

**STORAGE NAME:** h1113.ft

**DATE:** April 3, 1997

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
FINANCE AND TAXATION  
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 1113

**RELATING TO:** Propane Gas

**SPONSOR(S):** Representative Burroughs

**STATUTE(S) AFFECTED:** Chapter 527, Florida Statutes

**COMPANION BILL(S):** SB 1362 (s) by Senator Thomas

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) AGRICULTURE YEAS 5 NAYS 0
- (2) FINANCE AND TAXATION
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

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**I. SUMMARY:**

House Bill 1113 establishes the Florida Propane Gas Education, Safety, and Research Council to study problems arising in the production, transportation, marketing, and use of propane gas. The council is to investigate, research, study, or perform other activities in order to advance the safety, efficiency, desirability, usage, and marketability of propane gas and propane-gas-use equipment through an industry-funded check-off program subject to referendum.

This bill creates sections 527.20-527.23, Florida Statutes.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

In a number of industries, i.e. citrus, cotton, pork, beef, potatoes, and eggs, participants have joined together to establish a nonprofit check-off program to provide funds for education, safety, marketing and research for the industry. There is currently no language in the statutes addressing a check-off program for the propane industry. There have been several opportunities for the propane industry to provide educational programs for the public, but no means of funding these projects. This will provide the propane industry a means to fund programs and projects dealing with education, safety and research of propane gas. The U.S. Congress created a national propane check-off program recently, and Texas, Louisiana, Alabama and Missouri have initiated state programs.

B. EFFECT OF PROPOSED CHANGES:

Section 527.20, F.S., designates this bill as the "Florida Propane Gas Education, Safety and Research Act," creating the Florida Propane Gas Education, Safety, and Research Council, and Providing for purposes of such act.

Section 527.21, F.S., provides definitions of various terms used in this act such as council, commissioner, manufactures and distributors of propane gas and use equipment, marketing, dealer qualified industry organization, etc.

Section 527.22, F.S., establishes membership, duties and responsibilities of the Florida Propane Gas Education, Safety and Research Council. The Commissioner of Agriculture and Consumer Services (commissioner) shall appoint from a list of nominees submitted by qualified industry organizations, ensuring the council is representative of the industry and the geographic regions of the state.

The council shall consist of fifteen members, ten of which represent manufacturers and distributors of propane gas use equipment, wholesalers or resellers, or transporters, and one public member. Not more than two dealer members can be from any one company. Council members serve three year terms, except that the initial members shall serve as follows: five for one year, five for two years, and five for three years. Members may serve a maximum of two consecutive full terms. Members filling unexpected terms may serve a maximum of seven consecutive years. Former council members may be reappointed to the council if they have not been members for a period of 2 years. Council members shall receive no compensation or honorarium for their services, and are authorized to receive only per diem and reimbursement for travel expenses as provided in s. 112.061

The council shall elected from its members a chair, vice chair, and a secretary, and shall used accepted rules of procedures. Terms of such officers shall be for one year.

At the beginning of each fiscal period, the council must prepare and submit to the commissioner for approval a budget including estimated costs of all programs and projects and recommended rate of assessment sufficient to cover such costs.

The council is required to keep minutes, accounting records and other records as necessary to clearly reflect all of the acts and transactions of the council and report such information on a regular basis to the commissioner, along with any other information the commissioner may require. The accounting records of the council must be audited by a certified public accountant at least once each fiscal year and at such other times as the council may designate. Copies of the audit are public record, and must be provided to the commissioner, all members of the council and anyone else requiring it.

Section 527.23, F.S., requires a referendum of all producers and dealers of propane gas to be held within ninety days after the effective date of this act to authorize the creation of the council and the levying of an assessment on odorized propane gas sold in the state. Approval of the referendum will require those persons representing two-thirds of the total gallonage of odorized propane gas voting in the retail marketer class. At that point, the commissioner can issue an order establishing the council and call for nominations to the council. All persons voting in the referendum must certify to the commissioner the number of gallons represented by their vote.

A referendum can also be held to determine if the industry favors termination or suspension of the council. This can be done either by the commissioner's own initiative or upon a petition of the council or of dealers representing thirty-five percent of the gallons sold in the state. The termination or suspension cannot take effect unless approved by those persons representing more than half of the total gallonage of odorized propane gas in the dealer class.

The commissioner may require reports or documentation as is necessary to document the referendum process and the nomination process for members of the council. All such documentation, reports and dealer information provided by persons voting shall be confidential and exempt from the requirements of ch. 119, F.S.

Within 180 days after the effective date of this act, the department must publish proposed regulations pursuant to Chapter 120, F.S., for implementation of the policies provided for in this section.

This bill establishes industry assessments to be set by the council. Initial assessments may be no more than one tenth of one cent per gallon. Thereafter, annual assessments must be sufficient to cover the costs of the plans and programs developed by the council and approved by the commissioner. The assessment cannot be greater than one half cent per gallon of odorized propane gas. The assessment may not be raised more than one tenth of one cent per gallon annually.

The owner of propane gas, immediately prior to odorization in this state, or the owner of odorized propane gas, at the time of import into this state, is responsible for the payment of the assessment on the volume of propane gas at the time of import or odorization, whichever is later. Assessments must be remitted to the council on a monthly basis. Nonodorized propane gas is not subject to assessment until odorized.

The department shall adopt rules necessary for administering, collecting, reporting, and the payment of assessments collected under this act.

The effective date of this act is upon becoming law.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes, since it will be overseen by the Commissioner of Agriculture, the initial set-up and the routine administration will be handled by the department. Once established, the council, in conjunction with the department, will provide programs and projects to the public relating to education and safety.

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced: **Not Applicable**

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

Yes, the passage of this bill will call for a referendum to be held regarding the interest within the propane industry of the establishment of the council and an industry-funded check-off program. The propane industry will ultimately decide whether or not an assessment should be levied, as well as the amount of the assessment.

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No

4. Individual Freedom: **Not Applicable**

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes, the referendum allows the industry to approve or terminate the check-off program.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment: **Not Applicable**

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

**STORAGE NAME:** h1113.ft

**DATE:** April 3, 1997

**PAGE 6**

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

b. Does the bill directly affect the legal rights and obligations between family members?

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. SECTION-BY-SECTION ANALYSIS:

See Section B. regarding effect of proposed changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

OPERATING COSTS

1. Non-recurring Effects: (FY 97-98)

Other Capital Outlay:

Standard Package - Professional	\$ 3,165
Standard Package - Support	3,290
Data Processing (financial software)	600
AGMIC (Dept. of Agriculture Data Center)	<u>600</u>

Total Non-Recurring Costs \$ 7,655

Anticipated Revenue -0-

2. Recurring Effects:

	Year 1 (FY 97-98)	Year 2 (FY 98-99)	Year 3 (FY 99-00)
Positions (Number of FTE)			
FTE: 1: Accountant III	\$ 34,597	\$ 35,635	\$ 36,704
FTE: .5: Secy. Specialist	<u>23,619</u>	<u>24,348</u>	<u>25,058</u>

Subtotal: Salaries and Benefits	\$ 58,216	\$ 59,983	\$ 61,762
Expenses			
Standard package - Professional	6,588	6,588	6,588
Standard package - Support	5,078	5,078	5,078
Travel for Acct. and Public Council Member	<u>4,000</u>	<u>4,000</u>	<u>4,000</u>
Subtotal: Expenses	\$ 15,666	\$ 15,666	\$ 15,666
Total Recurring or Annualized Costs	\$ <u>73,882</u>	\$ <u>75,649</u>	\$ <u>77,428</u>
Total Costs	\$ 81,537	\$ 75,649	\$ 77,428
3. Total Revenue (16% growth)	\$300,000	\$350,000	\$400,000
General Inspection Trust Fund	\$291,000	\$339,500	\$388,000
General Revenue	\$9,000	\$10,500	\$12,000

NON-OPERATING COSTS

Administrative/Indirect Non-Operating Costs	\$ 7,408	\$ 7,859	\$ 8,332
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The revenues projected for this program are based on the initial industry assessment of \$.001 per gallon for each gallon of odorized gas sold in the state. This assessment was multiplied by a nine year annual average of 300 million gallons sold in Florida (based on U.S. Department of Energy figures).

The estimated costs of this program are based on the requirements of the proposed bill, primarily of a financial tracking nature and general office duties. These duties include collection and tracking of assessments, invoicing, financial reports, scheduling of council meetings, and preparation of related reports. The half-time secretary position is requested to provide staff support to this position (mailouts, general office duties). In addition to the staffing standard for OCO and expense monies, \$4,000 is requested for travel by the Accountant III and reimbursement for travel by the public member of the council, and an additional \$600 for financial software to support this program. No other data processing monies are requested. The existing database and additional software purchased will be more than adequate to support this program.



3. Long Run Effects Other Than Normal Growth:

none

4. Total Revenues and Expenditures:

	(FY 97-98)	(FY 98-99)	(FY99-00)
Grand Total of Revenues	\$ 291,000	\$ 339,500	\$ 388,000
Grand Total of Expenditures	\$ 88,945	\$ 83,508	\$ 85,760
Difference	\$202,055	\$255,992	\$302,240

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The passage of this bill will call for a referendum to be held regarding the interest within the propane industry of the establishment of the council and an industry-funded check-off program. The propane industry will ultimately decide whether or not an assessment should be levied, as well as the amount of the assessment. The estimated private sector costs will be approximately \$300,000 the first year with a projected 16% growth annually.

2. Direct Private Sector Benefits:

The private sector (propane gas industry; appliance manufacturers' industry; consuming public) will benefit from this program through increased public awareness, and consumer industry safety. Through research programs that could be funded through this program, benefits could be realized in more energy efficient appliances and equipment, and through environmental improvements.

3. Effects on Competition, Private Enterprise and Employment Markets:

This program will establish a more even "playing field" for the propane industry in competing with the other energy sources available in this market. The propane industry, unlike many minor energy sources, receives no federal support for research, development, education or other activities. This program will be funded entirely by the industry for promoting the safety, availability, energy efficiency and environmental benefits of this product, and also increasing public and industry safety.

D. FISCAL COMMENTS:

Bill mandates that the initial assessment shall be set at no greater than one-tenth of 1 cent per gallon. Annual assessment shall be sufficient to cover the costs of the plans and programs developed by the council and approved by the commissioner. The assessment shall not be greater than one-half of 1 cent per gallon of odorized propane gas. The assessment may not be raised by more than one-tenth of 1 cent per gallon annually.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take actions requiring expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any county or municipality.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce any state tax revenues shared with counties and municipalities.

V. COMMENTS:

This analysis is based upon a strike all amendment structured after SB 1362. The original, HB1113 bill although fiscally the same, had some constitutional problems in the text.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Amendment offered by Cosgrove

**STORAGE NAME:** h1113.ft

**DATE:** April 3, 1997

**PAGE 11**

VII. SIGNATURES:

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Prepared by:

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