

# Summary Table – Bill No. 2020-419 (Article 21 (JEA) Omnibus Charter Refinement Bill)

**CITY COUNCIL SPECIAL COMMITTEE ON THE FUTURE OF JEA**  
Council Member Michael Boylan, Chair  
*Prepared by Office of General Counsel*

(\*\*Note: This Summary Table is a summary only; please review the proposed legislation for complete and exact proposed language\*\*)

(1) ARTICLE 21 CHARTER SECTION NUMBER AND TITLE	(2) CURRENT CHARTER LANGUAGE	(3) Bill No. 2020-419 - PROPOSED AMENDED CHARTER LANGUAGE; REQUIRED CITY COUNCIL ACTION
<b>21.01 - JEA CREATED AND CONTINUED</b>	<ul style="list-style-type: none"> <li>• Establishes JEA as a body politic and corporate</li> <li>• Authorizes JEA to own, manage and operate electric, water, sewer, natural gas utility systems within and without the City of Jacksonville</li> </ul>	<p>Adds the following:</p> <ul style="list-style-type: none"> <li>• <b>New</b> subsection 21.01 (a) entitled “<i>Creation</i>”, which maintains existing language but references in several places that JEA is to own, manage and operate “for the benefit of the City of Jacksonville” the utilities systems</li> <li>• <b>New</b> subsection 21.01(b) entitled “<i>Audits</i>”, which provides that JEA shall be subject to the council auditor’s authority set forth in section 5.10 of charter</li> </ul> <p><b>REQUIRED ACTION:</b> Two-thirds vote of the membership of City Council pursuant to current Section 21.11 (Legislative authority of council)</p>
<b>21.02 - DEFINITIONS</b>	<p>Current defined terms:</p> <ul style="list-style-type: none"> <li>• 21.02(a) - “utilities system”</li> <li>• 21.02(b) - “member”</li> <li>• 21.02(c) - “managing director”</li> <li>• 21.02(d) - “utility system”</li> <li>• 21.02(e) - “sewer utility system” and “wastewater utility system”</li> </ul>	<p>Amends existing definitions as follows:</p> <ul style="list-style-type: none"> <li>• 21.02(b): “member”- clarified that member refers to a member of the governing body of JEA (i.e., board)</li> <li>• 21.02(c): “managing director” – clarified that managing director means chief executive officer</li> <li>• 21.02(d): “utility system”- clarified that utility system includes any other additional utility systems as may be designated as part of the utilities systems operated by JEA</li> </ul> <p>Adds the following <b>new</b> defined terms:</p> <ul style="list-style-type: none"> <li>• 21.02(f): “district energy system” or “DES” means a system of centrally located chillers designed to provide chilled or heated water via pipes</li> <li>• 21.02(g): “governing body of JEA” means the governing body of JEA consisting of seven members</li> </ul> <p><b>REQUIRED ACTION:</b> Two-thirds vote of the membership of City Council pursuant to current Section 21.11 (Legislative authority of council)</p>

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<p><b>21.03 - COMPOSITION; COMPENSATION; OFFICERS; MEETINGS</b></p>	<p>Current subsections:</p> <ul style="list-style-type: none"> <li>• 21.03(a) - 7 members appointed by the mayor and confirmed by council; must be a resident and elector of the City for at least 6 months prior to member’s appointment; no JEA member shall hold another public office; prohibited from serving more than two consecutive full-terms</li> <li>• 21.03(b) – Members shall not be entitled to compensation, pension or other retirement benefits, but members shall be entitled to payment of reasonable expenses; members subject to Sections 286.012 and 112.311 through 112.3175, Florida Statutes, relating to financial disclosure and conflicts of interest</li> <li>• 21.03(c) – JEA shall elect a chairperson, vice chairperson and secretary; shall meet generally once a month; a majority of the membership shall constitute a quorum</li> </ul>	<p>Adds the following:</p> <ul style="list-style-type: none"> <li>• <b>New</b> subsection 21.03(a) heading – “<i>Composition; qualifications; removal</i>” <ul style="list-style-type: none"> <li>○ Changes appointment powers to allow council president to nominate 4 members for appointment; mayor appoints 3 members; all members confirmed by council (REQUIRES REFERENDUM)</li> <li>○ New qualification requirement that one member be appointed by the council president through an open application and either be a former JEA employee or a person recommend by an employee, union or group of current or former JEA employees</li> <li>○ Provides that generally JEA member appointments who have demonstrated corporate or executive or administrative experience are preferred, but not required, to serve on the governing body of JEA</li> <li>○ Members appointed by the mayor may be removed by the mayor at any time with or without cause with two-thirds council vote and members nominated by the council may be removed by the council at any time with or without cause with two-thirds council vote (REQUIRES REFERENDUM)</li> </ul> </li> </ul> <p>Adds <b>new</b> subsections:</p> <ul style="list-style-type: none"> <li>• 21.03(b) - <i>Compensation; applicable laws</i>: removes reference to compensation; references general laws applicable to JEA (ethics, public records, sunshine law)</li> <li>• 21.03(c) - <i>Officers; meetings; quorum; governing documents</i>: requires no less than 8 regular meetings; requires JEA to adopt bylaws, board policy manual, etc.</li> <li>• 21.03(d) - <i>Office-holding; oath</i>: references dual office holding; requires JEA members to take an oath of office</li> <li>• 21.03(e) - <i>Transparency in meetings</i>: among other things requires JEA to adopt procedural rules regarding meeting agendas and materials, minutes and provide meeting materials to council auditors in substantially the same timeframe and content as provided to JEA members</li> </ul> <p><b>REQUIRED ACTION FOR ALL CHANGES EXCEPT BOARD APPOINTMENT AND REMOVAL RESTRUCTURE:</b> Two-thirds vote of the membership of City Council pursuant to current Section 21.11 (Legislative authority of council)</p> <p><b>REQUIRED ACTION FOR BOARD APPOINTMENT AND REMOVAL RESTRUCTURE:</b> Voter referendum (see Ordinance 2020-100-E (CM Dennis))</p>

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<p><b>21.04 - POWERS</b></p>	<p>As to only the proposed amended JEA powers, JEA’s existing powers are as follows:</p> <ul style="list-style-type: none"> <li>• 21.04(b): Requires actual lease agreement to be recorded in the public records; requires JEA to not sale any property that is less than the appraised value determined by Duval property appraiser</li> <li>• 21.04(g): To sue and be sued</li> <li>• 21.04(n): To enter into joint projects under Chapter 361, FS</li> <li>• 21.04(p): To provide, sell, finance or lease services or products or by-products developed or used by JEA incident to the exercise of the powers conferred in Article 21; must provide the council auditor with not less than 30 days notice of new activity entered into by JEA under this subsection;</li> <li>• 21.04(q): To collect donations from customers and ratepayers regarding various programs</li> <li>• 21.04(s): To delegate any act authorized in this article to any officer, employee or agent of JEA</li> <li>• 21.04(v): To file resolution with the council identifying such additional utility systems or functions necessary or appropriate for JEA to operate</li> <li>• 21.04(x): To coordinate with the Department of Public Works and JTA in the planning of projects</li> <li>• 21.04(y): To expend up to one and one half (1.5%) of the prior year’s gross revenues to promote efficient use of JEA’s services through public education; permits use of funds for meals, hospitality and entertainment</li> <li>• 21.04(dd): To have ownership and membership in separate organization entities to conduct utility related activities and functions</li> </ul>	<p>Amends the following:</p> <ul style="list-style-type: none"> <li>• 21.04(b): Requires memorandum of lease to be recorded in the public records; requires JEA to get a MAI certified appraisal for property either assessed value or just market value over \$50,000</li> <li>• 21.04(g): Corrects a typo in the legislative reference to Florida Statutes</li> <li>• 21.04(n): Requires that notice be given council auditor and council secretary; cross-references new privatization section 21.11 regarding prohibited transfers</li> <li>• <b>New</b> subsection 21.04(p) (which replaces existing subsection (p) language) includes among other things the following: <ul style="list-style-type: none"> <li>○ Adds the descriptive “activity” to the phrase “services, products, by-products” throughout the subsection</li> <li>○ Expressly provides that the JEA governing body must approve all services, products, by-products and activities performed by JEA pursuant to this subsection at a duly noticed JEA board meeting</li> <li>○ Provides that the JEA governing body’s approval over services, products, by-products, and activities may not be delegated to the CEO or any other officer, agent or employee</li> <li>○ Provides that JEA must provide the council auditor notice of the “additional service or product” that JEA desires to provide, transfer, sell, finance or lease no less than 60 days prior to such date that the JEA governing body is scheduled to approve such additional service or product at a duly noticed JEA board meeting</li> <li>○ Provides that the required notice to council auditor include certain information items (i.e., business plans, financial analysis, etc.)</li> <li>○ Provides that no additional service or product may be provided, transferred, sold, financed, or lease prior to the required council auditor’s notice being given and that such JEA action shall be void unless the governing body has approved such additional service or product and the required council auditor notice has been provided</li> <li>○ Adds a cross-reference to the new Section 21.11 (prohibited transfers) providing that none of the prohibited transfers under Section 21.11 shall be permitted under this subsection (p)</li> <li>○ Provides for a notice to the council and mayor regarding additional services or products</li> <li>○ Requires an annual comprehensive report to council, mayor and council auditor regarding the services, products, by-products and activities performed by JEA pursuant to subsection (p)</li> </ul> </li> <li>• 21.04(q): Requires that a report of donation amounts are given to council annually on July 1<sup>st</sup> like other two giving programs; removes unanimous voting requirement by the governing body of JEA for one of the giving programs and only requires majority vote</li> </ul>

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		<ul style="list-style-type: none"> <li>• 21.04(s): Adds “except as otherwise prohibited herein”</li> <li>• 21.04(v): Adds a council auditor notice requirement similar to the notice required in the new subsection 21.04(p)</li> <li>• 21.04(x): Adds other “independent agencies” to JEA project coordination with Department of Public Works and JTA</li> <li>• 21.04(y): Reduces spend to one percent (1%) of the prior year’s gross revenues to promote efficient use of JEA’s services through public education; requires funding for reasonable food and beverages and deletes allowance for “hospitality and entertainment”</li> <li>• 21.04(dd): Amends to include “any amendments thereto” regarding permitted agreements in this subsection</li> <li>• New 21.04 (ff) – Authorizes JEA to privatize, sale or transfer in a manner not expressly prohibited in the new Section 21.11 “Privatization, sale, reorganization, and service territory transfers prohibited” (e.g., JEA may privatize, sale, transfer to an entity not more than 10% of net capital assets of an included system, etc.)</li> </ul> <p><b>REQUIRED ACTION:</b> Two-thirds vote of the membership of City Council pursuant to current Section 21.11 (Legislative authority of council)</p>
<b>21.05 - CONSTRUCTION</b>	<ul style="list-style-type: none"> <li>• Liberal construction is used to interpret the powers and authorities of JEA in Article 21</li> </ul> <p>“The powers of JEA shall be construed liberally in favor of JEA.”</p>	<p>Amends as follows:</p> <ul style="list-style-type: none"> <li>• Changes from liberal construction to strict construction when interpreting the powers and authority of JEA in Article 21</li> </ul> <p><b>REQUIRED ACTION:</b> Two-thirds vote of the membership of City Council pursuant to current Section 21.11 (Legislative authority of council)</p>
<b>21.07 - FISCAL AND BUDGETARY FUNCTIONS.</b>	<p>This section includes subsection 21.07(j) which provides the following:</p> <ul style="list-style-type: none"> <li>• Power to employ and fix compensation of a managing director</li> <li>• Duties, qualifications, and compensation of the managing director</li> <li>• Power to appoint 48 staff assistants to the managing director who serve at the pleasure of JEA</li> <li>• Excludes from civil service certain employees (i.e., managing director, department heads, deputy directors, staff assistants, division chiefs and assistant division chiefs)</li> <li>• Requires employee participation in City pension plan</li> <li>• Requires that the managing director be devoted to the performance of the duties of such office and that the managing director shall have no outside employment or business</li> <li>• Requires the managing director to be a graduate of an accredited college or university or have at least 10 years managerial experience in a</li> </ul>	<p>Amends as follows:</p> <ul style="list-style-type: none"> <li>• Strikes Section 21.07(j) and places current provisions in existing Section 21.08 entitled “<i>Employees</i>”</li> <li>• Adds <u>new</u> Section 21.07(m) – CM Diamond Bill 2020-040-E which requires acknowledgment and prompt response from JEA regarding council auditor request for information</li> </ul>

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	<p>consumer-oriented industry or comparable enterprise</p> <ul style="list-style-type: none"> <li>• Authorizes JEA to establish an employee deferred compensation program separate from the city’s employee deferred compensation employees</li> </ul>	<p><b>REQUIRED ACTION:</b> Two-thirds vote of the membership of City Council pursuant to current Section 21.11 (Legislative authority of council)</p>
<p><b>21.08 - EMPLOYEES</b></p>	<p>Provides the following regarding JEA employees:</p> <ul style="list-style-type: none"> <li>• All JEA employees are subject to Articles 16 and 17</li> <li>• JEA has full and independent authority to hire, transfer, promote, discipline, terminate and evaluate employees</li> <li>• JEA may establish employment practices related to hiring, promotion, etc.</li> </ul>	<p>Adds existing language from Section 21.07(j) in the fiscal and budgetary section to the employees’ section and creates the following <b>new</b> subsections:</p> <ul style="list-style-type: none"> <li>• 21.08(a) “<i>Generally</i>” – applies to all employees (see existing language regarding Article 16 and 17; JEA has full and independent authority to hire, etc.)</li> <li>• 21.08(b) “<i>Managing director</i>” – clarifies that managing director serves at the pleasure of JEA board; managing director may have an outside business, but no outside employment, as long as the business does not interfere with managing director’s responsibilities; managing director must have at least 5 years executive experience within the utilities industry</li> <li>• 21.08(c) “<i>Other Employees</i>” - (see existing language)</li> <li>• 21.08(d) “<i>Employment contract restrictions</i>”: JEA may only have a contract with the CEO, subject to certain requirements</li> <li>• 21.08(e) “<i>Pension and deferred compensation plan</i>” – clarifies that JEA may have only one single deferred employee compensation plan separate from the City; requires plan to comply with federal, state and local laws; requires reporting on the deferred compensation plan to the council auditor</li> <li>• 21.08(f) “<i>Employee Bonus Program</i>” which includes the following terms: <ul style="list-style-type: none"> <li>○ Requires that no employee bonus program may be adopted or implemented without first obtaining JEA governing body approval over such plan or program</li> <li>○ Requires the JEA governing body to approve any such bonus program annually, and if not approved by the JEA governing body, shall be void; also prohibits the JEA governing body from delegating its approval authority over the program to the CEO or any other agent or employee</li> <li>○ Requires that any such bonus program must comply with Section 215.425(3), Florida Statutes, the City Charter, and other applicable laws</li> <li>○ Requires the JEA governing body to establish rules and standards regarding such bonus program</li> <li>○ Requires the JEA to include a line item and specific plan regarding any bonus program in its annual budget submission to City Council</li> <li>○ Requires JEA to provide an annual report or audit regarding the bonus programs to the council auditor for information and review</li> </ul> </li> </ul> <p>(Note: CM Salem filed bill 2020-245 regarding JEA employee bonus programs, but this bill is slated to be withdrawn 7/28/2020 City Council meeting)</p>

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<b>21.09 - AWARDS OF CONTRACT</b>	<ul style="list-style-type: none"> <li>• Provides that JEA is not subject to the requirements of Chapter 126 (City Procurement Code)</li> <li>• Authorizes JEA to establish rules, regulations and procedures JEA contracts for construction, supplies, equipment, professional services, etc.</li> <li>• Authorizes JEA to implement a minority business enterprise program to remedy discrimination or the present effects of discrimination suffered by minority business enterprises</li> <li>• Provides that JEA can reject all bids in the best interest of JEA</li> <li>• Prohibits JEA members, officers, employees from having financial interest in any contract or agreement with JEA for any matter</li> </ul>	<p>Retitles the section to “<i>Procurement generally; contracts generally</i>” and adds the following <b>new</b> subsections:</p> <ul style="list-style-type: none"> <li>• 21.09(a) “<i>Applicability</i>” – unless otherwise provided in the article, this section 21.09 applies to all JEA contracts</li> <li>• 21.09(b) “<i>Procurement generally</i>” <ul style="list-style-type: none"> <li>○ (1) Open and fair competition – provides that to the greatest extent reasonably practicable, JEA should engage in open and fair procurement methods; provides that JEA should adhere to all applicable state procurement laws</li> <li>○ (2) Procedures; board approval – requires JEA board to approve procurement procedures and any amendments thereto</li> <li>○ (3) Jacksonville Small Emerging Business - revises existing minority business enterprise provision; adds a provision that requires JEA to use the City’s JSEB program</li> <li>○ (4) Certain solicitation specifications and standards prohibited; rejection of bids, proposals and replies- Adds provisions that JEA should not narrowly develop solicitation or standards that prevent qualified bidders/vendors/respondents from participating; adds that JEA can reject “proposals and replies”</li> <li>○ (5) Annual bidders/respondents/vendors survey – Requires JEA to obtain a survey from bidders/respondents and vendors regarding JEA procurement process to get feedback</li> <li>○ (6) Biennial review; annual report – Requires the JEA board to review its procurement code every two years and provide a report to the council, mayor every year regarding its procurement contract.</li> </ul> </li> <li>• 21.09(c) “<i>Contracts generally</i>” <ul style="list-style-type: none"> <li>○ (1) Maximum indebtedness – unless otherwise provided by law, requires a maximum indebtedness in all contracts entered into by JEA pursuant to Article 21</li> <li>○ (2) Public records; ethics training – requires public records provisions in all contracts and ethics training of senior management</li> <li>○ (3) Audits - requires contracts to include a provision pertaining to council auditor’s office ability to audit contractors’ records</li> <li>○ (4) Confidentiality agreements – discourages use confidentiality agreements</li> <li>○ (5) No financial interest- except for employment agreement, prohibits JEA, officer or employee from having a financial interest in contracts (existing language)</li> </ul> </li> <li>• 21.09(d) “<i>No limitation</i>” – nothing in this section shall limit JEA’s power to construct, repair, or improve the utilities system (existing language)</li> </ul>

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<p><b>21.11 (NEW) - PRIVATIZATION, SALE, REORGANIZATION, SERVICE TERRITORY TRANSFERS PROHIBITED</b></p>	<p>NONE except for the prior reference in 21.04(p):</p> <p>“Nothing in this article shall authorize or be construed to authorize JEA to transfer any function or operation which comprises more than ten percent of the total of the utilities system by sale, lease or otherwise to any other utility, public or private without approval of the council; provided, however, that no approval by the council shall become effective without subsequent referendum approval of the terms and conditions of the sale.”</p>	<p>Adds <b>new</b> Section 21.11 entitled “<i>Privatization, sale, reorganization, service territory transfers prohibited</i>”:</p> <ul style="list-style-type: none"> <li>• 21.11(a) “<i>Definitions</i>” <ul style="list-style-type: none"> <li>○ “entity”</li> <li>○ “net capital assets”</li> <li>○ “calculation period”</li> <li>○ “service territory”</li> <li>○ “included system”</li> <li>○ “excluded system”</li> </ul> </li>   <li>• 21.11(b) “<i>Prohibition on privatization, sale, reorganization and transfer of management</i>” <ul style="list-style-type: none"> <li>○ JEA shall not explore, investigate or consummate a privatization or transfer to an entity by sale, lease, or assignment of the management, function, or operation of any portion of an included system, or the management function, or operation of any portion of an included system which comprises more than ten percent of the net capital assets of such system without obtaining Council approval in advance</li>   <li>○ Additionally, JEA shall not explore, investigate or consummate a reorganization of JEA’s governance structure in a manner that would affect JEA’s ownership or management control of more than ten percent of the net capital assets of an included system without obtaining Council approval in advance</li>   <li>○ Upon approval by the Council for JEA to explore or investigate a privatization, transfer, or reorganization of JEA, Council may in its discretion prescribe by ordinance budget restrictions related to professional consultants, legal engagements, promotional expenses, and other expenses anticipated by JEA during such exploration or investigation.</li> </ul> </li>   <li>• 21.11(c) “<i>Reports</i>” – Requires JEA to report regarding its annual audited financial statements</li>   <li>• 21.11(d) “<i>Prohibited service territory transfers</i>” <ul style="list-style-type: none"> <li>○ Any sale, lease, assignment or other transfer of the service territory of a JEA included system to any entity that results in a total net loss of .01 or 1% or more of the service territory or any sale, lease, assignment, or transfer that results in a total net loss of .01 or 1% or more of JEA’s electric, water, or wastewater customer accounts based on the latest available JEA monthly financial statements shall require council approval in advance</li> </ul> </li> </ul>

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<p><b>21.12 (NEW)</b>  <b>PUBLIC ENGAGEMENT</b></p>	<p>N/A</p>	<p>Adds <b>new</b> Section entitled “<i>Public Engagement</i>”</p> <ul style="list-style-type: none"> <li>• Encourages JEA to seek to fully engage and inform its ratepayers, the public, interested stakeholders and other interested parties in any planning discussions regarding the future of JEA. See Resolution 2020-42-A (CM Becton)</li> </ul> <p><b>REQUIRED ACTION:</b> Two-thirds vote of the membership of City Council pursuant to current Section 21.11 (Legislative authority of council)</p>