

Council Substitute for House Bill No. 777

An act relating to Polk County; providing definitions; providing for creation of the Polk Transit Authority; providing purpose; providing for charter amendments; providing boundaries; providing for a board of directors; providing membership, powers, functions, and duties of the board; providing powers, functions, and duties of the authority; providing authority to levy ad valorem taxes and non-ad valorem assessments; providing for the authority's fiscal year; providing for the deposit of authority funds; authorizing the authority to borrow money; providing for bonds; providing for use of authority funds; authorizing the board to adopt policies and regulations; providing for powers, duties, rights, obligations, immunities, and addition of lands to the Lakeland Area Mass Transit District; providing for liberal construction; providing severability; requiring a referendum; providing an effective date.

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

Section 1. Definitions.—As used in this act, unless otherwise specified:

(1) “Authority” means the Polk Transit Authority.

(2) “Board” and “board of directors” mean the Polk County Transit Authority Board of Directors.

(3) “County” means Polk County.

(4) “Director” means a member of the board of directors of and for the authority.

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

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

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

Section 2. Authority; creation; boundaries; charter amendments.—

(1) There is hereby created an independent special district for purposes of providing mass transit services to the citizens of Polk County, incorporating lands in Polk County described in subsection (2), which shall be a public

corporation having the powers, duties, rights, obligations, and immunities herein set forth, under the name of the Polk Transit Authority. The authority is organized and exists for the purposes and shall hold all powers set forth in this act and chapter 189, Florida Statutes.

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

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

Section 3. Purpose.—

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

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

Section 4. Governing board; quorum; creation; employment of personnel; compensation; organization; commissioners' bond.—

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

(a) Six members of the board of directors shall be appointed as follows: the Polk County Commission shall appoint three of its commissioners as members of the board; the Lakeland City Commission shall appoint two of its commissioners as members of the board; and the Winter Haven City Commission shall appoint one of its commissioners as a member of the board. Of the initial directors appointed by the Polk County Commission, one shall serve for a 1-year term, one shall serve for a 2-year term, and one shall serve for a 3-year term. Of the initial directors appointed by the Lakeland City Commission, one shall serve for a 1-year term, and one shall serve for a 2-year term. All other directors shall be initially appointed by their respective city commissions for 2-year terms. At the end of any initial term and any subsequent term, the successor shall serve for a 2-year term.

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

(c) The Haines City Commission and the Lake Wales City Commission shall, on a rotating basis for 2-year terms, appoint one of its commissioners

as a member of the board. The city commission of the city that has the greater population as of the effective date of this act shall appoint the member for the initial 2-year term.

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

(e) The Secretary of the Department of Transportation shall appoint the district one secretary, or his or her designee, as a nonvoting member of the board.

(f) In order to facilitate the consolidation of transit services in Polk County, the initial appointments to the board of the authority shall be as follows: two of the Polk County Commissioners appointed shall be the same county commissioners who serve on the governing body of the Lakeland Area Mass Transit District, an existing independent special district in Polk County (LAMTD), the two Lakeland City Commissioners appointed to the board of the authority shall be the same as two of the Lakeland City Commissioners who serve on the governing body of the LAMTD, and the Winter Haven City Commissioner appointed to the board of the authority shall be one of the Winter Haven City Commissioners who serve on the Winter Haven Area Transit Policy Board.

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

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

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

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

(4) The directors shall receive payment for actual expenses incurred while performing the duties of their office in accordance with general law governing per diem for public officials. The authority is empowered to adopt

a resolution to exceed the state rates for per diem expenses. Directors may not receive compensation for their services.

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

Section 5. Powers; functions; and duties.—

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

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

(b) To execute all contracts and other documents, adopt all proceedings, and perform all acts determined by the board as necessary or advisable to carry out the purposes of this act. The chair, vice chair, or executive director shall execute contracts and other documentation on behalf of the authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(u) To hold, control, and acquire by donation or purchase, or to dispose of any public easements, dedications to public use, platted reservations for

public purposes, or any reservations for those purposes authorized by this act and to make use of such easements, dedications, and reservations for the purposes authorized in this act.

(v) To lease, as lessor or lessee, to or from any person, firm, corporation, association, or body, public or private, facilities or property of any nature to carry out the purposes authorized in this act.

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

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

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

(z) To invest its moneys in such investments as directed by the board in accordance with state law. Such investments shall be consistent in all instances with the applicable provisions of the financing documents.

(aa) To purchase such insurance as the authority deems appropriate.

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

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

(dd) To market and promote the authority and its facilities and services.

(ee) To adopt a budget in accordance with applicable law and to appropriate and expend revenue in accordance with that budget.

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

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

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

(4) Nothing herein is intended to or shall be construed to limit the power of local self-government of a charter county or conflict with the Constitution of the State of Florida or the Polk County Home Rule Charter, which became effective on January 1, 1999.

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

(6) Requirements for financial disclosure, meeting notices, reporting, public records maintenance, and per diem expenses for directors, officers, and employees shall be as set forth in this act and chapters 112, 119, 189, and 286, Florida Statutes.

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

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

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

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

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

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

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

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

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

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

(4) The authority may also issue bond anticipation notes in connection with the authorization, issuance, and sale of bonds. The bonds may be issued as serial bonds or as term bonds or both. The authority may issue capital appreciation bonds or variable rate bonds. Any bonds, notes, or other obligations must be authorized by resolution of the authority and bear the date; mature at the time, not exceeding 40 years from their respective dates; bear interest at the rate; be payable at the time; be in the denomination; be in the form; carry the registration privileges; be executed in the manner; be payable from the sources and in the medium or payment and at the place; and be subject to the terms of redemption, including redemption prior to maturity, as the resolution may provide. If any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes, or other obligations ceases to be an officer before the delivery of the bonds, notes, or other obligations, the signature or facsimile is valid and sufficient for all purposes as if he or she had remained in office until the delivery. The bonds, notes, or other obligations may be sold at public or private sale for such price as the authority shall determine in accordance with chapter 189, Florida Statutes. Pending preparation of the definitive bonds, the authority may issue interim certificates, which shall be exchanged for the definitive bonds. The bonds may be secured by a form of credit enhancement, if any, as the authority deems appropriate. The bonds may be secured by an indenture of trust or trust agreement. In addition, the authority may delegate to an officer, official, or agent of the authority as the governing body of the authority may select, the power to determine the time; manner of sale, public or private; maturities; rate of interest, which may be fixed or may vary at the time and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of the authority. However, the amount and maturity of the bonds, notes, or other obligations and the interest rate of the bonds, notes, or other obligations must be within the limits prescribed by the governing body of the authority and its resolution delegating to an officer, official, or agent the power to authorize the issuance and sale of the bonds, notes, or other obligations.

(5) Bonds, notes, or other obligations issued under this section may be validated as provided in chapter 75, Florida Statutes.

(6) The accomplishment of the authorized purposes of the authority is in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. Since the authority will perform essential governmental functions in accomplishing its purposes, the authority is not required to pay any taxes or assessments of any kind whatsoever upon any property acquired or used by it for such purposes or upon any revenues at any time received by it. The bonds, notes, and other obligations of the authority, their transfer, and the income therefrom, including any profits made on the sale thereof, are at all times free from taxation of any kind by the state or by any political subdivision or other agency or instrumentality thereof. The exemption granted in this paragraph is not applicable to any tax imposed by chapter 220, Florida Statutes, on interest, income, or profits on debt obligations owned by corporations.

Section 10. Board action; compliance with open government laws and public records laws; authority to adopt policies and regulations.—

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

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

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

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

Section 11. Lakeland Area Mass Transit District; powers, duties, rights, obligations, and immunities; addition of lands.—

(1) Notwithstanding any provision in this act to the contrary, neither this act nor the creation of the authority shall have any effect on the powers, duties, rights, obligations, and immunities of the Lakeland Area Mass Transit District, which is an independent special taxing district in Polk County. This act is intended to comply with the provisions of Art. VIII, Section 4, of the Florida Constitution regarding transfer of powers after referendum approval or as otherwise provided by law.

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

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

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

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

Approved by the Governor June 27, 2007.

Filed in Office Secretary of State June 27, 2007.