

House Bill No. 919

An act relating to Escambia County; codifying, repealing, amending, and reenacting special laws relating to the Escambia County Utilities Authority; providing legislative intent; declaring the authority to be an independent special district; restoring words inadvertently omitted in the preparation of House Bill 1517, which was enacted as chapter 97-364, Laws of Florida; repealing obsolete provisions; deleting gender-specific references; providing a district charter; providing an effective date.

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

Section 1. Pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the Escambia County Utilities Authority. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the authority, including all current legislative powers granted to the authority by its several legislative enactments, to repeal certain obsolete provisions, to restore words inadvertently omitted in the preparation of Chapter 97-364, Laws of Florida, and to delete gender-specific references.

Section 2. Chapters 92-248, 93-365, 95-497, and 97-364, Laws of Florida, relating to the Escambia County Utilities Authority, are codified, reenacted, amended, and repealed as herein provided.

Section 3. The charter for the Escambia County Utilities Authority is recreated and reenacted to read:

Section 1. Authority created.—There is hereby created and established a local governmental body, corporate and politic, to be known as the “Escambia County Utilities Authority,” hereinafter referred to as the “authority.” The authority is hereby declared to be an independent special district.

Section 2. Legislative findings.—The Legislature finds and declares that the health, welfare, and safety of the inhabitants of Escambia County and of the City of Pensacola would be enhanced by the consolidation of certain utility systems and the creation of an independent authority for the purposes hereinafter enumerated: that the consolidation of said utility systems will serve a public purpose; that the consolidated systems will be able to utilize economies of scale and thereby achieve cost savings to the public; that the increased size of the combined utility systems will enhance the likelihood of more favorable financing for the city and county; that the present sewer system of the county is near maximum capacity, while the sewer system of the city presently has excess capacity and is underutilized; and that the consolidation of utility systems may eliminate duplicative staff functions and positions.

Section 3. Purposes.—The authority is created for the purpose of acquiring, constructing, financing, owning, managing, providing, promoting, improving, expanding, maintaining, operating, regulating, franchising, and

otherwise having plenary authority with respect to certain utility systems within the territorial limits of Escambia County, Florida, and areas adjacent thereto. It is further the purpose of this act to repose in the authority all powers with respect to water, sewer, and such other additional utilities as may be hereafter designated as provided in sections 5(c) and 7(c) herein, which are now, in the future could be, or could have been, but for this act, exercised by the City of Pensacola or Escambia County, Florida.

Section 4. Governing body.—

(a) The governing body of the authority shall consist of five members. Members shall be elected by a majority of their electors in partisan elections utilizing the primary and general election system provided for in chapter 100, Florida Statutes. Candidates shall qualify for nomination to such offices in the manner provided in chapter 99, Florida Statutes, for the qualification of candidates for the office of county commissioner, and shall qualify with the Supervisor of Elections of Escambia County.

(b) Members shall be elected, in the primary and general elections held in 1984, by districts under the district plan of the Board of County Commissioners of Escambia County (hereinafter referred to as the "Board"). Each member shall be an elector of the district from which he or she is elected and shall be elected by the qualified electors of that respective district. Members elected for Districts Two and Four at the general election held in 1984 shall be elected to a 2-year term. Members elected for Districts One, Three, and Five at the general election held in 1984 shall serve for a 4-year term. Thereafter each member shall be elected for a term of 4 years. Beginning in 1996, the term of office of each member shall commence on the second Tuesday following the general election in which such member is elected. Upon the expiration of a term of office, a successor to the office shall be elected as designated in this paragraph; however, upon the occasion of a vacancy for any elected office which vacancy occurs prior to the expiration of the then present term of that office, a successor shall be appointed by the Governor and the successor shall be a resident of the district in which the vacancy occurred. Any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and until a successor is duly elected.

(c) Members shall be eligible for reelection.

(d) Before entering upon his or her duties, each member shall take an oath to administer the duties of office faithfully and impartially, and a record of such oath shall be filed in the office of the Secretary of State.

(e) As compensation for performance of duties and responsibilities set forth herein, members of the authority and their successors shall receive from the authority monthly an amount to be determined by majority vote of the members of the authority, not to exceed the amount of compensation received monthly by members of the District School Board of Escambia County, and shall also receive from the authority \$200 per month to be used in defraying regular expenses incurred in the performance of the duties of office. Members may receive reimbursement from the authority for additional, unusual, or extraordinary expenses upon approval by the authority.

(f) The authority shall elect a chair and a vice chair from the members of the authority, each of whom shall serve for 1 year or until his or her successor is chosen. The chair, or the vice chair in the chair's absence, shall preside at all meetings of the authority and shall perform such additional duties prescribed by the members or in the bylaws of the authority. The authority shall hold regular meetings at least monthly at such times and places as it may designate and may hold more frequent special meetings. A majority of the membership shall constitute a quorum for the purpose of meeting and transacting business. Each member of the authority shall have one vote. The authority may adopt bylaws and may make all policies, procedures, rules, and regulations not inconsistent with this act which it may deem necessary respecting the conduct of its affairs, including, but not limited to, the operation of its utility systems. Such policies, procedures, rules, and regulations shall provide for notice of all public meetings and shall provide that an agenda shall be prepared by the authority in time to ensure that a copy of the agenda will be available at least 3 days before any regular meeting of the authority. After the agenda has been made available, change shall be only for good cause, as determined by the person designated to preside at the meeting, and stated in the record. Special or emergency meetings may be called by the chair upon no less than 24 hours' notice. The authority shall publish and thereafter codify and index all rules, regulations, and resolutions formulated, adopted, or used by the authority in the discharge of its functions. Such rules, regulations, and resolutions shall be made available for public inspection and copying, at no more than cost. The authority shall not be deemed an "agency" within the meaning of chapter 120, Florida Statutes. The authority shall be deemed to be an "agency" within the meaning of chapter 119, Florida Statutes, and all records of the authority shall be open to the public. The authority shall be deemed an "agency" or "authority of the county" for purposes of section 286.011, Florida Statutes, the "Government in the Sunshine Law." In addition to the provisions of the Code of Ethics for Public Officers and Employees, part III of chapter 112, Florida Statutes, no consultant to the authority shall have or hold any employment or contractual relationship with a business entity other than the authority in connection with any contract in which the consultant personally participated through decision, approval, disapproval, recommendation, rendering of advice, or investigation while the consultant. However, this provision shall not preclude the award of any contract to a consultant if such contract is awarded after open competitive bidding, and if the consultant submits the low bid.

Section 5. Powers.—

(a) The authority shall have all powers and authorities necessary, convenient, or desirable to accomplish the purposes of this act. In furtherance thereof, the authority shall have:

(1)a. The power to borrow and expend money to pay for any of the purposes of the authority, and to issue its bonds, notes in anticipation of the issuance of bonds, revenue certificates, or other evidences of indebtedness, including obligations issued to refund or refinance same, and to pledge for the repayment of same any revenues of the authority, including any revenues provided to the authority by governmental or other entities for pledge

by the authority as security for payment of such obligations, all in the manner and subject to such limitations as may be prescribed by resolution of the authority, including, but not limited to, the powers granted under chapter 125, part I of chapter 153, part I of chapter 159, part II of chapter 166, and chapter 170, Florida Statutes, and chapter 57-1313, Laws of Florida. The bonds, notes, certificates, or other evidences of indebtedness authorized to be issued by this act may be validated in the manner prescribed in chapter 75, Florida Statutes. Any complaint for validation permitted by the preceding sentence shall be filed in the Circuit Court of Escambia County. The authority may enter into trust agreements with banks or other corporate entities possessing trust powers within or without the State of Florida. The authority may create liens upon or security interests in its assets, properties, funds, or revenues, of whatever kind or nature, and may specify the priority or order of such liens or security interests. Such creation and specification of priority or ordering may be made by resolution of the authority or in a trust agreement to which the authority is a party. The passage of such resolution or the execution of such trust agreement is sufficient to the creation and specification of priority and order of such liens and security interests, and it shall not be necessary to comply with the requirements of the Uniform Commercial Code respecting the filing of a financing statement to perfect a security interest granted by the authority.

b. In the exercise of the powers granted by this paragraph, the authority shall comply in all respects with the requirements of chapter 218, Florida Statutes, as the same may be amended from time to time.

(2) All power and authority heretofore possessed pursuant to law, ordinance, franchise, or otherwise by Escambia County, the Board, the City of Pensacola, or the City Council of the City of Pensacola (hereinafter referred to as the "Council"), or hereafter granted by law, ordinance, franchise, or otherwise to any county, municipality, special district, or other unit of local government insofar as such powers and authority are related to sewage collection and disposal, and water supply, including, but not limited to, the powers granted under chapter 125, chapter 127, part I of chapter 153, part I of chapter 159, part I of chapter 163, part II of chapter 166, chapter 170, and chapter 180, Florida Statutes, and chapter 57-1313, Laws of Florida.

(3) All powers granted to municipalities with regard to sewage collection and disposal and water supply granted to municipalities pursuant to chapters 170 and 180, Florida Statutes, including the issuance of bonds or notes in anticipation thereof payable from special assessments under chapter 170, Florida Statutes.

(4) The power to establish service districts and reasonable rate classifications for purposes of providing utilities services. The authority shall endeavor to provide that the costs of any improvements to or expansions of the systems are borne by those users of the systems who benefit from such improvements or expansions.

(5) The power to set, fix, pledge to establish, or establish, levy, or impose assessments, rates, fees, and other charges for the use of and for the services furnished or to be furnished by the authority's systems, and to alter and

amend same from time to time, which assessments, rates, fees, and charges, together with other revenues and receipts, shall result in the authority's receiving or possessing an amount not less than is required to operate and maintain a self-liquidating or self-sustaining utility system.

(6) The power of eminent domain, as provided by general law, to carry out the purposes described in this act. As a condition precedent to instituting eminent domain proceedings, the authority shall first receive the approval of the governing body (either the Board or the Council) of the jurisdiction in which the subject property is located.

(7) The power to apply for and accept grants, loans, and subsidies from any governmental entity for the construction, operation, and maintenance of the systems, facilities, or functions under jurisdiction of the authority, and to comply with all requirements and conditions imposed in connection therewith.

(8) The power and authority to perform any of its functions by lease or contract with any other public or private entity.

(9) All other powers, not expressly prohibited by the United States or Florida Constitutions or by general law, necessary to effectuate and carry out the purposes and intent of this act.

(10) All privileges, immunities, and exemptions accorded political subdivisions of this state under the provisions of the constitution and laws of the state. Neither the members of the authority nor any person executing any contract or obligation on its behalf shall be personally liable or accountable thereon or by reason thereof.

(11) Only those powers granted by general law to counties or municipalities with respect to mandatory sewer taps or sewer utilization or with respect to the acquisition of privately owned water systems.

(12) The power to purchase, own, convey, sell, lease, rent, or encumber air space, development rights, tower space, or any other interests in property above the surface of any land pursuant to such terms and conditions as the authority in its discretion may determine.

(13) The power to provide any and all utilities services authorized by this act to areas outside the territorial limits of Escambia County, but adjacent thereto, if capacity is available.

(14) The power to establish civil penalties, including the imposition of fines, for the violation of rules or regulations of the authority pertaining to the disposal of waste or the use of the authority's systems, facilities, or services. The authority may enforce the rules and regulations adopted pursuant to this section, by suit for injunction or other appropriate action in the courts of the state.

(15) All powers granted to municipalities and to counties with respect to membership and participation in and ownership of any separate legal entity created for the purposes of any financing program or loan pool as set forth

in section 163.01(7)(d), Florida Statutes, as the same may be amended from time to time.

(b) Any power granted herein may be exercised by resolution of the authority duly adopted, and any such resolution shall be recorded in the minutes of the authority.

(c)(1) If the authority determines that it is necessary or appropriate for the authority to provide, operate, or maintain resource recovery systems or solid waste collection, distribution, or disposal systems, the authority may specify such additional utility systems by resolution. Upon approval of such resolution by the governmental body of the jurisdiction which such other additional utility system or systems shall serve, the authority, with respect to these specified utility systems, shall be vested with all power set forth herein or in general law that would, but for the provisions of this act, apply to such specified utility systems. All powers granted to the authority by this act regarding such specified utilities systems shall only apply to areas outside the corporate limits of the city unless the Council, by resolution, irrevocably relinquishes its powers to provide, operate, or maintain such specified utilities systems or any one of them within the corporate limits of the city.

(2) In providing, operating, or maintaining resource recovery systems or solid waste collection, distribution, or disposal systems, the authority shall use the most cost-effective means of providing such systems and is encouraged to contract with private persons on a competitive basis for any and all such systems in order to ensure that such services are provided on the most cost-effective basis. In accordance with section 403.7063, Florida Statutes, the authority shall not discriminate against private persons who provide resource recovery systems or solid waste collection, distribution, or disposal systems.

(3) The authority shall seek competitive bids for all construction-related activities pertaining to resource recovery systems or solid waste collection, distribution, or disposal systems when the estimated total cost of construction will exceed \$5,000.

(d) No listing of powers included in this act is intended to be exclusive or restrictive. On the contrary, it is intended that the authority should have all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which the authority is created. These implied powers include, but are not limited to, the authority to employ personnel, to borrow and expend money, to enter into contractual obligations, to employ legal counsel, and to purchase, lease, sell, or exchange real or personal property. The fact that this act specifically states that the authority possesses a certain power does not mean that the authority must exercise such power unless the act specifically so requires. The authority's power to levy special assessments shall not be deemed to be the power to levy taxes.

(e) Except as is hereinafter provided, nothing herein shall be construed to affect any privately owned water or sewer utility operating within Escambia County on August 1, 1981, under any franchise, permit, or other authorization from the Board. The Board shall continue to exercise such powers,

duties, and functions with regard to such privately owned utilities to the same extent as exercised or allowed prior to August 1, 1981. Any rates set or approved for any privately owned utility by the Board between August 1, 1981, and the effective date of chapter 83-404, Laws of Florida, shall remain in full force and effect and shall not be subject to challenge because of any provisions of chapter 81-376, Laws of Florida. The Board and the authority are authorized to utilize the provisions of section 367.081(4)(b), Florida Statutes, as it may be amended, and the rules of the Florida Public Service Commission adopted pursuant thereto, for the purpose of automatically increasing or decreasing the rates of any privately owned utility over which the Board exercises ratemaking authority or approval, subject to the limitations of such statutes and rules. Any publicly owned or privately owned water utility operating within Escambia County on or after August 1, 1981, under any franchise, permit, or other authorization from the authority, the Board, or the state shall:

(1) Promptly provide to the authority as soon as it is available a copy of its complete water service consumption information with regard to water service customers of such utility who are also sewer service or solid waste service customers of the authority or of an entity with which the authority has an agreement under subsection (i); and

(2) Upon certification by the authority that any such customer has failed to pay charges for sewer service or solid waste service furnished by the authority or by an entity with which the authority has an agreement under subsection (i) and has been given notice and a reasonable opportunity to pay such charges, discontinue furnishing water to such customer and disconnect the water supply system of such customer until all such charges and other charges, including interest and charges for the shutting off and discontinuance and the restoration of water service, are paid in full.

For purposes of interpreting Florida Administrative Code Rule 25-30.320, the authority shall be considered an "affiliated utility" of any such water utility. The authority shall promptly reimburse to such cooperating water utility the reasonable cost of providing a copy of its water service billing information and of disconnecting its water service.

(f) The authority shall enter into an agreement with each entity furnishing solid waste collection service to customers who are required by the Board to subscribe for such service. Upon certification to the authority by such entity that a customer has failed to pay charges for solid waste service furnished by it and has been given notice and a reasonable opportunity to pay such charges, the authority:

(1) Shall, if the customer is a customer of water from the authority, discontinue furnishing water to such customer and disconnect the water supply of such customer until all such charges, including interest and charges for the shutting off and discontinuance and the restoration of water service, are paid in full; or

(2) Shall certify the information provided by such entity to any utility providing water service to the customer, if the customer is also a customer

of water from the water utility. The entity shall promptly reimburse the authority for amounts paid to a water utility under subsection (e) on its behalf.

Section 6. Public purpose.—The Legislature finds and declares that the creation of the authority and the carrying out of its purposes are in all respects for the benefit of the people of this state, Escambia County, and the City of Pensacola; that the authority is performing an essential governmental function; that all property of such authority is and shall in all respects be considered to be public property, and title to such property shall be held by the authority for the benefit of the public; that the use of such property, until disposed of upon such terms as the authority may deem just, shall be for essential public and governmental purposes; and that all bonds, notes, revenue certificates, or other evidences of indebtedness and interest or income thereon and all of the property, facilities, services, and activities of the authority are declared to be nontaxable for any and all purposes by the state or any unit of government herein to the same extent as if owned or issued by or on behalf of a county or municipality of the state.

Section 7. Transfer of assets and liabilities.—

(a) The City of Pensacola and Escambia County are hereby specifically authorized and directed to convey to the authority the water and sewer systems of each, and the authority is authorized and directed to accept such systems, upon payment to the City of Pensacola of \$10 million as fair compensation for the loss of revenues from its water systems, plus the amount necessary to defease all outstanding obligations of the city with respect to its water and sewer systems and upon payment to the county of the amount necessary to defease all outstanding obligations of the county with respect to its water and sewer systems. However, if adequate provisions can be made to protect the rights of the county and the holders of the obligations relating to the county's Water and Sewer District Number One, then such obligations shall be transferred to the authority; otherwise, the authority shall pay to the county such amount as is necessary to defease the outstanding obligations of Water and Sewer District Number One. Furthermore, the rights of the holders of outstanding obligations issued by the City of Pensacola and Escambia County to finance their respective water and sewer systems shall be protected and shall not be deemed to be abridged or denied by the transfer herein authorized. Upon the transfer of any such systems to the authority, adequate provision shall be made for the payment of such obligations; whereupon, all rights of the holder in the property of the city or county or authority shall terminate. Upon payment of the compensation mentioned above, the city and county shall transfer to the authority all properties, both real and personal, improvements, facilities, and assets of the city's and county's water and sewer systems. To consummate the sale as aforementioned, revenue bonds shall be issued and sold by the authority as soon as practicable after the authority organizes and commences its activities.

(b) When such transfers have been completed, the authority shall assume all rights and obligations of ownership and management of the water and sewer systems of the City of Pensacola and Escambia County. Any and all legal commitments, contracts, or other obligations heretofore entered

into or assumed by the City of Pensacola or Escambia County in connection with the programs, activities, or functions transferred are hereby charged to and shall be performed by the authority. However, accounts receivable and debts of the city and the county that are due and payable prior to the date of such transfer shall remain the property or the obligation of the city or the county.

(c) Upon majority vote of the authority and of the governmental body affected, and upon payment of fair compensation by the authority, such governmental body shall be authorized to transfer to the authority, and the authority shall be authorized to accept, any resource recovery system or solid waste collection, distribution, or disposal system of such governmental body. The amount of such compensation shall be agreed upon by the governmental body and the authority. However, the rights of the holders of any outstanding bonds, notes, revenue certificates, or other evidence of indebtedness issued to finance such system shall be protected and shall not be deemed to be abridged or denied by the transfer herein authorized. Nothing herein contained shall preclude the limitation or alteration of any and all such rights of such holders if and when adequate provision shall be made for the retirement of such bonds, notes, revenue certificates, or other evidence of indebtedness.

(d) The City of Pensacola, Escambia County, or any other governmental entity shall be authorized in its discretion to cooperate with or contract with the authority, on any matter necessary, incidental, or convenient, for such funding as will effectuate the purposes of this act, including, but not limited to, agreements authorizing the pledge of any legally available revenues as security for and for payment of any bonds, notes, revenue certificates, or other evidence of indebtedness of the authority, interest or redemption premium thereon, and other necessary expenses or costs in connection with such bonds, notes, revenue certificates, or other evidence of indebtedness. Such legally available revenues may be so provided, used, or pledged, notwithstanding the provisions of any other law; provided, however, that ad valorem taxes may be so provided and used only after full compliance with the Constitution of the State of Florida, and provided further that nothing herein shall be deemed or operate to impair the rights of the holders of any outstanding obligations secured by such revenues, until such time as provision for payment of such obligations shall have been made.

Section 8. Franchise fees.—The Council is hereby authorized to impose a franchise fee upon the authority system; provided, however, that the authority is authorized to pass on said fee only to in-city users of the system, which shall be reflected on the city bills.

Section 9. Rate setting procedure.—

(a) The authority shall fix the initial schedule of assessments, rates, fees, and other charges for the use of and for the services furnished or to be furnished by the authority's facilities, to be paid by the owner, tenant, or occupant of each lot or parcel of property which may be connected with and use any such facility by or through any part of the water, or other additional utility systems of the authority.

(b) After the system or systems shall have been in operation, the authority may revise such schedule of assessments, rates, fees, and charges from time to time. Such assessments, rates, fees, and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times to pay the cost of maintaining, repairing, and operating the system or systems, including the reserves for such purposes and for replacements and depreciation and necessary extensions, to pay the principal of and the interest on any bonds as the same shall become due and the reserves therefor, and to provide a margin of safety for making such payments, all in accordance with section 5(a)(5). The authority shall charge and collect the assessments, rates, fees, and charges so fixed or revised.

(c) Such assessments, rates, fees, and charges shall be just and equitable and may be based or computed upon the quantity of water consumed, upon the number and size of sewer connections, upon the number and kind of plumbing fixtures in use in the premises connected with the sewer system, upon the number or average number of persons residing or working in or otherwise connected with such premises, upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors. Prior to fixing or revising such schedule of rates, fees, and charges, the authority shall cause to be prepared a statement of financial impact. Such statement shall be made available to the public during the rate-making procedure.

(d) In cases where the amount of water furnished to any building or premises is such that it imposes an unreasonable burden upon the water system, an additional charge may be made therefor, or the authority may, if it deems it advisable, require the owners or occupants of such building or premises to reduce the amount of water consumed thereon in a manner to be specified by the authority, or the authority may refuse to furnish water to such building or premises.

(e) In cases where the character of the sewage from any manufacturing or industrial plant or any building or premises is such that it imposes an unreasonable burden upon any sewage disposal system, an additional charge may be made therefor, or the authority may, if it deems it advisable, require such manufacturing or industrial plant or such building or premises to treat such sewage in such manner as shall be specified by the authority before discharging such sewage into any sewer lines owned or maintained by the authority.

(f) The authority may charge any owner or occupant of any building or premises receiving the services of the facilities herein provided such initial installation or connection charge or fee as the authority may determine to be just and reasonable.

(g)(1) Except as hereinafter provided in paragraph (2), no assessments, rates, fees, or charges shall be fixed under the foregoing provisions of this section until after a public hearing at which all of the users of the authority's facilities and owners, tenants, and occupants of property served or to be served thereby and all others interested shall have an opportunity to be heard concerning the proposed assessments, rates, fees, and charges. After

the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing such assessments, rates, fees, and charges, notice of such public hearing setting forth the schedule or schedules of assessments, rates, fees, and charges shall be given:

a. By publication in a newspaper of general circulation in the affected area;

b. By mail to all persons and organizations that have made requests for advance notice of the authority's proceedings; and

c. By posting in appropriate places so that affected persons may be duly notified.

Such publication, mailing, and posting of notice shall occur at least 14 days prior to the public hearing. Such hearing may be adjourned from time to time. After such hearing, such preliminary schedule or schedules, either as originally adopted or as modified or amended, shall be adopted and put into effect. The assessments, rates, fees, or charges so fixed for any users or property served shall be extended to cover any additional users or property thereafter served that fall within the same class or classes without the necessity of any hearing or notice.

(2) The authority may fix the assessments, rates, fees, and charges to be paid by any such user, owner, tenant, or occupant as the authority reasonably finds to be unique with respect to its use of the authority's systems or facilities. Such assessments, rates, fees, and charges may be fixed by resolution adopted at any regular meeting, or any special meeting of the authority called for that purpose, and such resolution shall state the basis for such finding.

(3) A copy of the schedule or schedules of such assessments, rates, fees, and charges as finally fixed in such resolution shall be kept on file in the headquarters of the authority and shall be open to inspection by all parties interested.

(4) Any change or revision of any assessments, rates, fees, or charges may be made in the same manner as such assessments, rates, fees, or charges were originally established as hereinabove provided.

Section 10. Personnel.—

(a) The authority is empowered to appoint, remove, and suspend employees or agents of the authority and fix their compensation within the guidelines established by the Escambia County Civil Service Rules.

(b) The authority may provide social security for its employees pursuant to the provisions of chapter 650, Florida Statutes, and may bring its employees under the Florida Retirement System, the State and County Officers and Employees Retirement System, or any other qualified retirement program.

(c) On the effective date of the transfer of assets set forth in section 7, all employees of the Escambia County Department of Utilities and of the City

of Pensacola Department of Utilities that theretofore had been assigned to the Escambia Water and Sewer Utilities Authority created by virtue of that certain interlocal agreement dated November 25, 1980, and any other such employee who may be designated by the city or the county prior to the effective date of the transfer of assets referred to above, shall be transferred to the authority and shall continue without loss of benefits as employees of the authority.

(d) Employees who are transferred to the authority and who are members of the retirement systems available to employees of the City of Pensacola or Escambia County shall not lose those pension or retirement rights or any reserves accrued to their benefit during the period of their employment by the city or the county. Such employees may elect to retain the pension and retirement rights accrued during the period of their employment by the city or the county. Any employee so electing shall give written notice of his or her election, within 30 days or such longer period of time determined by the authority after the effective date of the transfer, to the City Manager of the City of Pensacola or to the County Administrator of Escambia County, as appropriate, who shall then process the notice. In the event any employees elect to retain their pension and retirement rights accrued during the period of their employment with the city or the county, or prior to such election, the authority shall pay into the appropriate retirement system during the period that such employees remain as authority employees, such sums of money as are paid by the city or the county for the benefit of such employees in order to guarantee their continuing participation in such retirement program. The authority may make appropriate deductions from the employees' salaries to preserve their retirement benefits.

(e) Employees who, prior to being transferred to the authority, were members of the general pension system of the City of Pensacola and who do not elect to continue to accrue additional rights to benefits thereunder shall be entitled to the same rights under such system as would be afforded to persons who had voluntarily left the employ of the City of Pensacola as of September 30, 1981. Such rights shall be determined in accordance with the special laws governing such system, and shall include, but shall not be limited to, the right to receive a pension effective as of September 30, 1981, or such later date as the employee attains the age or length of service as an employee of the City of Pensacola as is required for eligibility to receive a pension, to retain vested rights, or to withdraw contributions, depending on the employee's length of service as of September 30, 1981. The enjoyment of such rights shall not be deemed to be a change of benefits within the meaning of section 112.63(3), Florida Statutes. The payment of such benefits as may be payable on account of service as an employee of the City of Pensacola shall be the obligation of the City of Pensacola, through its general pension and retirement fund.

(f) 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.

Section 11. Personnel appeals board.—

(a) There shall be appointed a personnel appeals board comprised of two members appointed by the authority, two members chosen by employees of

the authority classified below the level of department head, and one member appointed by the other four members. The members of the board shall serve a term of 1 year. An appointment to a vacant position on the board shall be filled in the manner of the original appointment to that position. The board shall hear appeals from suspensions, demotions, or dismissals or of employees of the authority classified below the level of department head and not designated as other key staff personnel by the authority as provided in section 13. The decisions of the board on such appeals shall be final, subject to review by the Circuit Court of Escambia County. The board may investigate and make recommendations to the executive director of the authority on major policy and procedural questions relating to personnel management and on individual grievances by employees. However, the recommendations of the board on such matters shall be advisory only. The board may employ legal counsel, and a reasonable budget for such purpose shall be provided by the authority. The executive director of the authority shall provide the administrative services required by the board.

(b) Notwithstanding anything provided herein or in any special or general act to the contrary, the rights and benefits herein granted shall be in lieu of and substitution for any rights and benefits such employees may have had under any civil service or personnel system of the City of Pensacola or Escambia County.

Section 12. Process and procedure.—

(a) Any person wishing to appeal an action of the authority that directly affects his or her substantial interests may file a petition for review within 10 days of the date the complained of action is taken. The authority shall consider such petitions for review and shall take action at a public meeting to grant or deny such petitions within 40 days of receipt.

(b) If the petition is granted, the petitioner, or his or her counsel, shall be afforded an opportunity, at a mutually convenient time and place and after reasonable written notice, to present to the authority or its designee written or oral evidence in opposition to the authority's action. If a material issue of disputed fact is involved, the authority shall appoint a hearing officer to preside. The hearing officer shall hear the evidence and shall prepare recommended findings of fact and conclusions of law for approval of the authority.

(c) Decisions of the authority shall be in writing and shall contain findings of fact and conclusions of law. A person aggrieved by a decision of the authority shall have the same rights and remedies that would have been available to him or her under general law if the action complained of had been taken by Escambia County or the City of Pensacola.

Section 13. Executive director.—The authority shall employ and fix the compensation of an executive director, who shall manage the affairs of the utilities systems under the supervision of the authority and direct the activities of the employees of the authority. The executive director shall devote his or her entire working time to the performance of his or her duties and not have outside employment or business. The executive director shall be a college graduate. The executive director must either possess a degree in

science, engineering, business management, or public administration or, alternatively, must be a licensed and registered engineer. The executive director shall have at least 6 years of experience in the field of engineering, operations, or management of a utility system of size comparable to or larger than the water and sewer system of the City of Pensacola in 1981. The authority may allow the substitution of additional years of administrative or management experience in lieu of the specific educational or professional requirements set forth above. The executive director, the assistant executive director, the department heads, and such other key staff personnel so designated by the authority shall not be included within any civil service system or be under the jurisdiction of the personnel appeals board.

Section 14. Fiscal year and budget.—The fiscal year of the authority shall begin on the first day of October and end on the last day of September of the following year. Prior to the beginning of each fiscal year, the authority shall adopt an annual budget that shall be balanced and that shall detail the anticipated expenses and revenues of the authority for the forthcoming fiscal year.

Section 15. Execution of documents; payment of bills.—All instruments in writing necessary to be executed by the authority shall be executed by the executive director upon authorization by the authority or by such other officer, agent, or employee of the authority as it may by resolution designate. The authority shall provide for the examination of all payrolls, bills, and other claims and demands against the authority to determine, before the same are paid, that they are duly authorized, in proper form, correctly computed, and legally due and payable and that the authority has funds on hand to make payment.

Section 16. Management efficiency audit.—The authority shall contract for a management efficiency audit by a private firm within 1 year of the effective date of the act, and at intervals of at least 3 years thereafter, to review program results and make recommendations for the proper, efficient, and economical operation and maintenance of the utilities systems, facilities, and functions under supervision of the authority.

Section 17. Citizens' advisory committee.—The authority shall make provision for and appoint a citizens' advisory committee or committees. The appointees to such committees shall have no personal or business ties with the authority that could be construed as a conflict of interest.

Section 18. Enforcement and penalties.—Any violation of rules or regulations of the authority pertaining to the disposal of waste or the use of the authority's systems, facilities, or services is declared to be a noncriminal violation and shall be punishable by fine, forfeiture, or penalty. Such fine, forfeiture, or penalty shall be established by resolution of the authority, and shall not exceed \$500 for each violation. However, the authority may specify, by resolution, that violation of a rule or regulation of the authority is punishable by fine, forfeiture, or penalty in an amount exceeding \$500 but not exceeding \$2,000 per day, if the authority must have authority to punish a violation of such rule or regulation by a fine, forfeiture, or penalty in an amount greater than \$500 in order for the authority to carry out a federally

mandated program. Any resolution of the authority establishing such fine, forfeiture, or penalty may provide that each day of a continuing violation shall constitute a separate violation. Violations of such authority rules and regulations may be prosecuted in the same manner as misdemeanors, or pursuant to section 5(a)(14) of this act. If such violations are prosecuted in the same manner as misdemeanors, they may be enforced by local law enforcement agencies and prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof. All fines, forfeitures, and penalties imposed for violations of authority rules and regulations shall be paid to the authority, provided that the local law enforcement agency be reimbursed from such fines, forfeitures, and penalties for its cost of enforcement.

Section 19. The provisions of this act shall be liberally construed to effectuate the purposes set forth herein.

Section 20. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application and to this end the provisions of this act are declared severable.

Section 4. Chapters 81-376, 82-390, 83-403, 83-404, 84-427, 84-428, 85-410, 86-451, 89-473, 91-349, 91-403, 92-248, 93-365, 95-497, and 97-364, Laws of Florida, and section 3 of chapter 91-335, Laws of Florida, are repealed.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor May 29, 2001.

Filed in Office Secretary of State May 29, 2001.