

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/CS/HB 1355 Gainesville Regional Utilities, Alachua County
SPONSOR(S): Regulatory Affairs Committee; Local Government Affairs Subcommittee; Perry
TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|------------------|---------|---------------------------------------|
| 1) Local Government Affairs Subcommittee | 8 Y, 3 N, As CS | Darden | Miller |
| 2) Regulatory Affairs Committee | 13 Y, 2 N, As CS | Keating | Hamon |

SUMMARY ANALYSIS

Gainesville Regional Utilities (GRU) is a municipal utility system governed by the Gainesville City Commission. GRU provides electric, natural gas, water, wastewater, and telecommunications services. This local bill provides for a referendum for the qualified electors of the City of Gainesville (City) to determine whether to amend the City's charter to establish the Gainesville Regional Utilities Authority (Authority) to govern GRU. The bill details the Authority's governance and leadership structure, as well as duties and powers. In summary of its main components, the bill:

- Establishes the Authority as a unit of city government, but free from the direction and control of the city commission and city charter officers, for the purpose of governing the utilities operated by GRU.
- Establishes the powers and duties of the Authority, including but not limited to the following:
 - Set rates, charges, rules, and policies for GRU's systems.
 - Acquire, construct, and finance utilities system projects, including the power of eminent domain, with title to all property to vest in the City.
 - Issue revenue bonds, by resolution, to finance or refinance utilities system projects.
 - Dispose of utilities system assets as specified in the City charter.
 - Prepare and submit an annual budget to the city commission, including the amount of any transfer to the City.
 - Appoint a Chief Executive Officer/General Manager (CEO/GM) to direct and administer utilities functions under the Authority's policies.
 - Recommend the acquisition of new utility systems.
- Provides that the Authority will consist of 5 members appointed by the city commission, to include at least one member from outside the City boundaries.
- Sets qualification requirements and term limits for Authority members.
- Staggers the terms of the initial Authority members and provides for four year terms thereafter.
- Provides an annual salary of \$18,000 for members of the Authority, to be adjusted over time by the consumer price index.
- Provides that an Authority member may be removed or suspended by the city commission for cause under general law.
- Provides for the continued service of GRU personnel under the CEO/GM.
- Requires the performance of all acts necessary to ensure an orderly transition of GRU governance to the Authority.
- Repeals Section 3.06 of the current City charter relating to the general manager for utilities.

The bill takes effect upon its approval by a majority vote of the qualified electors of the City voting in a referendum to be held in March 2017, in conjunction the City's municipal elections, except that sections 4 and 5 shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Municipal Utilities

Pursuant to article VIII, section 2(b) of the Florida Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. The legislative body of each municipality has the power to enact legislation on any subject upon which the state Legislature may act, with certain exceptions.¹

Under their home rule power and as otherwise provided or limited by law or agreement, municipalities may provide utilities to citizens and entities within the municipality's corporate boundaries, in unincorporated areas, and even other municipalities. Current law provides that municipalities or an agency of a municipality may be a "joint owner of, giving, or lending or using its taxing power or credit for the joint ownership, construction, and operation of electrical energy generating or transmission facilities with any corporation, association, partnership or person."² Additionally, municipalities are expressly authorized by general law to provide water and sewer utility services.³ With respect to public works projects, including water and sewer utility services,⁴ municipalities may extend and execute their corporate powers outside of their corporate limits as "desirable or necessary for the promotion of the public health, safety and welfare" to accomplish the purposes of chapter 180, F.S.⁵ Current law requires municipalities providing telecommunication services to abide by certain requirements.⁶ Municipal utilities are subject to limited oversight by the Public Service Commission (PSC).⁷ PSC regulation of municipal electric utilities is limited to oversight of safety, reliability, territorial, and rate structure issues.⁸ PSC regulation of municipal natural gas utilities is limited to territorial issues.⁹ Municipal utilities that provide water and/or wastewater service are exempt from PSC regulation.¹⁰

¹ Pursuant to s. 166.021(3)(a)-(d), F.S., a municipality may not enact legislation on the following: the subjects of annexation, merger, and exercise of extraterritorial power, which require general law or special law; any subject expressly prohibited by the constitution; any subject expressly preempted to state or county government by the constitution or by general law; and any subject preempted to a county pursuant to a county charter adopted under the authority of the State constitution.

² FLA. CONST. art. VII, s. 10(d). See ss. 361.10-361.18, F.S.

³ Pursuant to s. 180.06, F.S., a municipality may "provide water and alternative water supplies;" "provide for the collection and disposal of sewage, including wastewater reuse, and other liquid wastes;" and "construct reservoirs, sewerage systems, trunk sewers, intercepting sewers, pumping stations, wells, siphons, intakes, pipelines, distribution systems, purification works, collection systems, treatment and disposal works" to accomplish these purposes.

⁴ s. 180.06, F.S., authorizes other public works projects, including alternative water supplies, maintenance of water flow and bodies of water for sanitary purposes.

⁵ s. 180.02(2), F.S. However, a municipality may permit any other municipality and the owners of lands outside its corporate limits or within the limits of another municipality to connect with its water and sewer utility facilities and use its services upon agreed terms and conditions. s. 180.19, F.S.

⁶ See s. 166.047, F.S. (setting forth certain requirements for municipal telecommunication services); s. 350.81, F.S. (providing conditions under which local governments may provide telecommunications services).

⁷ See s. 366.011(1), F.S. (exemption for municipal utilities); s. 367.022(2), F.S. (exempting governmental entities that provide water and/or wastewater service from PSC regulation).

⁸ ss. 366.04(2), (5), and (6), F.S. As of December 2014, there were 34 municipal electric utilities subject to this limited jurisdiction. PUBLIC SERVICE COMMISSION, *Facts and Figures*, published April 8, 2015, available at http://www.floridapsc.com/Files/PDF/Publications/Consumer/Brochure/Facts_Figures.pdf (last visited Feb. 22, 2016).

⁹ s. 366.04(3), F.S. As of December 2014, there were 27 municipal natural gas utilities and 4 special gas districts subject to this limited jurisdiction. PUBLIC SERVICE COMMISSION, *Facts and Figures*, published April 8, 2015, available at http://www.floridapsc.com/Files/PDF/Publications/Consumer/Brochure/Facts_Figures.pdf (last visited Feb. 22, 2016).

¹⁰ s. 367.022(2), F.S.

Most municipal utility systems are governed by the municipality's governing body (i.e., the city commission). Six municipal electric utility systems¹¹ in Florida are governed by separate utility boards, or "authorities," which are typically appointed by the municipality's governing body.¹² These utility authorities vary in structure, though the charter documents for each generally address the powers and duties of the authority (including terms related to rate-setting, financing, acquisitions, and eminent domain), the selection process for authority members (including qualifications and terms of office), the management and personnel of the authority, the transfer of revenues from utility operations to the municipality, and the degree of continuing oversight by the municipal governing body.

Gainesville Regional Utilities

Gainesville Regional Utilities (GRU) was established in 1912 as a city-run electric utility.¹³ It is the fifth largest municipal electric utility in Florida, serving approximately 93,000 retail and wholesale customers in the City of Gainesville (City) and surrounding areas.¹⁴ GRU offers electric, natural gas, water, wastewater, and telecommunications services. An audit for 2012-2013 states that GRU in September 2013 had \$1.2 billion in capital assets, and budgets of \$77.2 million and \$95.2 million in 2014 and 2013, respectively.¹⁵ An audit for 2013-2014 states that GRU's capital assets as of September 2014 increased to \$2.2 billion, noting that the 82% increase in net capital assets was primarily due to a capital lease related to a biomass plant.¹⁶ According to the audit, GRU's net financial position increased by \$16.8 million in 2012 but decreased by \$1.7 million and \$14.1 million in 2014 and 2013, respectively.¹⁷

There are 34 municipal electric utilities in Florida.¹⁸ GRU's residential electric utility rates in December 2015 were the highest in the state among municipal utility providers.¹⁹

The City's charter provides that the city commission appoints an at-will general manager for utilities who is responsible to the city commission and who is responsible for the efficient administration of the utility system.²⁰ The city commission is comprised of seven members: four elected from single member districts, two elected at-large, and one who is elected as mayor.²¹

The charter sets forth the general manager's powers and duties, which provide that the general manager is:²²

- Responsible for and has exclusive management jurisdiction and control over operating and financial affairs of the utility system including, but not limited to, the planning, development,

¹¹ These utility authorities include: OUC (City of Orlando), JEA (City of Jacksonville), Kissimmee Utility Authority, City of New Smyrna Beach Utilities Commission, Keys Energy Services Utility Board (City of Key West), and Fort Pierce Utilities Authority. Some of these authorities also govern utilities systems other than the municipal electric utility.

¹² The Keys Energy Services Utility Board is the only utility authority in the state with elected board members.

¹³ Gainesville Area Chamber of Commerce, *A Gainesville Solution: Energy Competitiveness Report*, November 2013, at p. 41, available at <http://www.gainesvillechamber.com/2013/11/gainesville-chamber-releases-energy-competitiveness-report/> (last visited Feb. 22, 2016).

¹⁴ GRU, *About GRU*, <https://www.gru.com/AboutGRU.aspx> (last visited Feb. 22, 2016).

¹⁵ Gainesville Regional Utilities, September 30, 2013 and 2012, Report of Independent Certified Public Accountant, Ernst & Young LLP, available at <https://www.gru.com/Portals/0/Legacy/Pdf/AboutGRU/2012-2013AuditedFinancialStatement.pdf> (last visited Feb. 22, 2016).

¹⁶ Gainesville Regional Utilities, September 30, 2014 and 2013, Financial Statement and Independent Auditors' Report, Purvis Gray & Company, at p. 8, available at <https://www.gru.com/Portals/0/Legacy/Pdf/AboutGRU/2013-2014AuditedFinancialStatement.pdf> (last visited Feb. 22, 2016).

¹⁷ *Id.* at p. 5.

¹⁸ FLORIDA MUNICIPAL ELECTRIC ASSOCIATION, *Florida Municipal Utility Map*, available at <http://publicpower.com/florida-municipal-utility-map/> (last visited Feb. 22, 2016).

¹⁹ FLORIDA MUNICIPAL ELECTRIC ASSOCIATION, *Florida Electric Bill Comparisons*, available at <http://publicpower.com/electric-rate-comparisons/> (last visited Feb. 22, 2016).

²⁰ City of Gainesville Charter, Art. III, s. 3.06.

²¹ CITY OF GAINESVILLE, *City Commission*, available at <http://www.cityofgainesville.org/CityCommission.aspx> (last visited Feb. 22, 2016).

²² City of Gainesville Charter, Art. III, s. 3.06(2)(a)-(h).

production, purchase, sale, exchange, interchange, transmission and distribution of all electricity; the planning, development, purchase, sale, exchange, interchange, transmission and distribution of all natural gas; the planning, development, supply, treatment, transmission, distribution and sale of all potable water; and the planning, development, collection, treatment, disposal and billing of all wastewater now or hereafter provided by the city;

- Required to submit to the city commission for its consideration a yearly budget for the operation of the utility system;
- The purchasing agent for all equipment, materials, supplies, and services necessary for operating and maintaining the utility system subject to policies promulgated by the city commission;
- Required to propose ordinances to designate the job titles of subordinates that are to be considered directors of departments;
- Required to appoint and, except as otherwise provided in the charter, remove all directors of departments at will;
- Required to recommend to the city commission all measures necessary and expedient for the proper governance and management of the utility system;
- Required to keep the city commission fully advised as to the management, governance and needs of the utility system; and
- Required to perform all other duties prescribed by law, this charter, ordinance, or direction of the city commission.

The charter also prohibits the city commission from disposing of, or agreeing to dispose of, in whole or part, the City's electrical or water production or distribution facilities so as to materially reduce the City's capacity to produce or distribute electrical energy or water, except by ordinance with the prior approval of a majority vote of the qualified electors of the City.²³

The City's Code of Ordinances provides for an Energy Advisory Committee comprised of 9 members appointed by the city commission.²⁴ The committee has the following duties, functions, powers, and responsibilities:

- Serve as a communications channel between the city commission, utility staff, and the citizens of the City, in order to understand and solve the many complex problems relating to energy;
- Promote public access to information on the City's facilities, services, policies, and programs concerning energy, and consider the future energy needs of the community with respect to the utilities as well as general government;
- Assist utility staff by suggesting and reviewing policies affecting programs and services that affect acquisition, delivery, or utilization of energy resources within the community; and
- Perform any other duties which may be within the purview of the committee which may be assigned by the city commission.

There also is a Regional Utilities Committee, containing three city commissioners and an ex-officio member representing the Alachua County.²⁵

Chapter 27 of the City's Code of Ordinances sets forth regulations pertaining to each municipal utility system.²⁶

In November 2013, the Gainesville Area Chamber of Commerce and Council for Economic Outreach submitted a report to the City.²⁷ The study was conducted by a 12-member Energy Study Group, led by Representative N. David Flagg, who is a former Mayor of Gainesville, and Dr. David A. Denslow, Jr.,

²³ *Id.* at s. 5.04.

²⁴ City of Gainesville Code of Ordinances, ch. 2, art. III, div. 7.

²⁵ Navigant Consulting LLC, *Re: Independent Investigative Review of the Gainesville Regional Utilities (GRU)*, April 15, 2015, at p.171, available at <http://www.cityofgainesville.org/CityCommission/NavigantReviewofGRU.aspx> (last visited Feb. 22, 2016).

²⁶ City of Gainesville Code of Ordinances, ch. 27, art. I-VI.

²⁷ *A Gainesville Solution: Energy Competitiveness Report*, *supra* note 13.

a retired University of Florida economist.²⁸ According to the report, Gainesville is a unique city with about 58% of property off the tax rolls.²⁹ The city commission has directly governed GRU for over 100 years.³⁰ According to the report, GRU’s combined municipal utility system operation is composed of five Enterprise Funds (Electric System, Water System, Wastewater System, Gas System, and Telecommunications/GRUCom).³¹

The report provides four policy recommendations for the City “to help Gainesville remain a competitively advantaged community for sustainable economic development as it relates to overall energy costs.”³² The fourth recommendation provides that the method of governance be changed to an appointed utility authority.³³ The report notes that JEA (formerly known as Jacksonville Electric Authority), is the largest municipal utility in Florida.³⁴ It has a governance structure under which the board is appointed by the Mayor of Jacksonville, subject to confirmation by the Council.³⁵ The report also notes that the Orlando Utilities Commission board appoints its own members from a pool of candidates identified by a city nominating committee,³⁶ and that Lakeland Electric has a Commission/Customer Committee Hybrid.³⁷ The report states that the City of Tallahassee has a city commission governance model.³⁸ According to the report, Florida cities with an appointed utility authority “are more competitive than Gainesville in commercial and industrial customer class electricity costs,” noting that Jacksonville, Orlando, Kissimmee, Fort Pierce, and New Smyrna Beach each have an appointed utility authority and that “[c]ommercial and industrial customer class electricity costs in those cities are significantly lower than in Gainesville.”³⁹

Effect of Proposed Changes

The bill provides for a referendum to be held in March 2017 at which the qualified electors of the City of Gainesville will determine whether to amend the City’s charter to create a utility authority to govern GRU’s utilities systems. If approved by a majority of those voting in the referendum, Article VII will be added to the City’s charter to establish the Gainesville Regional Utilities Authority (Authority) as set forth in the bill. The following chart summarizes the provisions of the charter amendment.

| ARTICLE VII - GAINESVILLE REGIONAL UTILITIES AUTHORITY | |
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| 7.01 Establishment | |
| | <ul style="list-style-type: none"> • Creates a regional utilities commission, named the “Gainesville Regional Utilities Authority.” • Provides that GRU will be governed by the Authority upon the installation of the Authority’s governing members pursuant to Article VII. • Provides that the Authority operates as a unit of city government, but is “free from direction and control of the city commission and city charter officers.” • Lists express purposes for the Authority, including “managing, operating, controlling, and otherwise having broad authority with respect to [GRU].” |
| 7.02 Definitions | |
| | <ul style="list-style-type: none"> • Defines the following terms for the purpose of Article VII: “Authority,” “City,” “City Commission,” “County,” “Customer,” “GRU,” “Member,” and “Utilities.” |

²⁸ *Id.* at p. 6.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at p. 43.

³² *Id.* at p. 7.

³³ *Id.*

³⁴ *Id.* at p. 51.

³⁵ *Id.* at p. 50.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.* at p. 7.

7.03 Powers and duties

- Provides the following powers and duties of the Authority:
 - To manage, operate, and control the utilities and do all things necessary to effectuate an orderly transition.
 - To establish and amend the rates, fees, assessments, charges, rules, regulations, and policies governing the sale and use of services provided through the utilities.
 - To acquire real or personal property and to construct projects as necessary to “operate, maintain, enlarge, extend, preserve, and promote the utilities system in a manner that will ensure the economic, responsible, safe, and efficient provision of utilities services.”
 - To exercise the power of eminent domain pursuant to Chapter 166, Florida Statutes, to acquire property for the purpose of obtaining, constructing, and maintaining utilities facilities.
 - To issue revenue bonds by resolution establishing the form, terms, and purpose of the bonds, for the purpose of financing or refinancing utilities system projects; prohibits issuance of general obligation bonds.
 - To dispose of utilities system assets only to the extent and under the conditions that the city commission may dispose of such assets pursuant to the city charter.
 - To prepare and submit an annual budget to the city commission at least three months before the start of the City’s fiscal year, including the amount of any transfer to the City, provided that the budget may not reduce the amount of the transfer by more than 3 percent from the previous fiscal year without City approval.
 - To appoint and remove a Chief Executive Officer/General Manager.
 - To recommend, by resolution to the city commission, the acquisition of a new utility system.

7.04 Authority members

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| 7.04(1) | <ul style="list-style-type: none">• Provides for the appointment of five members by majority vote of the city commission.<ul style="list-style-type: none">○ One member must be a residential customer with “substantial knowledge of GRU, its operations, and its history.”○ One member must be the owner or representative of a private, non-governmental customer consuming at least 10,000 kilowatt hours per month of electricity during the previous twelve months.○ Three members shall be “competent and knowledgeable in one or more specific fields including, but not limited to, law, economics, accounting, engineering, finance, or energy.”• Requires that appointees be persons of recognized ability and good business judgment, as identified by the city commission. |
| 7.04(2) | <ul style="list-style-type: none">• Provides that each member of the Authority must:<ul style="list-style-type: none">○ Maintain primary residence within GRU’s electric service territory;○ Receive GRU electric utility system service at all times during term of appointment;○ Not have been convicted of a felony as defined by general law; and○ Be a qualified elector of the City of Gainesville, except that at least one member must be a resident of the unincorporated area of Alachua County or a municipality in the county other than the City of Gainesville. |
| 7.04(3) | <ul style="list-style-type: none">• Provides that the composition of the Authority must be adjusted at the expiration of each member’s term to reflect the ratio of electric meters serving customers outside the city boundaries to electric meters serving all customers (e.g., if 40% of GRU electric meters are serving customers outside the city boundaries at the time of a vacancy, a second Authority member must be appointed from outside the city boundaries). |
| 7.04(4) | <ul style="list-style-type: none">• Prohibits, until January 1, 2022, the appointment of any current or previous elected or appointed city or county officer or official who held office after January 1, 2000. |
| 7.04(5) | <ul style="list-style-type: none">• Prohibits members from serving more than three full consecutive four-year terms. |

7.05 Member terms

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| 7.05(1) | <ul style="list-style-type: none">• Requires the city commission to make initial Authority member appointments within 120 days from voter approval in the required referendum for the following terms: |
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| | <ul style="list-style-type: none"> ○ Initial member term starts at midnight on October 1, 2017. ○ Staggered initial terms: one member each for a one, two, and three year term, two members with four year terms. ● Provides for four year terms for subsequent appointments, taking effect at midnight on October 1 of the year in question. ● Provides that members appointed to complete an unexpired term shall serve from the time of appointment until the end of the term. |
| 7.05(2) | <ul style="list-style-type: none"> ● Requires the city commission to fill any vacancy for the unexpired portion of a term within 60 days after the vacancy becomes known, if more than 90 days remains in the term. |
| 7.06 Member compensation | |
| | <ul style="list-style-type: none"> ● Establishes an annual member salary of \$18,000, indexed to the Consumer Price Index for All Urban Consumers. ● Provides for reimbursement of member's necessary expenses in accordance with Authority policy and procedures, subject to approval by a majority of the members of the Authority. ● Prohibits supplemental benefits for members. |
| 7.07 Authority, oath, organization, and meeting | |
| 7.07(1) | <ul style="list-style-type: none"> ● Provides for an initial meeting to be held October 4, 2017, at 6:00 p.m. at the chambers of the city commission. |
| 7.07(2) | <ul style="list-style-type: none"> ● Requires each Authority member to take an oath or affirmation, given by the mayor or his/her designee, similar to the oath or affirmation required of a member of the city commission. |
| 7.07(3) | <ul style="list-style-type: none"> ● Specifies that the first official act of the Authority is electing a chair and a vice chair from among its membership. |
| 7.07(4) | <ul style="list-style-type: none"> ● Requires that the Authority meet at least once each month, except in case of unforeseen circumstances. ● Requires meetings to be noticed and open to the public. ● Requires that minutes of each meeting be kept in accordance with public records law, except that meetings related to settlement of pending litigation may be held in accordance with law. |
| 7.07(5) | <ul style="list-style-type: none"> ● Specifies that GRU's general manager or designee is responsible for making arrangements for and providing adequate notice for the initial meeting. |
| 7.08 Removal and suspension of members | |
| 7.08(1) | <ul style="list-style-type: none"> ● Provides that a member may be removed or suspended by the city commission in accordance with chapter 112, F.S., or for failure to maintain the qualifications specified in Section 7.04 of the charter. |
| 7.08(2) | <ul style="list-style-type: none"> ● Provides that the Authority may recommend to the city commission that an Authority member be removed or suspended based on the grounds that the city commission may remove or suspend an official; provides a process for the Authority to take such action (reasonable notice, written statement of the grounds, and an opportunity to be heard). |
| 7.09 Management and Personnel | |
| 7.09(1) | <ul style="list-style-type: none"> ● Makes the CEO/GM responsible for direction and administration of utility functions, subject to the rules of the Authority. ● Provides that the CEO/GM serves at the pleasure of the Authority. ● Empowers the Authority to appoint or remove the CEO/GM by majority vote. ● Provides that the sitting GM of GRU, until appointment of a CEO/GM by the Authority, shall serve as the CEO/GM.⁴⁰ ● Provides that a sitting member of the Authority may not be selected as the CEO/GM. |
| 7.09(2) | <ul style="list-style-type: none"> ● Provides that all officers and employees of the City who serve under the supervision and direction of the sitting GM of GRU shall serve under the CEO/GM. |

⁴⁰ This language provides continuity in the period from March 2017 to Oct. 4, 2017, where the current GM position appointed by the city has been eliminated, but the governing board of the Authority has not yet taken office.

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| | <ul style="list-style-type: none"> Grants the CEO/GM exclusive authority to hire, transfer, promote, discipline, or terminate employees under his or her supervision and direction. |
| 7.09(3) | <ul style="list-style-type: none"> Authorizes the Authority to fix the salary of the CEO/GM. Authorizes the CEO/GM to fix the salaries of all other employees under his or her direction, consistent with the Authority's approved budget. Provides that the sitting GM of GRU, and all other officers and employees of the City who become subject to the supervision and direction of the CEO/GM, shall continue without any loss of rights or benefits under the pension plans and civil service merit system of the City. |
| 7.10 General provisions | |
| 7.10(1) | <ul style="list-style-type: none"> Requires the City and the Authority to perform all acts and create such instruments as are necessary and proper for an orderly transition of governance, operation, management, and control of the utilities to the Authority. |
| 7.10(2) | <ul style="list-style-type: none"> States that all City ordinances, policies, rates, fees, assessments, charges, rules, regulations, and budgets related to operation of the utilities shall remain in effect until modified by the Authority. States that these charter amendment provisions shall govern in the event of a conflict with any City charter provision, ordinance, resolution, decree, or part thereof, provided that the resolution of any such conflict is not intended to interfere with existing contractual arrangements between the City and Alachua County. |
| 7.10(3) | <ul style="list-style-type: none"> Provides that all rights, responsibilities, claims, and actions involving GRU as of the transfer to the Authority shall continue, except as may be modified by the Authority under its powers. |
| 7.10(4) | <ul style="list-style-type: none"> Prohibits the City from levying on the Authority or the utilities a franchise, right-of-way, license, permit, or usage fee or tax, unless allowed to do so by general law. |
| 7.10(5) | <ul style="list-style-type: none"> Provides that any utility advisory board created by the city commission may not have an advisory role as to the Authority. |
| 7.10(6) | <ul style="list-style-type: none"> Provides that Authority members are not individually responsible for Authority debts or liabilities. |
| 7.10(7) | <ul style="list-style-type: none"> Requires the Authority to develop an ethics policy and code of business conduct policy and review those polices at least biennially. |

In addition, if approved by a majority of those voting in the referendum, Section 3.06 of Article III of the City's charter⁴¹ will be repealed. This section authorizes the city commission to appoint a general manager for utilities. Because the charter amendment makes the selection of the general manager for GRU a power of the Authority, this section of the charter would become obsolete. As noted above, the bill creates Section 7.09(1) of the charter which provides that the current general manager appointed by the City shall be retained as the CEO/GM absent action by the Authority.

The bill provides that the chair of the Authority or his/her designee is authorized to execute documents required for the transition from the current management structure to the one implemented by the charter changes of the bill.

B. SECTION DIRECTORY:

- Section 1:** Repeals section 3.06 of Article III of section 1 of chapter 90-394, Laws of Fla., authorizing the Gainesville City Commission to appoint a General Manager for Utilities.
- Section 2:** Amends the charter of the City of Gainesville to establish the Gainesville Regional Utilities Authority to oversee and manage the city's municipal utility systems, which include the electric utility system, water utility system, wastewater utility system, re-use water utility system, natural gas utility system, and communications utility system.
- Section 3:** Provides that the chair of the Authority or his/her designee is authorized to execute documents during the transition period.

⁴¹ Ch. 12760 (1927), Laws of Fla., as amended by ch. 90-394, s. 1, Laws of Fla.

Section 4: Provides the form of the ballot question to be presented to the qualified electors of the City of Gainesville in the referendum provided for by Section 5.

Section 5: Provides that the bill shall only take effect upon its approval by a majority vote of the qualified electors of the City of Gainesville voting in a referendum to be held in March 2017, except that Sections 4 and 5 shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? March 2017, in conjunction with the City of Gainesville's municipal elections.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 25, 2016, the Local Government Affairs Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment clarifies the transition process from City control of GRU to management by the Authority, clarifies the qualification standards for Authority members, and makes the powers and duties of the Authority more explicit.

On February 25, 2016, the Regulatory Affairs Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Consolidates provisions related to the proposed Authority's powers and duties in one section and more specifically defines those powers and duties:
 - Specifies the types of projects that the Authority may acquire and construct.
 - Specifies the types of bonds the Authority may issue, the purpose for issuance, and the manner in which they may be issued.
 - Specifies that title to all utility property remains with the City.

- Specifies that the Authority may not acquire new utility systems without approval of the City and may not dispose of utilities system assets except as provided in the existing City charter.
- Authorizes the Authority to establish in its budget the amount of any transfer of utility system revenues to the City, provided that the Authority may not reduce the transfer amount by more than 3% per fiscal year without approval of the City.
- Removes provisions that authorize the proposed Authority to remove, suspend, or reinstate an Authority member, instead providing that the Authority may recommend to the city commission that an Authority member be removed or suspended based on the grounds that the city commission may remove or suspend an official under general law; provides a process for the Authority to take such action.
- Provides that all current GRU staff shall continue to serve under the CEO/GM, who will serve under direction of the Authority, without loss of rights or benefits under existing pension plans and the City's civil service merit system.
- Removes provisions that require the repeal of existing City charter provisions, ordinances, resolutions, or decrees that conflict with the charter amendment, instead providing that the charter amendment shall govern in the event of a conflict; removes provisions that require the repeal of existing Alachua County charter provisions, ordinances, resolutions, or decrees that conflict with the charter amendment.
- Requires the City and the Authority to do all things necessary for an orderly transition, and removes references to all utilities-related laws, ordinances, resolutions, and administrative regulations, interpretations, franchises, and controls "vesting" in the Authority.
- Removes provisions that would prohibit or limit the imposition of certain fees and taxes on the Authority.

This analysis is drafted to the committee substitute as passed by the Regulatory Affairs Committee.