

By Senator Dockery

15-889-07

See HB

1 A bill to be entitled

2 An act relating to Polk County; providing

3 definitions; providing for creation of the Polk

4 Transit Authority; providing purpose; providing

5 for charter amendments; providing boundaries;

6 providing for a board of directors; providing

7 membership, powers, functions, and duties of

8 the board; providing powers, functions, and

9 duties of the authority; providing exceptions

10 to general law; providing authority to levy ad

11 valorem taxes and non-ad valorem assessments;

12 providing for the authority's fiscal year;

13 providing for the deposit of authority funds;

14 authorizing the authority to borrow money;

15 providing for bonds; providing an exception to

16 general law; providing for use of authority

17 funds; authorizing the board to adopt policies

18 and regulations; providing for liberal

19 construction; providing severability; requiring

20 a referendum; providing an effective date.

21

22 Be It Enacted by the Legislature of the State of Florida:

23

24 Section 1. Definitions.--As used in this act, unless

25 otherwise specified:

26 (1) "Authority" means the Polk Transit Authority.

27 (2) "Board" and "board of directors" mean the Polk

28 County Transit Authority Board of Directors.

29 (3) "County" means Polk County.

30 (4) "Director" means a member of the board of

31 directors of and for the authority.

1 (5) "Lakeland Area Mass Transit District" and "LAMTD"
2 mean the special district created by Polk County Ordinance
3 80-13 pursuant to section 125.01(5), Florida Statutes.

4 (6) "Mass transit" means a system used for the
5 transportation of people and goods by means of a street
6 railway, an elevated railway, a commuter railroad, a subway,
7 motor vehicles, motor buses, and other transportation
8 facilities whether now or hereafter invented, and including a
9 complete system of tracks, stations, rolling stock, and other
10 facilities necessary to effectuate passenger and goods
11 conveyance.

12 (7) "Polk Regional Transportation Organization" means
13 the entity created in 2004 by the interlocal agreement
14 pursuant to section 163.01, Florida Statutes, to serve as a
15 countywide transit policy board.

16 Section 2. Authority; creation; boundaries; charter
17 amendments.--

18 (1) There is hereby created an independent special
19 district for purposes of providing mass transit services to
20 the citizens of Polk County, incorporating lands in Polk
21 County described in subsection (2), which shall be a public
22 corporation having the powers, duties, rights, obligations,
23 and immunities herein set forth, under the name of the Polk
24 Transit Authority. The authority is organized and exists for
25 the purposes and shall hold all powers set forth in this act
26 and chapter 189, Florida Statutes.

27 (2) The lands to be included within the authority are
28 all lands in Polk County, whether incorporated or
29 unincorporated.

30 (3) The authority's charter may be amended only by
31 special act of the Legislature.

1 Section 3. Purpose.--

2 (1) The purpose of the authority shall be to plan,
3 finance, acquire, construct, operate, and maintain mass
4 transit facilities and systems, together with such
5 supplementary transportation assistance as may be necessary or
6 advisable to service the mass transit needs within the
7 territorial boundaries of the authority and of such areas with
8 which the authority may contract for service, subject to the
9 provisions in section 11.

10 (2) The purpose of the authority shall also be to
11 provide for the consolidation of transit services in Polk
12 County and to provide for the transition to a countywide
13 transit system, subject to the provisions in section 11.

14 Section 4. Governing board; quorum; creation;
15 employment of personnel; compensation; organization;
16 commissioners' bond.--

17 (1) The business and affairs of the authority shall be
18 conducted and administered by a board of nine voting directors
19 and one nonvoting director, and the presence of five members
20 shall constitute a quorum for official business. The board
21 memberships shall consist of the following:

22 (a) Six members of the board of directors shall be
23 appointed as follows: the Polk County Commission shall appoint
24 three of its commissioners as members of the board; the
25 Lakeland City Commission shall appoint two of its
26 commissioners as members of the board; and the Winter Haven
27 City Commission shall appoint one of its commissioners as a
28 member of the board. Of the initial directors appointed by the
29 Polk County Commission, one shall serve for a 1-year term, one
30 shall serve for a 2-year term, and one shall serve for a
31 3-year term. Of the initial directors appointed by the

1 Lakeland City Commission, one shall serve for a 1-year term,
2 and one shall serve for a 2-year term. All other directors
3 shall be initially appointed by their respective city
4 commissions for 2-year terms. At the end of any initial term
5 and any subsequent term, the successor shall serve for a
6 2-year term.

7 (b) The Bartow City Commission and the Auburndale City
8 Commission shall, on a rotating basis for 2-year terms,
9 appoint one of its commissioners as a member of the board. The
10 city commission of the city that has the greater population as
11 of the effective date of this act shall appoint the member for
12 the initial 2-year term.

13 (c) The Haines City Commission and the Lake Wales City
14 Commission shall, on a rotating basis for 2-year terms,
15 appoint one of its commissioners as a member of the board. The
16 city commission of the city that has the greater population as
17 of the effective date of this act shall appoint the member for
18 the initial 2-year term.

19 (d) One member of the board of directors shall be
20 appointed on a rotating basis for 2-year terms by the
21 governing body of one of the following cities in Polk County:
22 Fort Meade, Lake Alfred, Mulberry, Frostproof, Dundee, Eagle
23 Lake, Davenport, Polk City, and Lake Hamilton. The order of
24 rotation shall be determined by population size in descending
25 order, based on the University of Florida Bureau of Economic
26 and Business Research population estimates at the time this
27 act becomes law.

28 (e) The Secretary of the Department of Transportation
29 shall appoint the district one secretary, or his or her
30 designee, as a nonvoting member of the board.
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1 (f) In order to facilitate the consolidation of
2 transit services in Polk County, the initial appointments to
3 the board of the authority shall be as follows: two of the
4 Polk County Commissioners appointed shall be the same county
5 commissioners who serve on the governing body of the Lakeland
6 Area Mass Transit District, an existing independent special
7 district in Polk County (LAMTD), the two Lakeland City
8 Commissioners appointed to the board of the authority shall be
9 the same as two of the Lakeland City Commissioners who serve
10 on the governing body of the LAMTD, and the Winter Haven City
11 Commissioner appointed to the board of the authority shall be
12 one of the Winter Haven City Commissioners who serve on the
13 Winter Haven Area Transit Policy Board.

14 (g) In order to facilitate the transition to a
15 countywide transit system, the Polk Regional Transportation
16 Organization shall oversee the formation of the authority's
17 board of directors in accordance with this act.

18 (h) In order to facilitate the consolidation of the
19 transit services in Polk County, and the transition to a
20 countywide transit system, the board of the authority shall
21 rely on the staff and the Executive Director of the Lakeland
22 Area Mass Transit District and the staff and the Transit
23 Director of the Polk County Transit Services to provide
24 support, policy recommendations, and strategic planning to
25 obtain dedicated funding for the authority.

26 (2) The board may employ an executive director and
27 authorize such other personnel as it deems necessary for the
28 proper function and operation of the authority. The salaries
29 of authority personnel, and any other wages, shall be
30 determined by the board.

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1 (3) Each appointed member of the board shall assume
2 office 10 days following the member's appointment. Annually,
3 within 60 days after the appointment of new members of said
4 board, the members shall organize by electing from their
5 number a chair, a vice chair, a secretary, and a treasurer.
6 However, the same member may be both secretary and treasurer.

7 (4) The directors shall receive payment for actual
8 expenses incurred while performing the duties of their office
9 in accordance with general law governing per diem for public
10 officials. The authority is empowered to adopt a resolution to
11 exceed the state rates for per diem expenses. Directors may
12 not receive compensation for their services.

13 (5) Each director, upon taking office and in
14 accordance with chapter 189, Florida Statutes, shall execute
15 to the Governor for the benefit of the authority a bond
16 conditioned upon the faithful performance of the duties of the
17 director's office. The premium for such bonds shall be paid
18 from the funds of the authority.

19 Section 5. Powers; functions; and duties.--

20 (1) The authority shall have all powers to carry out
21 the purposes of this act and the functions and duties provided
22 for herein, including the following powers, which shall be in
23 addition to and supplement any other privileges, benefits, and
24 powers granted by this act or general law:

25 (a) To study, plan, design, establish, acquire,
26 construct, own, lease, operate, manage, maintain, dispose of,
27 improve, and expand the mass transit facilities and services
28 within the boundaries of the authority.

29 (b) To execute all contracts and other documents,
30 adopt all proceedings, and perform all acts determined by the
31 board as necessary or advisable to carry out the purposes of

1 this act. The chair, vice chair, or executive director shall
2 execute contracts and other documentation on behalf of the
3 authority.

4 (c) To fix, alter, levy, collect, and enforce rates,
5 fares, fees, charges, penalties, and fines from persons or
6 property, or both, for the provision and use of services,
7 facilities, and products of the authority or to pay the
8 operating or financing costs of the authority's facilities and
9 services that are available to potential users.

10 (d) To contract for the service of engineers,
11 accountants, attorneys, and other experts or consultants and
12 such other agents as the board may require or deem appropriate
13 from time to time.

14 (e) To acquire such lands and rights and interests
15 therein; to acquire such personal property as the authority
16 may deem necessary and appropriate in connection with the
17 acquisition, ownership, expansion, improvement, operation, and
18 maintenance of the authority's facilities; and to hold and
19 dispose of all real and personal property under its control.

20 (f) To lease or rent any of its easements, real
21 property interests, or facilities to other mass transit
22 providers that are owned by a municipality, county, or special
23 district, or that hold a franchise from a municipality or
24 county, when such lease or rental is for joint use by the
25 authority and the other provider.

26 (g) To exercise exclusive jurisdiction, control, and
27 supervision over the authority's services and facilities and
28 to make and enforce such rules and regulations for the
29 maintenance, management, and operation of the authority and
30 its facilities and services as may be, in the judgment of the
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1 board, necessary or desirable for the efficient operation of
2 the authority in accomplishing the purposes of this act.

3 (h) To enter into interlocal agreements or join with
4 any other general or special purpose local governments, public
5 agencies, or authorities in the exercise of common powers.

6 (i) To accomplish construction directly or by letting
7 contracts to other entities, whether public or private, for
8 all or any part of the construction of improvements to the
9 authority's facilities as determined by the board in
10 accordance with applicable law.

11 (j) To receive and accept from any federal or state
12 agency grants or loans for or in the aid of the planning,
13 construction, reconstruction, operation, promotion, or
14 financing of the authority's facilities or services and to
15 receive and accept aid, contributions, or loans from any other
16 source of money, labor, or other things of value, to be held,
17 used, and applied only for the purpose for which the grants,
18 contributions, or loans may be made.

19 (k) To purchase or to assume ownership, lease,
20 operation, management, or control of any publicly or privately
21 owned mass transit facilities, including the assumption,
22 defeasance, or payment of the financial liabilities associated
23 with such facilities.

24 (l) To divide the authority facilities into separate
25 units, benefit areas, or subsystems for the purpose of
26 imposing special assessments; setting rates, fees, or charges;
27 for accounting or financing improvements or additions; or for
28 any other purpose.

29 (m) To appoint advisory boards and committees to
30 assist the board in the exercise and performance of the powers
31 and duties provided in this act.

1 (n) To sue and be sued in the name of the authority
2 and to participate as a party in any civil, administrative, or
3 other action.

4 (o) To adopt and use a seal and authorize the use of a
5 facsimile thereof.

6 (p) To employ or contract with any public entity or
7 person to manage and operate the authority and its facilities,
8 or any portion thereof, upon such terms as the board deems
9 appropriate.

10 (q) Subject to such provisions and restrictions as may
11 be set forth in any financing documents, to sell or otherwise
12 dispose of the authority's facilities, or any portion thereof,
13 upon such terms as the board deems appropriate, and to enter
14 into acquisition or other agreements to effect such
15 dispositions.

16 (r) To acquire by purchase, gift, devise, or
17 otherwise, and to dispose of, real or personal property or any
18 estate therein.

19 (s) To provide such deferred compensation, retirement
20 benefits, or other benefits and programs as the board deems
21 appropriate.

22 (t) To maintain an office or offices at such place or
23 places as the board may designate from time to time.

24 (u) To hold, control, and acquire by donation or
25 purchase, or to dispose of any public easements, dedications
26 to public use, platted reservations for public purposes, or
27 any reservations for those purposes authorized by this act and
28 to make use of such easements, dedications, and reservations
29 for the purposes authorized in this act.

30 (v) To lease, as lessor or lessee, to or from any
31 person, firm, corporation, association, or body, public or

1 private, facilities or property of any nature to carry out the
2 purposes authorized in this act.

3 (w) To borrow money and issue bonds, certificates,
4 warrants, notes, obligations, or other evidence of
5 indebtedness.

6 (x) To assess, levy, impose, collect, and enforce
7 special assessments upon all or any portion of the lands
8 located within the authority. Such special assessments may be
9 apportioned among benefited property in a manner proportionate
10 with the benefits received or commensurate with the burdens
11 alleviated by the use of the property based upon such factors
12 or combination or factors as determined by resolution of the
13 board. Such special assessments may, at the discretion of the
14 board, be imposed, collected, and enforced using any methods
15 and procedures authorized by law, including section 197.3632,
16 Florida Statutes; or the board may adopt by resolution its own
17 method or procedures or use any other method or means for
18 levy, imposition, collection, and enforcement not inconsistent
19 with law.

20 (y) To apply for and accept grants, loans, and
21 subsidies from any governmental entity for the acquisition,
22 construction, operation, and maintenance of the authority's
23 facilities and services and to comply with all requirements
24 and conditions imposed in connection therewith.

25 (z) To the extent allowed by law and to the extent
26 required to effectuate the purposes of this act, to exercise
27 all privileges, immunities, and exemptions accorded
28 municipalities and counties of the state under the provisions
29 of the constitution and laws of the state.

30 (aa) To invest its moneys in such investments as
31 directed by the board in accordance with state law. Such

1 investments shall be consistent in all instances with the
2 applicable provisions of the financing documents.

3 (bb) To purchase such insurance as the authority deems
4 appropriate.

5 (cc) To develop transportation plans and to coordinate
6 the authority's planning and programs with those of
7 appropriate municipal, county, state, special district, and
8 federal agencies and other political subdivisions of the
9 state.

10 (dd) To prescribe and promulgate necessary rules and
11 regulations consistent with the provisions of this act.

12 (ee) To market and promote the authority and its
13 facilities and services.

14 (ff) To adopt a budget in accordance with applicable
15 law and to appropriate and expend revenue in accordance with
16 that budget.

17 (gg) To do all acts and to exercise all powers
18 necessary, convenient, incidental, implied, or proper, both
19 within and outside the boundaries of the authority, in
20 connection with any of the powers, duties, obligations, or
21 purposes authorized by this act, general law, or any
22 interlocal agreement entered into by the authority.

23 (2) In exercising the powers conferred by this act,
24 the board shall act by resolution or motion made and adopted
25 at a duly noticed and publicly held meetings in conformance
26 with applicable law.

27 (3) The provisions of chapter 120, Florida Statutes,
28 shall not apply to the authority.

29 (4) Nothing herein is intended to or shall be
30 construed to limit the power of local self-government of a
31 charter county or conflict with the Constitution of the State

1 of Florida or the Polk County Home Rule Charter, which became
2 effective on January 1, 1999.

3 (5) The authority's planning requirements shall be as
4 set forth in this act and chapter 189, Florida Statutes.

5 (6) Requirements for financial disclosure, meeting
6 notices, reporting, public records maintenance, and per diem
7 expenses for directors, officers, and employees shall be as
8 set forth in this act and chapters 112, 119, 189, and 286,
9 Florida Statutes. Directors shall not receive other
10 compensation for their service on the authority. The authority
11 may adopt a resolution in accordance with general law to
12 exceed the state per diem rate.

13 Section 6. Ad valorem taxing authority; non-ad valorem
14 assessments.--

15 (1)(a) In order to provide funding for the purposes of
16 the authority, the authority shall have the right, power, and
17 authority to levy and assess an ad valorem tax on all taxable
18 real property and tangible personal property within the
19 boundaries of the authority, subject to approval by referendum
20 of the qualified electors in the authority. The total amount
21 of ad valorem taxes levied in any single year shall not exceed
22 3 mills.

23 (b) The authority shall levy and collect ad valorem
24 taxes in accordance with chapter 200, Florida Statutes.

25 (2) The authority is authorized to levy and enforce
26 the collection of non-ad valorem assessments in accordance
27 with chapters 189 and 197, Florida Statutes.

28 Section 7. Fiscal year.--The authority's fiscal year
29 shall begin on October 1 and end on September 30.

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1 Section 8. Authority funds.--All funds of the
2 authority shall be deposited in qualified public depositories
3 in accordance with chapter 280, Florida Statutes.

4 Section 9. Authority to borrow money; procedures and
5 requirements for the issuance of bonds.--

6 (1) The board shall have the power and authority to
7 borrow money or issue other evidences of indebtedness for the
8 purposes of the authority in accordance with chapter 189,
9 Florida Statutes. The board shall by resolution authorize the
10 issuance of general obligation bonds payable from any lawful
11 sources for construction of capital improvements or expansion
12 purposes of the transit services that the authority exists to
13 provide, subject to a referendum of the qualified electors of
14 the authority in accordance with the requirements of general
15 law.

16 (2) The authority is prohibited from lending its
17 credit to corporations, associations, partnerships, or
18 persons.

19 (3) The authority may finance or refinance the
20 acquisition, construction, expansion, and improvement of such
21 facilities relating to a governmental function or purpose
22 through the issuance of its bonds, notes, or other obligations
23 under this section or as otherwise authorized by law. The
24 authority has all the powers that are necessary to finance,
25 own, operate, or manage the public facility, including,
26 without limitation, the power to establish rates, charges, and
27 fees for products or services provided by it, the power to
28 levy special assessments, the power to sell or finance all or
29 a portion of such facility, and the power to contract with a
30 public or private entity to manage and operate such facilities
31 or to provide or receive facilities, services, or products.

1 All of the privileges, benefits, powers, and terms of section
2 125.01, Florida Statutes, relating to counties, and section
3 166.021, Florida Statutes, relating to municipalities, are
4 fully applicable to the authority.

5 (4) The authority may also issue bond anticipation
6 notes in connection with the authorization, issuance, and sale
7 of bonds. The bonds may be issued as serial bonds or as term
8 bonds or both. The authority may issue capital appreciation
9 bonds or variable rate bonds. Any bonds, notes, or other
10 obligations must be authorized by resolution of the authority
11 and bear the date; mature at the time, not exceeding 40 years
12 from their respective dates; bear interest at the rate; be
13 payable at the time; be in the denomination; be in the form;
14 carry the registration privileges; be executed in the manner;
15 be payable from the sources and in the medium or payment and
16 at the place; and be subject to the terms of redemption,
17 including redemption prior to maturity, as the resolution may
18 provide. If any officer whose signature, or a facsimile of
19 whose signature, appears on any bonds, notes, or other
20 obligations ceases to be an officer before the delivery of the
21 bonds, notes, or other obligations, the signature or facsimile
22 is valid and sufficient for all purposes as if he or she had
23 remained in office until the delivery. The bonds, notes, or
24 other obligations may be sold at public or private sale for
25 such price as the authority shall determine in accordance with
26 chapter 189, Florida Statutes. Pending preparation of the
27 definitive bonds, the authority may issue interim
28 certificates, which shall be exchanged for the definitive
29 bonds. The bonds may be secured by a form of credit
30 enhancement, if any, as the authority deems appropriate. The
31 bonds may be secured by an indenture of trust or trust

1 agreement. In addition, the authority may delegate to an
2 officer, official, or agent of the authority as the governing
3 body of the authority may select, the power to determine the
4 time; manner of sale, public or private; maturities; rate of
5 interest, which may be fixed or may vary at the time and in
6 accordance with a specified formula or method of
7 determination; and other terms and conditions as may be deemed
8 appropriate by the officer, official, or agent so designated
9 by the governing body of the authority. However, the amount
10 and maturity of the bonds, notes, or other obligations and the
11 interest rate of the bonds, notes, or other obligations must
12 be within the limits prescribed by the governing body of the
13 authority and its resolution delegating to an officer,
14 official, or agent the power to authorize the issuance and
15 sale of the bonds, notes, or other obligations.

16 (5) Bonds, notes, or other obligations issued under
17 this section may be validated as provided in chapter 75,
18 Florida Statutes. Section 75.04(2), Florida Statutes, shall
19 not apply to a complaint for validation brought by the
20 authority.

21 (6) The accomplishment of the authorized purposes of
22 the authority is in all respects for the benefit of the people
23 of the state, for the increase of their commerce and
24 prosperity, and for the improvement of their health and living
25 conditions. Since the authority will perform essential
26 governmental functions in accomplishing its purposes, the
27 authority is not required to pay any taxes or assessments of
28 any kind whatsoever upon any property acquired or used by it
29 for such purposes or upon any revenues at any time received by
30 it. The bonds, notes, and other obligations of the authority,
31 their transfer, and the income therefrom, including any

1 profits made on the sale thereof, are at all times free from
2 taxation of any kind by the state or by any political
3 subdivision or other agency or instrumentality thereof. The
4 exemption granted in this paragraph is not applicable to any
5 tax imposed by chapter 220, Florida Statutes, on interest,
6 income, or profits on debt obligations owned by corporations.

7 Section 10. Board action; compliance with open
8 government laws and public records laws; authority to adopt
9 policies and regulations.--

10 (1) A record shall be kept of all meetings of the
11 board and in such meetings a majority vote of the directors,
12 providing that a quorum is present, shall be necessary to any
13 affirmative action by the board.

14 (2) The board shall comply with chapter 286, Florida
15 Statutes, to preserve the right of the people to attend public
16 meetings.

17 (3) The board shall comply with the public records
18 laws set forth in chapter 119, Florida Statutes, to preserve
19 the right of the people to access public records.

20 (4) The board may adopt policies and regulations not
21 inconsistent with any portion of this act or chapter 189,
22 Florida Statutes, as it may deem necessary for the transaction
23 of its business and in implementing and carrying out the
24 provisions of this act. The board shall have authority to
25 provide all things necessary for the operation of transit
26 services in the authority.

27 Section 11. Lakeland Area Mass Transit District;
28 powers, duties, rights, obligations, and immunities; addition
29 of lands.--

30 (1) Notwithstanding any provision in this act to the
31 contrary, neither this act nor the creation of the authority

1 shall have any effect on the powers, duties, rights,
2 obligations, and immunities of the Lakeland Area Mass Transit
3 District, which is an independent special taxing district in
4 Polk County. This act is intended to comply with the
5 provisions of Art. VIII, Section 4, of the Florida
6 Constitution regarding transfer of powers after referendum
7 approval or as otherwise provided by law.

8 (2) Notwithstanding any provision in this act to the
9 contrary, neither this act nor the creation of the authority
10 have any effect on the right, power, and authority of the
11 Lakeland Area Mass Transit District to revise its boundaries
12 to include additional lands.

13 Section 12. This act shall be liberally construed to
14 promote the purpose for which it is intended.

15 Section 13. In the event that any part of this act
16 should be held void for any reason, such holding shall not
17 affect any other part thereof.

18 Section 14. This act shall take effect upon becoming a
19 law, except that the provisions of subsection (1) of section 6
20 authorizing the levy of ad valorem taxation shall take effect
21 only upon express approval by a majority vote of those
22 qualified electors of the area described in subsection (2) of
23 section 2 voting in a referendum to be called by the Polk
24 Transit Authority and held in accordance with the provisions
25 of law currently in force.