's
272 general fund from the utility. Payments approved by the city
273 commission shall be transferred to the city's general fund
274 transferred monthly in an amount and manner specified by
275 utilities commission resolution and consistent with past
276 practice.

474387 - h1325-strike.docx

Published On: 4/13/2015 11:07:36 PM

Amendment No. 1

277 (4) The utilities commission must submit to the city a
278 monthly statement showing sums or amounts received, operating
279 expenses, amount charged to depreciation and extensions, reserve
280 fund and amount appropriated to interest, and sinking funds.
281 The fiscal year of the utilities commission shall begin October
282 1 and end September 30 of each year.

283 (5) The utilities commission shall ensure independence of
284 GRU officers, executives, or employees in the performance of
285 their duties.

286 (6) The utilities commission may not enact rules relating
287 to the disposal or sale of any GRU property which are less
288 restrictive than the rules applicable to the city commission at
289 the time this act becomes a law.

290 (7) The city or the county may not grant, cause, consent
291 to, or allow the granting of any franchise or permit to any
292 person, firm, corporation, body, agency, or instrumentality for
293 the furnishing of services that will compete with those of the
294 utilities commission. No franchise, right-of-way, license,
295 permit, tax, or usage fee shall be levied upon the utilities
296 commission or its utilities by the city or by the county unless
297 provided by Florida general law, and no unreasonable franchise,
298 right-of-way, license, permit, tax, or usage fee shall be levied
299 upon the utilities commission or its utilities which amount to
300 an unreasonable burden.

301 (8) All existing City of Gainesville authority, laws,
302 ordinances, resolutions, and administrative regulations,

Amendment No. 1

303 interpretations, franchises, and controls directly and
304 indirectly affecting and controlling said utilities are hereby
305 conveyed to and exclusively vested within said commission and
306 its respective governance and authority as contained herein.
307 All rights, claims, actions, orders, and legal or administrative
308 proceedings involving the utilities commission immediately prior
309 to the effective date of this act shall continue, except as
310 modified by the utilities commission pursuant to the provisions
311 of and broad authority granted by this act.

312 (9) The utilities commission shall ensure the development
313 of an ethics policy and a code of business conduct policy
314 consistent with best practices for municipal utilities, which
315 shall be reviewed at least biennially. Such policy and code
316 shall be adhered to by the utilities commission.

317 (10) The utilities commission shall ensure, except as
318 otherwise specifically provided in this act, that the rights or
319 privileges, if any, of persons who were GRU employees
320 immediately before the effective date of this act are not
321 affected or impaired.

322 Section 3. (1) SEVERABILITY.—Headings and sections of
323 this act are not intended to be construed, limiting, or
324 interpreted in isolation from each other. If any word, phrase,
325 clause, paragraph, section, or provision of this act or the
326 application hereof to any person or circumstance is held invalid
327 or unconstitutional, such finding shall not affect the other
328 provisions or applications of this act which can be given effect

474387 - h1325-strike.docx

Published On: 4/13/2015 11:07:36 PM

Amendment No. 1

329 without the invalid or unconstitutional provisions or
330 application, and to this end the provisions of this act are
331 declared severable.

332 (2) TRANSITION.—In order to provide for the transitional
333 administrative needs and orderly compliance with the provisions
334 in this act, upon the effective date of this act, utilities
335 commission functions shall continue until amended or repealed by
336 the utilities commission. The chairperson or designee is
337 authorized, upon appointment by the utilities commission, to
338 execute documents required for the transition as may be
339 appropriate or otherwise determined by the utilities commission
340 and to provide required direction and administration of
341 utilities functions for up to 60 calendar days during such time
342 as the selection of the CEO/GM is in process as provided in
343 section 7.07 of section 2.

344 (3) CONFLICT WITH LAWS.—all laws or parts of laws in
345 conflict with this act are repealed. City of Gainesville and
346 Alachua County Charter provisions, ordinances, resolutions,
347 decrees, or parts thereof, in conflict herewith are to the
348 extent of such conflict hereby also repealed.

349 Section 4. The referendum question shall be posed as
350 follows:

351 Shall the Charter of the City of Gainesville be amended by
352 creating the Gainesville Regional Utilities Commission to be the
353 governing board of Gainesville Regional Utilities?

354 Yes

474387 - h1325-strike.docx

Published On: 4/13/2015 11:07:36 PM

Amendment No. 1

355 No

356 Section 5. This act shall take effect only upon its
357 approval by a majority vote of those qualified electors of the
358 City of Gainesville voting in a referendum to be held in
359 conjunction with the next presidential preference primary
360 election to be held in Alachua County, except that this section
361 and section 4 shall take effect upon becoming a law.

362 -----
363
364 **T I T L E A M E N D M E N T**

365 Remove everything before the enacting clause and insert:

366 A bill to be entitled

367 An act relating to the City of Gainesville, Alachua
368 County; amending chapter 12760, Laws of Florida
369 (1927), as amended by chapter 90-394, Laws of Florida;
370 repealing section 3.06, relating to the general
371 manager for utilities of Gainesville Regional
372 Utilities; creating the Gainesville Regional Utilities
373 Commission and prescribing its authority over
374 Gainesville Regional Utilities; repealing applicable
375 existing and conflicting charter provisions and
376 ordinances; providing a ballot statement; requiring a
377 referendum; providing an effective date.