

CHAPTER 99-459

House Bill No. 1501

An act relating to the City of Jacksonville and the Jacksonville Electric Authority; amending chapter 80-513, Laws of Florida, as amended,

to change the name of Jacksonville Electric Authority to JEA; correcting references to other laws; repealing superfluous provisions; providing an effective date.

WHEREAS, by exercise of home rule authority in Ordinance 98-253-E, the Council of the City of Jacksonville amended Article 21 of Chapter 92-341, Laws of Florida, as amended, to change, among other things, the name of Jacksonville Electric Authority to JEA, and

WHEREAS, similar amendments should be made to Chapter 80-513, Laws of Florida, as amended by Chapter 82-312, Laws of Florida, for purposes of consistency and conformity, NOW, THEREFORE,

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

Section 1. Section 1 of chapter 80-513, Laws of Florida, as amended by chapter 82-312, Laws of Florida, is amended to read:

Section 1. ~~JEA The Jacksonville Electric Authority~~, City of Jacksonville, Duval County, Florida (~~hereinafter referred to as "Authority"~~) is hereby authorized to acquire, build, construct, erect, extend, enlarge, lease, improve, furnish, equip, own and operate as a separate bulk power supply utility or system, electric generating plants and transmission lines and interconnections and substations for the generation, transmission and exchanging of electric power and energy both within and without the boundaries of the consolidated City of Jacksonville and within and without the state (~~hereinafter called "system" or "project"~~) for the purposes of providing wholesale or retail energy or power to customers within Duval County or counties adjacent thereto. Nothing herein shall prohibit the ~~JEA Authority~~ from (i) selling power and energy from a project to a joint participant in such project or to any electric utility located within or without the state pursuant to a coordination or interchange agreement with such utility or (ii) providing transmission service to, or entering into coordination or interchange agreements with, any electric utility located within or without the state. ~~JEA The Authority~~ may establish one or more such separate systems or projects.

Section 2. Subsection (b) of section 2 of chapter 80-513, Laws of Florida, as amended by chapter 82-312, Laws of Florida, is amended to read:

Section 2. ~~JEA The Authority~~:

(b) May contract for a period not exceeding ~~40 forty (40)~~ years for:

(i) The purchase by take-or-pay contracts, or otherwise, of capacity or energy, or both, in any quantity from any project owned or operated directly or indirectly under lease, by any person, trust, or corporation, including contracts or other arrangements between or among the existing electric system of ~~JEA the Authority~~ and one or more separate systems of ~~JEA the Authority~~ for the allocation to said existing electric system and/or any one or more of such systems of the output, capacity, energy or services of projects of ~~JEA the Authority~~, and for the allocation of ~~JEA's the Authority's~~ costs related to such projects, on a take-or-pay basis or otherwise;

(ii) The sale of capacity or energy, or both, in any quantity from any project in which ~~JEA the Authority~~ has an ownership or leasehold interest;

Section 3. Section 3 of chapter 80-513, Laws of Florida, as amended by chapter 82-312, Laws of Florida, is amended to read:

Section 3. (a) ~~JEA The Authority~~ is authorized, by resolution, to issue revenue bonds from time to time (hereinafter referred to as "bonds") to pay all or part of the cost of any project as above described or for the purpose of refunding bonds issued for such purpose. Such bonds may be in such denomination or denominations, may bear interest at such rate or rates as are currently established by s. 215.84, Florida Statutes, or according to said section as it may from time to time be amended, and shall mature at such time or times not exceeding ~~40 forty (40)~~ years from their date or dates, all as may be determined by ~~JEA the Authority~~. The bonds may be made redeemable before maturity, at the option of ~~JEA the Authority~~, at such price or prices and under such terms and conditions as may be fixed by ~~JEA the Authority~~ prior to their issuance. ~~JEA The Authority~~ shall determine the form of bonds, including any interest coupons to be attached thereto, the manner of execution of the bonds, and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State of Florida. The resolution authorizing the issuance of the bonds shall contain such provisions relating to the use of the proceeds from the sale of the bonds and for the protection and security of holders of the bonds, including their rights and remedies, and the rights, powers, privileges, duties, and obligations of ~~JEA the Authority~~ with respect to the same, as shall be determined by ~~JEA the Authority~~. In case any officer whose signature or facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this act shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the laws of the State of Florida. The bonds may be issued in coupon or in fully registered form, or both, as ~~JEA the Authority~~ may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The bonds shall be sold at public or private sale at such price or prices as ~~JEA the Authority~~ shall determine to be in its best interest; provided, however, that the issuance of such bonds shall be subject to the limitations or conditions contained in s. 215.84, Florida Statutes, and provided, further, that any price less than 100 percent of par value shall be subject to s. 215.84, Florida Statutes, but in no event shall any such bonds be sold at less than 95 percent of par value.

(b) When bonds have been authorized by resolution of ~~JEA the Authority~~, bond anticipation notes may be authorized and issued from time to time, to temporarily finance the costs, or any part thereof, of the project for which the bonds are to be issued, in anticipation of the issuance of said bonds. Such bond anticipation notes (hereinafter called "notes") which shall include bond anticipation notes which may be issued as part of a tax exempt commercial

paper program, or other short-term note financing program, shall be authorized by a resolution of ~~JEA the Authority~~ which resolution shall fix the maximum amount of notes to be issued, the maximum interest rate such notes may bear, subject to the provisions of s. 215.84, Florida Statutes, the denomination or denominations thereof, the redemption provisions thereof, which may include provisions for payment on demand of the purchaser or purchasers, and such other details, including the form of such notes, provisions for the renewal thereof and the security for payment thereof as shall be determined by ~~JEA the Authority~~. Such notes shall have such qualities and incidents of negotiable instruments and shall be executed in the manner provided herein for the bonds and shall be payable from the proceeds of said bonds unless sooner paid from the revenues of the project for which they are issued. Each such note, including any renewals thereof, shall mature not later than ~~5 five~~ (5) years from the initial date of issuance of such note authorized by such resolution. When authorized by resolution such notes, including renewals, may be sold by officers of ~~JEA the Authority~~ at public or private sale and delivered by such officers to the purchaser or purchasers thereof within the limitations and restrictions contained in such resolution.

Section 4. Section 4 of chapter 80-513, Laws of Florida, is amended to read:

Section 4. The principal of and interest on the bonds issued under this act may be payable from the revenues derived from the operation of the system, and from other funds legally available for such purpose; provided, however, that neither the bonds issued under this act, nor the interest thereon, shall have any lien upon any property of or in the City of Jacksonville or any property of ~~JEA the Authority~~ except the revenues and other legally available funds, if any, pledged for the payment thereof.

Section 5. Section 6 of chapter 80-513, Laws of Florida, is amended to read:

Section 6. The cost of the project may be deemed to also include (but not be limited to), the cost of acquisition or lease of sites, rights-of-way, legal, engineering, fiscal, architectural fees, and fees of any other experts or consultants employed by ~~JEA the Authority~~, engineering, architectural, or environmental studies, surveys, plans, and designs for the system; applications, licenses, permits, and approvals required by governmental agencies, interest during construction and for some reasonable period thereafter; prepaid facilities charges, repayment of loans, notes, and advances; provisions for debt service and other reserves; bond discount; the expense of the issuance, authorization, and sale of said bonds including advertisement, notices, and proceedings in connection therewith; and such other expenses as are necessary, incidental or appurtenant to the purposes authorized hereunder. ~~JEA The authority~~ shall make payment to any taxing unit other than Duval County in which it locates an electric generating plant. The payment shall be in the amount agreed to by ~~JEA the authority~~ and the taxing unit or in the absence of such an agreement in an amount equal to the ad valorem taxes which would be paid to the taxing unit on the plant by a private utility. ~~JEA The authority~~ shall also be subject to all county ordinances and regulations which would apply to a private utility.

Section 6. Section 8 of chapter 80-513, Laws of Florida, as amended by chapter 82-312, Laws of Florida, is amended to read:

Section 8. Bonds shall be issued under the provisions of this act only upon approval by two-thirds of the membership of the Council of the City of Jacksonville (hereinafter referred to as "council") except that no such approval shall be required for the issuance of bonds to complete the payment of the cost of a project for which bonds have previously been issued with such approval of the council, to pay the cost of capital improvements to such a project or to refund bonds issued for such a project; and any agreements or contracts entered into by ~~JEA the Authority~~ under section 2(a) of this act shall be subject to the prior consent and approval by two-thirds of the membership of the council except that no such approval shall be required for the amendment of any such agreement or contract. Notwithstanding the foregoing, ~~JEA the Authority~~ may not execute any material amendment to such an agreement or contract until it shall have been submitted to the council and the mayor for their consideration; the council and the mayor may consider the proposed material amendment for a period of up to ~~30~~ ~~thirty~~ (30) days and may forward their comments, if any, to ~~JEA the Authority~~ and ~~JEA the Authority~~ may not formally execute such a proposed amendment until after this ~~30-day~~ ~~thirty~~ (30) day period shall have expired. Should both the mayor and the council desire to waive this ~~30-day~~ ~~thirty~~ (30) day requirement with regard to any particular amendment after having received it, then they may communicate this desire to waive comment in writing to ~~JEA the Authority~~ which may proceed to execute the amendment so long as such waiver has been received from both the mayor and the council. Any such agreement or contract approved by two-thirds of the membership of the council shall constitute a contract which shall not be impaired by subsequent legislative action of the council.

Section 7. Section 9 of chapter 80-513, Laws of Florida, is amended to read:

Section 9. This act shall not be deemed to repeal or supersede any other law or laws, including ~~part I, chapter 163 and part II, chapter 361, Chapter 163, Part I and 361, Part II, Florida Statutes~~, but shall be supplemental and additional authority to ~~JEA the Authority~~ to carry out and perform the powers provided by this act, and shall be liberally constructed to effect the purposes thereof. For the purposes of this act, ~~JEA the Authority~~ shall be deemed to be a public agency within the meaning of chapter 163, part I, Florida Statutes.

Section 8. Section 10 of chapter 80-513, Laws of Florida, as amended by chapter 82-312, Laws of Florida, is amended to read:

Section 10. The provisions of this act are intended to implement the provisions of s. 10, Article VII of the State Constitution and in establishing a joint electric supply project pursuant to this act, ~~JEA the Authority~~ may give, lend or use its credit to aid any joint participant in such project but the City of Jacksonville may not give, lend, or use its taxing power, or its full faith and credit, to aid any joint participant in such project. Any bonds issued pursuant to the provisions of this act, and the interest thereon, shall

be exempt from any and all taxation by the State of Florida, any law to the contrary notwithstanding; provided, however, that any interest income or profits on debt obligations issued hereunder shall not be exempt from the tax imposed by chapter 220, Florida Statutes. The private interest portion of any such joint project shall be subject to all taxation in accordance with its proportionate interest in such project.

Section 9. Section 11 of chapter 80-513, Laws of Florida, as amended by chapter 82-312, Laws of Florida, is amended to read:

Section 11. The auditor of the Council of the City of Jacksonville shall conduct an annual audit of the fiscal operations of each separate system of ~~JEA the Authority~~; provided, however, that notwithstanding anything contained in the chapter 92-341, Laws of Florida, as amended, being the Charter of the City of Jacksonville (the "Charter") or the Ordinance Code of the City of Jacksonville to the contrary, no audit by the auditor of the council shall be required with respect to any system consisting of ~~JEA's the Authority's~~ interest in any joint electric power project for which an annual audit by an independent auditor is required by the terms of an agreement entered into under section 2(a) of this act. However, an audit may be performed by the council auditor and if performed, the audit may examine all accounting systems, accounts and other records of financial transactions of the joint electric power project which are maintained by ~~JEA the Authority~~, or which are maintained by any committee referred to in section 13 of chapter 80-513, Laws of Florida, as created by this act. Notwithstanding anything contained or implied in this act, the Charter or the Ordinance Code of the City of Jacksonville to the contrary, no audit by the auditor of the council shall be conducted with respect to any accounting systems, accounts, or other records separately maintained by any other participant in such a project, nor shall such an audit extend to the interests of any other participant in such a project, except to the extent any agreement entered into pursuant to section 2 of this act expressly provides for audits by the council auditor. The auditor shall submit a printed and public report on such audit to the Council of the City of Jacksonville.

Section 10. Subsections (1), (2), and (4) of section 12 of chapter 80-513, Laws of Florida, as created by section 8 of chapter 82-312, Laws of Florida, are amended to read:

Section 12. In order to enable ~~JEA the Authority~~ to implement and accomplish any joint electric power project with respect to which ~~JEA the Authority~~ has entered into an agreement under section 2(a) of this act, ~~JEA the Authority~~ shall have the following powers, in addition to powers otherwise conferred:

(1) To employ personnel whose duties shall relate exclusively to any such joint electric power project. Such employees shall not be employees of the City of Jacksonville, or members of the Civil Service System of the City of Jacksonville, nor shall they participate in the pension fund of the city notwithstanding any provision of the Charter or the Ordinance Code of the City of Jacksonville to the contrary. ~~JEA The Authority~~ may fix and pay to such employees such compensation and provide to them such other employee

rights and benefits as it shall determine. In addition, ~~JEA the Authority~~ may allocate to the joint electric power project the services of any of its other employees, whether appointed or within the Civil Service System of the City, from time to time on a temporary basis in order to provide necessary support or assistance to the joint electric power project. Such temporary assignment of any civil service employee to a project shall not exceed ~~60 sixty (60)~~ consecutive days in duration. In the event that an employee of ~~JEA the Authority~~ who is a member of the classified civil service system of the city and is participating in the 1937 Employees' Pension Fund of the city shall become a full-time employee of any such joint electric power project after the effective date of this act, then such employee shall no longer be a member of the city civil service system and shall relinquish all rights and privileges inuring to employees within said system and shall thereafter be entitled only to those benefits as shall be afforded other full-time employees of the joint electric power project. However, any employee who shall leave the city civil service system in order to become an employee of such a project prior to January 1, 1990, may, at his or her option, continue as a member of the 1937 Employees' Pension Fund and upon continuation shall make the required employee contribution thereto and the matching contribution which had theretofore been paid into this fund by ~~JEA the Authority~~ on behalf of such employee shall thereafter be assumed and paid by the project. No person who is receiving time service pension payments from any pension fund of the city may become an employee of a joint electric power project and continue to receive payments from the fund during such period of employment. However, should any such person whose pension benefits have been so terminated cease his employment with the joint electric power project, he shall immediately become qualified for and be entitled to receive those benefits he had previously been entitled to.

(2) To establish or approve, and to implement, policies and procedures providing for the letting of contracts for the procurement and disposal of property, work, professional and nonprofessional services, products, supplies, equipment, and materials of any nature needed for the financing, construction, and operation of any such joint electric power project. Such policies and procedures shall govern exclusively ~~JEA's the Authority's~~ contracting and procurement and disposal practices in connection with the joint electric power project notwithstanding any provision of the Charter or the Ordinance Code of the City of Jacksonville to the contrary.

(4) To provide for the establishment and revision of construction and operating budgets for such joint electric power project. ~~JEA The Authority~~ shall not be required to submit to the council for approval any budgets relating to the joint electric power project. All such budgets shall become effective without approval of the council notwithstanding any provision of the Charter or the Ordinance Code of the City of Jacksonville to the contrary.

Section 11. Paragraph (1) of subsection (a) and subsection (b) of section 13 of chapter 80-513, Laws of Florida, as created by section 9 of chapter 82-312, Laws of Florida, are amended to read:

Section 13. (a) In order to enable ~~JEA the Authority~~ and any other electric utility or group of electric utilities which enter into an agreement for

a joint electric power project under section 2(a) to coordinate their joint activities with respect to the construction and operation of such joint electric power project in an efficient manner, ~~JEA the Authority~~ shall have the following powers, in addition to the powers otherwise conferred:

(1) Subject to the provisions and limitations contained in subsection (b), to provide in the agreement for the management of the construction and operation of the joint electric power project by one or more committees composed of representatives of parties to the agreement, and to designate one or more representatives of ~~JEA the Authority~~ to serve on any such committee.

(b) ~~JEA The Authority~~ may delegate to any committees referred to in subsection (a), or to any party to the agreement designated as agent in accordance with subsection (a), or to any officer or employee of ~~JEA the Authority~~, the responsibility and authority to undertake activities in furtherance of the construction and operation of the joint electric power project to such extent as ~~JEA the Authority~~, in its discretion, may deem proper and appropriate or to such extent as shall be provided in the agreement; provided, however, that, to the extent such activities involve discretionary authority, any such committee, or agent or officer or employee of ~~JEA the Authority~~, shall be authorized to undertake such activities only in accordance with policies and procedures approved by ~~JEA the Authority~~ and in a manner consistent with prudent utility practice.

Section 12. Section 14 of chapter 80-513, Laws of Florida, as created by section 10 of chapter 82-312, Laws of Florida, is amended to read:

Section 14. The financing, construction, and operation of any joint electric power project undertaken pursuant to this act shall be governed and controlled exclusively by the provisions of this act, the terms of the agreement with respect to such joint electric power project entered into by ~~JEA the Authority~~ pursuant to section 2(a) and the provisions of the resolution or resolutions of ~~JEA the Authority~~ securing the bonds issued by ~~JEA the Authority~~ to finance its share of the cost of the project. No provision of the Charter or the Ordinance Code of the City of Jacksonville shall apply to or impose any requirement on ~~JEA the Authority~~ relative to the financing, construction, ownership, and operation of, or use or application of the revenues derived by ~~JEA the Authority~~ from, any joint electric supply project authorized pursuant to this act, including, but not limited to, sections ~~5.07~~ 5.06, 5.10, 5.11, 14.01 ~~15.03~~, 14.02 ~~15.04~~, 15.05, 21.04(1) ~~30.04(10)~~, 21.07(c) ~~30.07(3)~~, 21.07(d) ~~30.07(4)~~, 21.07(e) ~~30.07(5)~~, 21.09 ~~30.09~~ and Articles 18 and 19 of the Charter and Chapter ~~126~~ 130 of the Ordinance Code. The council shall enact no law the provisions of which would conflict with, or impair the rights of any party to, such agreement or would conflict with any such bond resolution or impair the rights of the holders of such bonds.

Section 13. Section 15 of chapter 80-513, Laws of Florida, as created by section 11 of chapter 82-312, Laws of Florida, is amended to read:

Section 15. The council shall enact no law which in any manner would limit or impair ~~JEA the Authority~~ in the exercise of the powers granted to it by this act. Any provision of the Charter or the Ordinance Code of the City

of Jacksonville, or of any special act relating to the City of Jacksonville or ~~JEA the Authority~~, which is in conflict with the provisions of this act is hereby superseded by the provisions of this act, and is hereby repealed, but only to the extent of such conflict.

Section 14. Section 16 of chapter 80-513, Laws of Florida, as created by section 12 of chapter 82-312, Laws of Florida, is amended to read:

Section 16. The council is hereby directed to, and it shall, make the annual appropriations necessary for ~~JEA the Authority~~ to fulfill its contractual obligations to make any and all payments required by the terms of any agreement entered into pursuant to section 2 of this act or by the provisions of any resolution of ~~JEA the Authority~~ securing bonds issued to finance its share of the cost of any project authorized by this act, but the council shall not be required to make such appropriations from the general fund or any other funds or moneys of the City of Jacksonville other than revenues and other available funds of ~~JEA the Authority~~.

Section 15. Section 17 of chapter 80-513, Laws of Florida, as created by section 13 of chapter 82-312, Laws of Florida, is repealed.

Section 16. Section 18 of chapter 80-513, Laws of Florida, as created by section 14 of chapter 82-312, Laws of Florida, is renumbered as section 17.

Section 17. Sections 19 and 20 of chapter 80-513, Laws of Florida, renumbered by section 7 of chapter 82-312, Laws of Florida, are renumbered as sections 18 and 19, respectively.

Section 18. This act shall take effect upon becoming a law.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.