

## **Board of County Commissioners Agenda Request**

**Date of Meeting:** July 1, 2014

**Date Submitted:** June 17, 2014

**To:** Honorable Chairman and Members of the Board

**From:** Robert Presnell, County Administrator  
Arthur Lawson, Sr., Assistant County Administrator

**Subject:** Appointments to the Gadsden Industrial Development Authority

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### **Statement of Issue:**

This agenda item seeks Board approval to appoint/reappoint members to the Gadsden Industrial Development Authority (GIDA).

### **Background:**

The Gadsden County Industrial Development Authority, hereafter referred to as “authority”, was created in May 1971 by a resolution of the Gadsden County Board of County Commissioners. The resolution passed by the Board of County Commissioners relating to the Gadsden Industrial Development Authority was simply a statement of a need to have such an entity transact business and exercise the powers given to it by the legislature in Gadsden County. The resolution did not give, nor could it have given, the Board authority to control the business of the GIDA or to control how the GIDA exercises its statutory powers. By law, the limited control the Board of County Commissioners has with regard to the operation of the GIDA is the appointment of members, the ability to fill vacancies of unexpired terms, and the ability to remove members for misfeasance, malfeasance or willful neglect of duty.

The authority was created in accordance with FS, Chapter 159.45 (copy attached). Section 159.45 (3) in part requires the Board to fill any vacancy for an unexpired term. This section also states that a member of the authority shall be eligible for reappointment.

### **Analysis:**

There are five members of the authority, who each serve a four-year term. A list of the current members are attached. Three of the current members’ terms expired May 18, 2014, therefore the Board is required to either replace those members or reappoint them to the authority. The members with expired terms are Nick Bert – District 2, Calvin

Dawkins – District 3 and Barry Haber – District 5. This item requests that the Board take action to fill the vacancies that currently exist on the authority.

**Fiscal Impact:**

This action requires no fiscal impact.

**Option(s):**

1. Board Discretion.

**County Administrator's Recommendation:**

Option 1

**Attachments:**

1. List of Industrial Development Authority Members
2. Florida Statutes Chapter 159.45 & 159.47

## GADSDEN COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

District	Members	Appointed/Reappointed	Expires
District 1	Ashmore, James	8/16/11	5/18/15
District 2	Bert, Nick	6/15/10	5/18/14
District 3	Dawkins, Calvin	6/15/10	5/18/14
District 4	Marshall, Gene	8/16/11	5/18/15
District 5	Haber, Barry	6/15/10	5/18/14

## The Florida Senate

### 2013 Florida Statutes

<u>Title XI</u>	<u>Chapter 159</u>	<b>SECTION 45</b>
COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	BOND FINANCING	Creation of industrial development authorities.
	<u>Entire Chapter</u>	

#### **159.45 Creation of industrial development authorities.—**

(1) In each county, there is hereby created a local governmental body as a public body corporate and politic to be known as the "\_\_\_\_ County Industrial Development Authority," hereafter referred to as "authority" or "authorities." Each of the authorities is constituted as a public instrumentality for the purposes of industrial development, and the exercise by an authority of the powers conferred by ss. ~~159.44-159.53~~ shall be deemed and held to be the performance of an essential public purpose and function. No authority shall transact any business or exercise any power hereunder until and unless the county commission by proper resolution shall declare that there is a need for an authority to function in such county. The determination as to whether there is such need for an authority to function:

- (a) May be made by the commission on its own motion; or
- (b) Shall be made by the commission upon the filing of a petition signed by 25 residents of the county asserting that there is need for an authority to function in such county and requesting that the commission so declare.

(2) The commission may adopt the resolution declaring that there is need for an industrial development authority in the county if it shall find that there exists a need for the development and financing of industry or projects in the county. The resolution shall be sufficient if it declares that there is such a need for an authority in the county. A copy of the resolution, duly certified by the clerk, shall be admissible in any suit, action, or proceeding.

(3) The aforementioned resolution shall designate not less than five persons who are residents and electors of the county as members of the authority created for said county. Of the members first appointed, one shall serve for 1 year, one for 2 years, one for 3 years, and the remainder for 4 years and in each case until his or her successor is appointed and has qualified. Thereafter, the commission shall appoint for terms of 4 years each a member or members to succeed those whose terms expire. The commission shall fill any vacancy for an unexpired term. A member of the authority shall be eligible for reappointment. Any member of the authority may be removed by the commission for misfeasance, malfeasance, or willful neglect of duty. Each member of the authority, before entering upon his or her duties, shall take and subscribe the oath or affirmation required by the State Constitution. A record of each such oath shall be filed with the Department of State and with the clerk.

(4) The authority shall annually elect one of its members as chair and one as vice chair and may also appoint a secretary who shall serve at the pleasure of the authority and receive such compensation as shall be fixed by the authority.

(5) The secretary shall keep a record of the proceedings of the authority and shall be custodian of all books and records of the authority and of its official seal.

(6) A majority of the members of the authority shall constitute a quorum, and the affirmative vote of a majority of the members present shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the provisions of ss. ~~159.44-159.53~~ may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted.

(7) The members of the authority shall receive no compensation for the performance of their duties hereunder, but each such member shall be paid necessary expenses incurred while engaged in the performance of such duties.

(8) The authority may also appoint such other officers as it may deem necessary.

**History.**—s. 1, ch. 70-229; s. 1, ch. 70-439; s. 13, ch. 80-287; s. 1, ch. 86-214; s. 886, ch. 95-147.

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## The Florida Senate

### 2013 Florida Statutes

<u>Title XI</u> COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	<u>Chapter 159</u> BOND FINANCING  <u>Entire Chapter</u>	<b>SECTION 47</b> <b>Powers of the authority.</b>
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#### **159.47 Powers of the authority. —**

(1) The authority is authorized and empowered:

(a) To have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) To adopt an official seal and alter the same at pleasure;

(c) To maintain an office at such place or places in the county as it may designate;

(d) To sue and be sued in its own name and to plead and be impleaded;

(e) To enter into contracts for any of the purposes enumerated in ss. 159.44-159.53 and in the Florida Industrial Development Financing Act;

(f) To issue revenue bonds or other debt obligations repayable solely from revenues derived from the sale, operation, or leasing of projects or other payments received under financing agreements with respect thereto, subject to the approval or disapproval of the commission pursuant to s. 125.01(1)(z).

(g) To exercise all the powers in connection with the authorization, issuance, and sale of revenue bonds to finance the cost of projects conferred on counties, municipalities, special districts, and other local governmental bodies by the Florida Industrial Development Financing Act. All of the privileges, benefits, powers, and terms of that act shall be fully applicable to authorities created pursuant to s. 159.45. Industrial development revenue bonds may be authorized, issued, and sold by authorities in compliance with the criteria and requirements set forth in the Florida Industrial Development Financing Act. The bonds of each issue shall be dated; bear interest at such rate or rates, including variable rates; mature at such time or times; be redeemable prior to maturity at such price or prices; be in such denominations; contain such recitals; and be sold for such price or prices and in such manner as provided in the Florida Industrial Development Financing Act. Projects may be acquired, constructed, leased, operated, or sold in the manner provided in the Florida Industrial Development Financing Act, and the items of cost as enumerated therein may be included as project costs. The repayment of bonds issued by the authorities may be secured by trust agreements or security agreements as set forth in that act; and fees, rents, and charges for the use of any project or any part of any project may be collected and fixed by the authority in the manner provided in that act. All moneys received pursuant to the provisions of ss. 159.44-159.53 shall constitute trust funds as provided in the Florida Industrial Development Financing Act. The remedies provided by the Florida Industrial Development Financing Act shall also be applicable to bonds issued pursuant to ss. 159.44-159.53, and bonds of the authority may be refunded in the manner provided therein and shall be eligible for investment as provided in that act.

(h) To acquire by lease, purchase, or option real and personal property for use as sites for the location of projects as defined in the Florida Industrial Development Financing Act. Authorities shall have the power to prepare sites for industrial use, including industrial parks to be used in connection with one or more projects, and may construct thereon access roads, drainage facilities, utilities, and other improvements necessary for ultimate use by industrial projects. The acquisition, development, and financing of such sites may be in the manner provided in ss. 159.44-159.53 and the Florida Industrial Development Financing Act. Authorities may also use such current funds as are available to acquire and prepare property as sites for industrial development purposes.

(i) To secure the issuance and repayment of industrial development bonds by a lease, mortgage, or other security instrument encumbering only the capital improvements which are financed by the authority in any case in which an addition to a project is financed or in which less than the entire project is financed or refinanced by industrial

development bonds, subject to the approval or disapproval of the commission pursuant to s. 125.01(1)(z). The lease, mortgage, or other security instrument may include a security interest in both the land and personal property or may include a lease, mortgage, or other security instrument sufficient for the purpose encumbering only the personal property, including machinery and equipment, which is being financed. In financing projects, authorities may enter into financing agreements of such types as they may approve with such security instruments or trust agreements as the authority shall deem adequate.

(j) To provide, arrange, and make expenditures for transportation, lodging, meals, and other reasonable and necessary items and services for such necessary persons as determined by the chair of the authority, in connection with the performance of promotional and other duties of the authority. However, entertainment expenses shall be authorized only when meeting with business prospects, as defined in paragraph (l), potential prospects, purchasers of Florida exports, potential purchasers of Florida exports, and foreign governmental dignitaries. All travel and entertainment-related expenditures in excess of \$10 made pursuant to this section shall be substantiated by paid bills therefor. Complete and detailed justification for all travel and entertainment-related expenditures made pursuant to this section shall be shown on the travel expense voucher or attached thereto. Transportation and other incidental expenses, other than those provided in s. 112.061, shall only be authorized for members and employees of the authority, other authorized persons, and business prospects when traveling pursuant to paragraph (l). All other transportation and incidental expenses pursuant to this section shall be as provided in s. 112.061. Operational or promotional advances, as defined in s. 288.35(4), obtained pursuant to this section, shall not be commingled with any other funds. Any unused operational, promotional, or other funds advanced pursuant to this section shall be refunded.

(k) To pay by advancement or reimbursement, or a combination thereof, the costs of per diem of members or employees of the authority and other authorized persons, for foreign travel at the current rates as specified in the federal publication "Standardized Regulations (Government Civilians, Foreign Areas)," and incidental expenses as provided in s. 112.061. The provisions of this paragraph shall apply for any member or employee of the authority traveling in foreign countries for the purpose of promoting economic or industrial development of the county, if such travel expenses are approved and certified by the agency head from whose funds the traveler is paid. As used in this paragraph, the term "authorized person" has the same meaning as provided in s. 112.061(2)(e). With the exception of provisions concerning rates of payment for per diem, the provisions of s. 112.061 are applicable to the travel described in this subsection. As used in this paragraph, "foreign travel" means all travel outside the United States. Persons traveling in foreign countries pursuant to this section shall not be entitled to reimbursements or advancements pursuant to s. 112.061(6)(a)2.

(l) To pay by advancement or reimbursement, or a combination thereof, the actual reasonable and necessary costs of meals, lodging, and incidental expenses of members and employees of the authority and other authorized persons when meeting with a business prospect of the state, purchaser of Florida exports, or foreign governmental dignitaries. Furthermore, when actually traveling with a business prospect or purchaser of Florida exports or foreign governmental dignitaries, the actual cost of transportation is allowable. As used in this paragraph, "business prospect" means any person or representative of a firm actively considering the location of a business within the county. With the exception of the provisions concerning rates of payment, the provisions of s. 112.061 are applicable to the travel described in this paragraph.

(2) The provisions of paragraphs (j), (k), and (l) of subsection (1) are applicable to any county agency which was created by special act for the purpose of attracting industry; and the chair, members, or employees of such agency shall be considered to be the chair, members, or employees of an authority under this section for purposes of those paragraphs.

**History.**—s. 4, ch. 70-229; ss. 5, 6, ch. 80-209; s. 15, ch. 80-287; s. 23, ch. 83-271; s. 887, ch. 95-147.