

## CHAPTER 98-502

### House Bill No. 4103

An act relating to Alachua County; codifying and reenacting chapters 85-376 and 87-529, Laws of Florida, relating to the Alachua County Library District; repealing chapters 85-376 and 87-529, Laws of Florida, and s. 2 of chapter 90-501, Laws of Florida, relating to the Alachua County Library District; providing an effective date.

WHEREAS, chapter 97-255, Laws of Florida, amended chapter 189, Florida Statutes, relating to special districts, and created s. 189.429, Florida Statutes, requiring districts to submit a draft codified charter so that their special acts may be codified by the Legislature, NOW, THEREFORE,

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

Section 1. Short title.—This act shall be known and may be cited as the “Alachua County Library District Act.”

Section 2. Alachua County Library District; establishment; boundaries; governing board.—

(1) ESTABLISHMENT.—There is hereby created the Alachua County Library District, which is an independent special taxing district created for the purpose of providing the only library system services and facilities for all citizens of Alachua County, excluding the school library system, pursuant to this act.

(2) BOUNDARIES.—The Alachua County Library District shall be composed of all areas of Alachua County, Florida.

(3) GOVERNING BOARD.—The Governing Board of the Alachua County Library District, hereinafter referred to as the “governing board,” shall be composed of three members of the Board of County Commissioners of Alachua County, to be selected by the board, and two members of the Gainesville City Commission, to be selected by the commission, who, when acting together as the governing board, shall sit not as county or city commissioners, but as members of the governing board of the district.

Section 3. Powers of the governing board.—The governing board shall have the power to:

(1) Annually levy an ad valorem tax upon taxable real property within the district in the same manner as other county and municipal ad valorem taxes are levied, provided that:

(a) The millage allocated to annual operating and maintenance expenses of the district shall not exceed 1.5 mills.

(b) The millage allocated to debt service shall not exceed the amount necessary to pay the principal of, and interest on, bonds issued under subsections (4) and (5).

(c) The millage allocated to capital improvements shall not exceed 0.5 mill annually until April 1, 2001, and shall then be terminated. During any year in which the governing body levies ad valorem taxes for the purpose of servicing debt issued pursuant to subsection (5) of this section, the maximum annual capital improvement millage authorized by this subsection shall be reduced by the millage actually levied to service such debt.

(2) Purchase, lease, lease-purchase, construct, or otherwise acquire capital projects related to the library services and facilities of the district, and convey such capital projects to the Alachua County Library Board of Trustees in trust for the benefit of the residents in the district. Lease-purchase arrangements may include such contracts and agreements deemed necessary or convenient by the governing board; any rental or other payments required thereunder may be secured by any lawfully available funds of the district.

(3) Appropriate and expend revenue of the district, subject to the limitations of this act.

(4) Issue limited tax bonds, notes, any other certificates of indebtedness, or any form of limited tax or bond anticipation notes or certificates payable from all or any portion of the 0.5 mill capital improvement millage provided for in paragraph (1)(c), but only when the proceeds of such bonds, notes, certificates of indebtedness, or tax or bond anticipation notes or certificates are used to finance or refinance capital projects related to library services or facilities of the district. Bonds issued hereunder shall be payable from taxes to be levied on all taxable property in the district, but said taxes shall be limited to a maximum levy of 0.5 mill. In issuing such bonds or other forms of indebtedness, the governing board may pledge the faith and credit of the district for service of the debt to be incurred, up to the 0.5 mill limit.

(5) Issue bonds, notes, any other certificates of indebtedness, or any form of tax or bond anticipation notes or certificates payable from all or any portion of the ad valorem tax revenues of the district, provided

that if such bonds, notes, certificates of indebtedness, or tax anticipation notes or certificates mature more than 12 months after issuance:

(a) The issuance thereof shall be approved by a majority of the electors voting in a bond referendum conducted pursuant to law; and

(b) The proceeds thereof shall be used only to finance or refinance capital projects related to library services or facilities of the district.

Bonds or other forms of indebtedness issued pursuant to this subsection shall be payable from ad valorem taxes to be levied on all taxable property in the district without limitation as to rate or amount. In issuing such bonds or other forms of indebtedness, the governing board may pledge the full faith and credit of the district for service of the debt to be incurred.

(6) Issue revenue bonds, notes, including bond anticipation notes, or other certificates of indebtedness payable from the proceeds of any fees, charges, fines, rentals, grants, or other sources of revenue, except ad valorem taxes, which may be or may become available to the district and, in connection therewith, to:

(a) Pledge such revenues to the payment of such revenue bonds, notes, or other certificates of indebtedness;

(b) Make all customary or necessary covenants for the security of such revenue bonds, notes, or other certificates of indebtedness, including covenants to assure the adequacy of such revenues and the proper collection, holding, and disposition thereof;

(c) Agree to pay some or all expenses of maintenance and operation from sources other than pledged revenues, and not to diminish the rate of taxation available therefor;

(d) Capitalize interest and reserves in such amounts as the governing board may deem necessary;

(e) Pay all costs of issuance of such bonds, notes, or other certificates of indebtedness, including fiscal, legal, bond insurance, and printing expenses, from the proceeds of such bonds, notes, or other certificates of indebtedness or other sources; and

(f) Apply the proceeds of said revenue bonds, notes, or other certificates of indebtedness to the payment of the cost of any or all facilities or property, real or personal, including books, which said district

is empowered to acquire, including all architectural, legal, engineering, and other professional costs incurred in connection therewith, or to the refunding of previously issued revenue bonds, notes, or other certificates of indebtedness.

(7) Issue such bonds, revenue bonds, tax or bond anticipation notes, or other forms of indebtedness at such interest rate or rates as the governing board may determine appropriate.

(8) Appoint members to the Alachua County Library Board of Trustees as provided in section 5.

(9) Adopt an annual budget for the district and establish service levels which shall meet or exceed the operating standards established by Division of Library Services of the Department of State under authority contained in s. 257.15, Florida Statutes.

(10) Appropriate and convey revenue of the district to the Alachua County Library Board of Trustees for the operation and maintenance of library services and facilities. When so conveyed to the board of trustees, such revenues shall be deemed revenues of the board of trustees, to be expended by the trustees in accordance with the adopted budget and at their discretion pursuant to the powers granted under section 6, subject to limitations contained in section 4.

(11) Adopt a long-range facilities and development plan for the library district, to be known as the "Alachua County Long-Range Library Facilities and Development Plan."

(12) Exercise powers of eminent domain over private property pursuant to law, but only where such property will be used for a public purpose related to library services and facilities. This power of eminent domain shall not extend to property owned by any municipality.

(13) Provide for the management, administration, operation, supervision, oversight, and maintenance of all library facilities, and the services, programs, and functions thereof, for the benefit of the residents of the Alachua County Library District.

(14) Purchase, lease, or otherwise acquire real and personal property, and generally take all other actions regarding such property as may be necessary in the prudent management, operation, and maintenance of library district services and facilities. However, all property, real or personal, acquired by the Alachua County Library Board of Trustees, from whatever source or by whatever means, shall be deemed to be held in trust for the benefit of the residents of the district for library purposes. If the Legislature should ever rescind or dissolve, for whatever reason, all right, title, and interest of the trustees in all property then owned by the trustees, such right, title, and interest shall revert automatically to the

governing board, or its successor, to be held in trust for the benefit of the residents of the district for library purposes.

(15) Dispose of personal property as necessary for the prudent management, operation, and maintenance of library services and facilities.

(16) Provide for the employment of personnel and all matters relative thereto through the development of a personnel system structured to the operation and development of a library district in accordance with current Alachua County Personnel Regulations.

(17) Retain attorneys, accountants, architects, engineers, and other consultants and professionals, pursuant to applicable general law.

(18) Contract with any county, city, or other public body for the provision of library services within or outside the district, provided that library services outside the district shall not be subsidized by the ad valorem revenues of the district.

(19) Apply for and accept any grant of money or property from any governmental body or private organization and enter into contracts incidental thereto.

(20) Adopt rules for the regulation of its affairs and the conduct of its business and perform all other acts necessary to enable the governing board to properly carry out the purposes of this act.

Section 4. Use of tax revenues; supplemental appropriations and in-kind services.—Ad valorem tax revenue of the district shall be used for the following purposes only:

(1) Operation and maintenance expenses of library district services and facilities.

(2) Capital expenditures related to library district services and facilities.

(3) Servicing debt incurred pursuant to this act.

Notwithstanding any other provision of this act, any county or city may appropriate, and the Alachua County Library Board of Trustees may accept and expend, funds for library facilities, services, programs, and operations which are supplemental to ad valorem tax revenues otherwise collected pursuant to this act. Further, any county or city may provide to the board of trustees services and in-kind contributions of any nature whatsoever in support of library facilities, services, programs, and operations.

Section 5. Alachua County Library Board of Trustees; establishment and purpose; appointment of members, terms, removal, and vacancies; compensation; quorum, rules of procedure, and seal.—

(1) ESTABLISHMENT AND PURPOSE.—There is hereby established the Alachua County Library Board of Trustees, a public body corporate and politic, hereinafter referred to as the “board of trustees.” The board of trustees shall be deemed a public instrumentality, and exercise by the trustees of the powers conferred by this act shall be deemed the performance of an essential public function.

(2) APPOINTMENT OF MEMBERS, TERMS, REMOVAL, AND VACANCIES.—The board of trustees shall consist of seven members appointed by the governing board, three of whom shall be selected from a group of five persons nominated by the Board of County Commissioners of Alachua County, three of whom shall be selected from a group of five persons nominated by the Gainesville City Commission, and one of whom shall be selected from a group of three persons nominated by the organization representing the other municipalities of Alachua County.

(a) Upon expiration of initial terms, all members shall serve terms of 3 years, except that each member shall continue to serve beyond his or her term until a successor is nominated and appointed in the same manner as provided for initial appointments, and the term of the successor shall be reduced by the amount of the predecessor’s holdover. Nominations shall be submitted within 90 days after the expiration of a term. No member shall serve more than two full terms consecutively, or more than 8 consecutive years. No person employed by either Alachua County or the City of Gainesville shall serve on the board of trustees during the time of such employment. Further, no elected official of any county or municipality may serve on the board of trustees during the term of elected office.

(b) Any trustee may be removed by majority vote of the governing board for good cause affecting his or her ability to perform his or her duties as a member, or for misfeasance, malfeasance, or nonfeasance in office, but only after a hearing at which the trustee is given the right to present evidence in his or her own behalf and only upon a finding by majority vote of the governing board that good cause for removal affecting the member’s ability to perform the duties as a member exists, or upon a finding that the member is guilty of misfeasance, malfeasance, or nonfeasance in office.

(c) Within 90 days after the occurrence or discovery of a vacancy on the board of trustees, by removal or otherwise, the Board of County Commissioners of Alachua County, the Gainesville City Commission, or the organization representing the other municipalities within the county, as appropriate, shall nominate a group of three persons from which an individual shall be selected to fill the vacancy, who shall be appointed by the governing board to serve during the unexpired portion of the term.

(d) If required nominations are not received by the governing board within the 90-day period specified in paragraph (a) or paragraph (c), the governing board shall be authorized to make the appointment or appointments, at its discretion, for which such nominations were required.

(3) COMPENSATION.—Trustees shall serve without compensation, except that they may be reimbursed for reasonable travel and per diem expenses incurred in the course of their duties and responsibilities as trustees, on behalf of the governing board or otherwise, in engaging in the business of the district. Any such reimbursement for travel or per diem expenses shall be in amounts authorized pursuant to s. 112.061, Florida Statutes.

(4) QUORUM, RULES OF PROCEDURE, AND SEAL.—A quorum shall consist of four members of the board of trustees, and official action shall be taken only upon majority vote of the trustees present and voting. The board of trustees shall adopt bylaws for election of officers and for the conduct of orderly proceedings and shall adopt a common seal for certification of its actions.

Section 6. Powers of the Alachua County Library Board of Trustees.—The board of trustees shall have the power to:

(1) Review annually the Alachua County Long-Range Library Facilities and Development Plan, and recommend amendments to the governing board.

(2) Develop and submit to the governing board an annual Library Services Level Plan.

(3) Develop and submit to the governing board for its approval an annual library budget, based on the Library Services Level Plan.

(4) Provide a recommendation to the governing board whenever a library director is to be selected, after first advertising for the position and conducting interviews, such recommendation to contain a list of three potential candidates from which the governing board may choose, and conduct an annual review and evaluation of the person occupying the position of library director, submitting an evaluation report to the governing board.

(5) In accordance with the policy of the district, receive gifts of money or property and submit the same with recommendations to the governing board for acceptance and direction as to the manner in which the governing board wishes such money or property to be utilized in providing library facilities, materials, or other library-oriented programs; spend money, grants, proceeds, or gifts; and administer any other form of property provided to the district by a gift, trust, deed, or will, pursuant to the direction provided by the governing board.

(6) Serve as agent for, and enter into contracts on behalf of, the governing board, but only to the extent expressly approved by the governing board.

(7) Adopt and implement rules, regulations, policies, and procedures, with the approval of the governing board, for the management, operation, and maintenance of library services and facilities in the district, including, but not limited to, lending policies, gift policies, and book selection policies.

(8) With approval of the governing board, set fees, fines, and other charges in connection with the operations and services of the Alachua County library system.

(9) Receive and expend moneys, sue and be sued, and generally perform all other acts necessary or incidental to the express powers and duties granted or imposed by this act or by any instrument of trust.

(10) Lease, grant, sell, or otherwise convey real property upon approval of the governing board.

Section 7. Duties of the Alachua County Library Board of Trustees.—

(1) Each member of the board of trustees, before entering upon his or her duties, shall take and subscribe to the oath or affirmation required by the State Constitution. A record of each oath shall be filed with the Department of State and with the Clerk of Alachua County.

(2) The board of trustees shall perform fully all duties prescribed by any trust instruments which may from time to time convey property to the trustees from the governing board or from other public or private persons or entities, but only to the extent that such trust instruments and the duties prescribed therein are not inconsistent with this act.

(3) The board of trustees shall be bound by all covenants securing any revenue bonds issued from time to time by the governing board.

Section 8. Support services.—

(1) The governing board shall arrange for the provision of budgeting, building and grounds maintenance, personnel, purchasing, and similar general government services to the library district.

(2) The Alachua County Attorney shall provide legal services to the library district.



(3) Accounting and treasury services for the board of trustees shall be provided in the same manner as such services are provided for the Alachua County General Fund.

(4) The audit of the library district's financial statements shall be performed as a part of the annual audit of Alachua County's financial statements.

Section 9. Entitlement of district residents to library services; enforcement; limitation on trustee liability.—

(1) ENTITLEMENT OF DISTRICT RESIDENTS TO LIBRARY SERVICES.—For as long as the governing board levies an ad valorem tax pursuant to section 3 for the operation and maintenance of library services and facilities, all residents of the district shall be entitled to use of the general library services and facilities without charge. However, nothing in this subsection shall be construed as prohibiting the board of trustees from imposing fines for delinquent library materials or establishing charges for library services and facilities which are specialized and of a type not typically used by the general public. Further, such entitlement shall cease and shall not apply if and when ad valorem tax revenues are used solely for servicing debt incurred in the acquisition or refinancing of capital projects.

(2) ENFORCEMENT.—Except as otherwise provided by the trust instrument, the provisions and requirements of any trust for which the board of trustees acts as trustee may be enforced only by the governing board.

(3) LIMITATION ON TRUSTEE LIABILITY.—Absent personal negligence, no member of the Alachua County Library Board of Trustees shall incur any personal liability for the tortious acts or violations of fiduciary duty of any employee of the board of trustees.

Section 10. Severability.—If any portion of this act is held invalid or unconstitutional by any court of law, all remaining portions of the act shall remain in full force and effect if, and only if, the intent of the Legislature can continue to be effected.

Section 11. Prohibition on taxing power; future referenda.—

(1) PROHIBITION ON TAXING POWER.—As long as the governing board levies the ad valorem tax authorized by this act, the Board of County Commissioners of Alachua County, the Gainesville City Commission, and all other taxing authorities in the Alachua County Library District are hereby prohibited from levying any tax for library facilities, services, or other library purposes, excluding the library facilities, services, and other library purposes of the school library system.

(2) REFERENDA ON AUTHORITY TO ISSUE BONDS, ETC.—In the event that the question as to the authority to issue bonds or other forms of indebtedness under subsection (5) of section 3 is not approved at a referendum held pursuant thereto, the governing board may, in its discretion, call subsequent referenda on such question as authorized by this act.

Section 12. Chapters 85-376 and 87-529, Laws of Florida, are repealed.

Section 13. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 28, 1998.

Filed in Office Secretary of State May 27, 1998.