

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1583 Emerald Coast Utilities Authority, Escambia County

SPONSOR(S): Local Administration & Veterans Affairs Subcommittee, Salzman

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	17 Y, 0 N, As CS	Darden	Miller
2) State Affairs Committee	22 Y, 0 N	Darden	Williamson

SUMMARY ANALYSIS

The Emerald Coast Utilities Authority (Authority) is an independent special district created in 1981 by special act. The Authority, originally named the Escambia County Utilities Authority, operates water and wastewater systems for Escambia County and the City of Pensacola. Since 1992, the Authority has also provided solid waste services in the portions of Escambia County outside the boundaries of Pensacola. The charter of the Authority was re-codified in 2001.

The bill revises the special act governing the Authority to:

- Prohibit a member of the Authority's board elected to two consecutive full terms after July 1, 2021, from running for election to the succeeding term;
- Provide a process for filling a vacancy on the Authority's board if the Governor has not made an appointment to fill the vacancy within 90 days;
- Update the required qualifications of the executive director of the Authority to reflect the present size of the utility system;
- Authorize the Authority to adopt its own personnel policies and conduct all employee disciplinary hearings using standards no less protective than those for state employees; and
- Narrow the appeals process for actions taken by the Authority to those concerning a termination of services, assessment of fees, charges, or fines, notice of claim of lien, or increase in security deposit that directly affects the substantial interests of the party filed the appeal.

According to the economic impact statement, the bill will not increase the Authority's revenues or costs.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Emerald Coast Utilities Authority (Authority) is an independent special district created in 1981 by special act.¹ The Authority, originally named the Escambia County Utilities Authority, operates water and wastewater systems for Escambia County and the City of Pensacola.² Since 1992, the Authority has provided solid waste services in the portions of Escambia County outside the boundaries of Pensacola. The charter of the Authority was re-codified in 2001.³

The Authority is governed by a five-member board elected from single-member districts conforming to the boundaries of districts for the Escambia County Board of County Commissioners.⁴ Members of the board serve four-year terms, with no term limits.⁵ In the event of a vacancy on the board, the Governor appoints a resident of the district to serve for the remainder of the unexpired term.⁶ The board is responsible for setting its own compensation, but may not authorize an amount exceeding the compensation for members of the Escambia County School Board.⁷ In addition to base compensation, members of the board receive an additional \$200 a month from the Authority for the purpose of defraying expenses incurred in the performance of their official duties.

The Authority must employ an executive director who is responsible for managing the day-to-day affairs of the utilities system.⁸ The executive director must be a college graduate with either a degree in science, engineering, business management, or public administration or a licensed and registered engineer. At the time of his or her appointment, the executive director must have at least six years of experience in an engineering, operations, or management role with a utility system at least as large as the City of Pensacola's water and sewer system in 1981. The Authority may substitute additional years of administrative or management experience for these specific educational or professional requirements.

Employees of the Authority are subject to the civil service system of Escambia County and to the policies and rules of the Civil Service Board, and may be appointed, removed, or suspended by the Authority subject to guidelines established under that system.⁹ The Authority has a five-member personnel appeals board, with two members appointed by the board of the Authority, two members selected by non-managerial employees of the Authority, and one member appointed by the other four members.¹⁰ The personnel appeals board hears appeals from suspensions, demotions, or dismissals of non-managerial employees of the Authority who have not been designated as key staff personnel by the Authority's board. The personnel appeals board may also make recommendations to the Authority's executive director on major policy and procedural questions relating to personnel management and on individual grievances by employees.

Any person may appeal an action of the Authority that directly affects his or her substantial interests if the petition for review is filed within 10 days of the action.¹¹ The board of the Authority must review each petition and decide whether to grant or deny the petition at a public meeting held within 40 days of

¹ Ch. 81-376, Laws of Fla.

² Emerald Coast Utilities Authority, *Who is ECUA?*, <https://ecua.fl.gov/who-is-ecua> (last visited Jan. 26, 2022).

³ Ch. 2001-324, Laws of Fla.

⁴ Ch. 2001-324, s. 3(4)(a)-(b), Laws of Fla.

⁵ Ch. 2001-324, s. 3(4)(b)-(c), Laws of Fla.

⁶ Ch. 2001-324, s. 3(4)(b), Laws of Fla.

⁷ Ch. 2001-324, s. 3(4)(e), Laws of Fla.

⁸ Ch. 2001-324, s. 3(13), Laws of Fla.

⁹ Ch. 2001-324, ss. 3(10)(a), (f), Laws of Fla. The management of Escambia County employees, including employment, discipline, and termination, currently appears to be managed through the Policies and Procedures of the Escambia County Board of County Commissioners Human Resources Department, at <https://myescambia.com/docs/default-source/HR/hr-policies.pdf> (last visited January 28, 2022).

¹⁰ Ch. 2001-324, s. 3(11)(a), Laws of Fla.

¹¹ Ch. 2001-324, s. 3(12)(a), Laws of Fla.

receiving the appeal. If the petition is granted, the petitioner may present written or oral evidence in opposition to Authority's action.¹² The Authority may appoint a hearing officer to make recommendations concerning any material issue of disputed fact. The Authority's final decision must be in writing and contain findings of fact and conclusions of law.¹³

Effect of Proposed Changes

The bill amends the charter of the Authority to limit members elected to two consecutive full terms after July 1, 2021 from running for election in the succeeding term. The bill revises the process for filling a vacancy on the board by providing that if the Governor does not appoint a candidate to fill a vacancy within 90 days, the chair of the Board may nominate two residents of the district from which the vacancy occurred as potential candidates to fill the vacancy. The remaining members of the board then vote for one of the two candidates to fill the vacancy.

The bill revises the qualifications for the executive director of the Authority to require at least six years of experience in an engineering, operations, or management role of a utility system at least as large as the water and sewer system of the Emerald Coast Utilities Authority at the time the position is being filled.

The bill authorizes the Authority to adopt its own personnel policies, provided those policies are not less protective than the protection required under ch. 110, part II, F.S., for state career service employees. The bill requires the Authority to conduct all employee disciplinary hearings according to its adopted policies using rules no less protective than those adopted by the Department of Management Services (DMS) pursuant to s. 110.227, F.S.¹⁴ The bill provides that this requirement does not subject the Authority to the jurisdiction of DMS or require appeals to be handled by the Public Employees Relations Commission. The Authority is authorized to engage the services of Administrative Law Judges through the Division of Administrative Hearings to render non-binding recommended orders to the Executive Director for personnel appeals.

The bill limits the appeals process for Authority actions to a termination of services, assessment of fees, charges, or fines, notice of claim of lien, or increase in security deposit that directly affects the substantial interests of the party filed the appeal.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2001-324, Laws of Fla, concerning the Emerald Coast Utilities Authority, Escambia County.

Section 2: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 3, 2021

WHERE? The *Pensacola News Journal*, a daily newspaper of general circulation published in Escambia County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

¹² Ch. 2001-324, s. 3(12)(b), Laws of Fla.

¹³ Ch. 2001-324, s. 3(12)(c), Laws of Fla.

¹⁴ See Rule 60L-36, F.A.C.

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 2, 2022, the Local Administration & Veterans Affairs Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS reduced the term limits for members of the Authority's board from three terms to two, removed a provision concerning sovereign immunity, and revised the procedures for the Authority to adopt personnel policies.

This analysis is drafted to the committee substitute adopted by the Local Administration & Veterans Affairs Subcommittee.