

**IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT OF FLORIDA**

GAINESVILLE REGIONAL UTILITIES
AUTHORITY,

Petitioner,

v.

Case No.
L.T. Case No. 24-CA-2932

CITY OF GAINESVILLE, FLORIDA, a
municipal subdivision of the State of
Florida, and KIM A. BARTON, in her
official capacity as the Supervisor of
Elections for Alachua County, Florida,

Respondents.

**EMERGENCY PETITION FOR CONSTITUTIONAL WRIT TO
PREVENT DISSOLUTION OF PETITIONER ON NOVEMBER 6, 2025**

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PRELIMINARY STATEMENT

This Emergency Petition for Constitutional Writ to Prevent Dissolution of Petitioner on November 6, 2025, pertains to Petitioner Gainesville Regional Utilities Authority's pending appeal in this Court – *Gainesville Regional Utility Authority v. City of Gainesville*, Case No. 1D2025-1364 (“GRUA’s Pending Appeal”). (App. 29-36).¹ If this Court denies this Emergency Petition, Petitioner Gainesville Regional Utilities Authority (“GRUA”) will cease to exist on November 6, 2025, and, thereby, will be deprived of its right to have this Court render a decision in GRUA’s Pending Appeal in Case No. 1D2025-1364.

At issue in GRUA’s Pending Appeal in Case No. 1D2025-1364 is whether the Gainesville City Commission has the legal authority to hold a referendum to effectively repeal the Florida Legislature’s Special Act (Chapter 2023-348, *Laws of Florida*), by amending the City of Gainesville’s Charter (“City’s Charter”) to dissolve GRUA. The Florida Legislature created GRUA to exclusively manage, operate, and control the Gainesville Regional

¹ References to the “Appendix” filed with this Emergency Petition for Constitutional Writ to Prevent Dissolution of Petitioner on November 6, 2025, will be denoted in parentheses by “App.” followed by the appropriate bates stamp page number – e.g., “(App. 33).”

Utilities (“GRU”), expressly removing management, operation, and control from the Gainesville City Commission. (App. 21-28).

On June 12, 2025 – after GRUA filed its Notice of Appeal in Case No. 1D2025-1364 – the Gainesville City Commission adopted Ordinance No. 2025-416, which authorized a special election referendum to be held on November 4, 2025, again proposing to amend the City’s Charter, undo the Special Act, and dissolve GRUA.² (App. 5-20). The November 4 special election referendum passed, and absent judicial intervention, GRUA will be dissolved on November 6, 2025, before its pending appeal in Case No. 1D2025-1364 is decided – thereby circumventing the jurisdiction of this Court and potentially rendering this controversy moot.

Consequently, GRUA seeks issuance of a Constitutional Writ to prevent the Gainesville City Commission from dissolving GRUA before this Court decides whether the Gainesville City Commission has the legal authority to do so. Such a Constitutional Writ will maintain the status quo by ensuring that GRUA will continue to exist while this Court decides GRUA’s Pending Appeal in Case No. 1D2025-1364.

² It must be noted that the City had no obligation to schedule the special election referendum on November 4, 2025. Rather, the City could have opted to schedule the special election referendum **after** this Court rendered its decision in GRUA’s Pending Appeal in Case No. 1D2025-1364.

BASIS FOR INVOKING THIS COURT'S JURISDICTION

Article V, section 4(b)(3) of the Florida Constitution authorizes this Court to issue “other writs necessary to the complete exercise of its jurisdiction.” This Court’s “authority to issue ‘other writs’ is similar to the Supreme Court’s ‘all writs’ power found in Art. V, § 3(b)(7).” *Cash v. Smith*, 465 So. 2d 1294, 1296 (Fla. 1st DCA 1985). These writs serve to preserve a court’s ability to decide a case properly before it. See *Williams v. State*, 102 So. 3d 669, 669-70 (Fla. 1st DCA 2012).

For example, in *Petit v. Adams*, 211 So. 2d 565 (Fla. 1968), the Florida Supreme Court used such a writ to maintain the status quo and prevent a party’s actions that would have rendered the case moot. *Id.* at 566 (exercising all writs jurisdiction to halt the destruction of election records that would render issue moot, despite questioning whether court even had jurisdiction over case); see also *Amends. to Fla. R. Crim. P. 3.853(d)(1)(A) (Postconviction DNA Testing)*, 857 So. 2d 190, 190-91 (Fla. 2003) (granting emergency petition and holding deadline in statute in abeyance in order to avoid mootness).

Similarly, in *League of Women Voters of Florida v. Data Targeting, Inc.*, 140 So. 3d 510 (Fla. 2014), the Florida Supreme Court granted such a writ

to maintain the status quo, preserve jurisdiction, and prevent irreparable harm. *Id.* at 514. Concurring with the opinion, Judge Lewis emphasized:

[T]his issue will become moot due to the time sensitive nature of the proceedings, and there will be no adequate remedy to correct a possible manifest injustice. Therefore, utilization of the doctrine of all writs to preserve the status quo is unquestionably within the parameters of our authority. This is the only way the validity and operation of our democratic system of government in Florida—and public faith in that system—can be protected.

Id. at 516 (Lewis, J., concurring) (citations omitted).

Because it is “a form of ancillary power,” the all writs provision may be “used to obtain a stay or injunction to preserve the status quo of a proceeding” that is pending in this Court. See Philip J. Padovano, *Florida Appellate Practice* § 3:18 (2025 ed.). “The most common occasion for the invocation of the power to issue ‘all writs’ in Florida is the perceived necessity to preserve the status quo pending the review of some issue by the court from which the writ is sought.” Robert T. Mann, *The Scope of the All Writs Power*, 10 Fla. St. U. L. Rev. 197, 200 (1982).

FACTS UPON WHICH THE PETITIONER RELIES

Petitioner GRUA is a statutory regional utilities authority organized under the laws of the State of Florida, with its principal address being 301 SE 4th Avenue, Gainesville, Florida 32601. (App. 63).

Respondent City of Gainesville, Florida (“City”), is a Florida municipal corporation organized under the laws of the State of Florida, with its principal address being 200 E. University Ave, Gainesville, Florida 32601. (App. 64).

Respondent Kim A. Barton is the Supervisor of Elections for Alachua County, Florida (“Supervisor of Elections”), with her principal address being 515 N. Main Street, Suite 300, Gainesville, Florida 32601. (App. 64).

In 1912, the City established its own publicly owned electric system which supplemented the City water and wastewater system. This entity became known as the Gainesville Regional Utility (“GRU”). (App. 65).

On or about July 1, 2023, C.S./H.B. 1645 (“Special Act”) became effective. See Ch. 2023-348, Laws of Fla. Pursuant to the Special Act, the Florida Legislature:

- A. Amended the City’s Charter to create Article VII entitled “Gainesville Regional Utilities Authority.”
- B. Created GRUA for the “express purpose of managing, operating, controlling, and otherwise having broad authority with respect to the utilities owned by the City of Gainesville.”
- C. Granted GRUA the power to manage, operate, and control the utilities, and to do all things necessary to effectuate an orderly transition of the management, operation, and control of the utilities from the Gainesville City Commission to GRUA.

- D. Authorized GRUA “to establish and amend the rates, fees, assessments, charges, rules, regulations, and policies governing the sale and use of services provided through the [City’s municipal] utilities.”
- E. Mandated that GRUA “shall be free from direction and control of the Gainesville City Commission.”

(App. 21-28). Pursuant to the Special Act, GRUA is managed by five (5) members appointed by the Governor. (App. 23-24).

On June 18, 2024, the Gainesville City Commission passed Ordinance No. 2024-448 to hold a referendum regarding whether to amend the City’s Charter and effectively repeal the Special Act. (App. 107-20). Such repeal would dissolve GRUA and return control of GRU to the Gainesville City Commission. (App. 107-20).

On September 10, 2024, GRUA filed an action for declaratory judgment and injunctive relief challenging the Gainesville City Commission’s efforts to dissolve GRUA. *See Gainesville Reg’l Util. Auth. v. City of Gainesville*, No. 24-CA-2932 (Fla. 8th Cir. Ct.). (App. 63-130).

On May 20, 2025, the trial court entered a Final Judgment, pursuant to its Order on Cross Motions for Summary Judgment entered on May 9, 2025, which concluded that the Gainesville City Commission has the legal authority

to amend the City's Charter to undo the Special Act, but also that the 2024 referendum's ballot language was unlawfully confusing. (App. 32-36, 45-62).

On June 2, 2025, GRUA filed a Notice of Appeal. See *Gainesville Reg'l Util. Auth. v. City of Gainesville*, Case No. 1D2025-1364. (App. 29-36). On June 17, 2025, the City filed a Notice of Cross-Appeal. (App. 37-44).

On June 12, 2025, the City adopted Ordinance No. 2025-416, which closely resembles the original challenged ordinance but with revised referendum language. (App. 5-20). Its ultimate purpose is to hold a special election referendum on November 4, 2025, to amend the City's Charter, undo the Special Act, and dissolve GRUA ("Proposed Charter Amendment"). (App. 5-20).

On August 18, 2025, GRUA filed an Emergency Petition for Constitutional Writ in this Court. *Gainesville Regional Utilities Authority v. City of Gainesville, Florida, et al.*, Case No. 1D2025-2062 (Fla. 1st DCA Aug. 25, 2025). This Court denied the Emergency Petition because the special election referendum scheduled for November 4, 2025, had not yet occurred, and, therefore, this Court concluded that the relief sought by GRUA was speculative.

On November 4, 2025, the referendum passed with 10,882 “yes” votes and 3,592 “no votes.”³ The City’s Board of Canvassers intends to certify the results of the November 4 special election referendum on November 6, 2025 – two (2) calendar days after the filing of this Emergency Petition. (App. 131-32). Thus, the relief sought by GRUA is no longer speculative.

Therefore, absent judicial intervention, GRUA will be dissolved on November 6, 2025 -- before GRUA’s Pending Appeal in Case No. 1D2025-1364 is decided – thereby circumventing the jurisdiction of this Court and potentially rendering this controversy moot.

NATURE OF THE RELIEF SOUGHT

GRUA requests a constitutional “other writ” to preserve this Court’s jurisdiction, prevent mootness, maintain the status quo, and prevent irreparable harm to GRUA. Specifically, GRUA requests that the Court toll the effectiveness of the Proposed Charter Amendment until this Court enters a final decision in GRUA’s Pending Appeal in Case No. 1D2025-1364.

³ Although these results are an unofficial tally of the votes, the margin of victory is such that the end result cannot be disputed. On November 5, 2025, GRUA will file a copy a screen shot of the Supervisor of Elections’ website.

ARGUMENT

On June 12, 2025, during the pendency of the appeal in Case No. 1D2025-1364, the Gainesville City Commission passed a new ordinance to hold another referendum to overturn the Special Act – despite the legality of such action already being under review by this Court. On November 4, 2025, the referendum passed, and, therefore, without judicial intervention, GRUA will be dissolved on November 6, 2025, rendering this Court's forthcoming decision potentially meaningless. It is difficult to conceive of any greater irreparable harm than GRUA's legislatively-created existence being terminated before this Court issues its final ruling in GRUA's Pending Appeal in Case No. 1D2025-1364.

In order to preserve its jurisdiction over GRUA's Pending Appeal in Case No. 1D2025-1364, this Court should issue a Constitutional Writ that tolls the effectiveness of the Proposed Charter Amendment until this Court enters a final decision in GRUA's Pending Appeal in Case No. 1D2025-1364. Without this intervention, the Court's authority will be undermined and its jurisdiction nullified, and GRUA will suffer irreparable injury that cannot be undone. Without an appellant, there could no longer exist a judicable controversy – and GRUA's Pending Appeal in Case No. 1D2025-1364 could become moot.

GRUA acknowledges that it is asking this Court for extraordinary relief. However, the circumstances of this case – and the City’s actions while the appeal in Case No. 1D2025-1364 is still pending – require extraordinary action. GRUA respectfully requests this Court to issue a Constitutional Writ as described above to ensure that GRUA continues to exist until this Court rules on GRUA’s Pending Appeal in Case No. 1D2025-1364.

WHEREFORE, Petitioner GAINESVILLE REGIONAL UTILITIES AUTHORITY requests that the Court:

- A. Accept jurisdiction to hear this Petition;
- B. Immediately issue an Order which tolls the effectiveness of the November 4 referendum special election until this Court has reviewed the City’s Response to an Order Show Cause and GRUA’s Reply thereto;
- C. Issue an Order to Show Cause pursuant to Florida Rule of Appellate Procedure 9.100(h);
- D. Issue a Constitutional Writ which tolls the effectiveness of the Proposed Charter Amendment until this Court enters a final decision in GRUA’s Pending Appeal in Case No. 1D2025-1364; and

E. Grant such other relief as the Court deems just and appropriate.

RESPECTFULLY SUBMITTED on this 4th day of November 2025.

/s/ David A. Theriaque

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this Petition complies with the font requirements of Florida Rule of Appellate Procedure 9.045(b) and the word count limit of Florida Rule of Appellate Procedure 9.100(g).

/s/ David A. Theriaque

DAVID A. THERIAQUE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court by using the ePortal system and served a copy thereof via Electronic Mail to:

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