

STORAGE NAME: h1113a.ft

DATE: April 21, 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 YEAS 10 NAYS 0
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

House Bill 1113 creates the Florida Propane Gas Education, Safety and Research Act. The primary missive of this act will be to develop programs and projects relating to safety, education, and research through an industry-funded check-off program. A check-off program allows the industry to set aside a small fraction of the wholesale price of a product, which is then used for a variety of activities that would benefit the consumer, the industry, and the public.

This legislation does not actually establish a propane check-off program, but instead calls for the Commissioner of Agriculture to hold a referendum of the propane industry to authorize establishment of the Florida Propane Gas Education, Safety and Research Council, which in turn sets up the check-off program. Upon approval of those persons representing two-thirds of the total gallonage of odorized propane gas voting in the retail marketer class, the commissioner shall issue an order establishing the council and call for nominations to the council from qualified industry organizations. The check-off program can be terminated or suspended at any time through the referendum procedure with representatives of more than one half of the total gallonage of odorized propane gas in the dealer class approving such termination or suspension.

The Department of Agriculture and Consumer Services will provide the initial funds for establishing the council upon approval by the referendum process. However, once the amount of assessment has been set and the collection process put in motion, the department will be reimbursed for costs incurred in the establishment of the council. All funds collected under the provisions of this act shall be paid into the General Revenue Fund.

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 proposed law as the "Florida Propane Gas Education, Safety and Research Act," which shall provide programs and projects on education, safety and research to be funded by propane industry assessments.

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

Section 527.22, F.S., establishes the criteria for the membership, duties and responsibilities of the Florida Propane Gas Education, Safety and Research Council. The Commissioner of Agriculture shall select members 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 dealers of propane gas, two members who represent producers of propane gas, two members who represent manufacturers and distributors of propane gas use equipment, wholesalers or resellers, or transporters, and one public member. Not more than two dealer members shall be from any one company. The only council member who is eligible to receive compensation for services will be the public member, who may be reimbursed for reasonable travel expenses as provided in s. 112.061, F.S.

Council members shall 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 unexpired terms may serve a maximum of seven consecutive years. Former council members may be reappointed after a two year hiatus.

The council, once established, shall select a chair and other officers as necessary, establish committees and subcommittees of the council, and adopt rules and bylaws for the conduct of business.

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

The council shall 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 shall 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 shall be public record, and shall be provided to the commissioner, all members of the council, and anyone else requesting it.

The Department of Agriculture and Consumer Services shall be reimbursed from assessments collected for any costs incurred in the establishment of the council.

Section 527.23, F.S., provides for the requirements of the referendum. The referendum must 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 shall 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 shall not 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 such 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 Chapter 119, F.S.

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

Section 527.24, F.S., establishes an industry assessment. The council shall set the initial assessment at no more than one tenth of one cent per gallon. Thereafter, annual assessments 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 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, shall be responsible for the payment of the assessment on the volume of propane gas at the time of import or odorization, whichever is later. Assessments shall be remitted to the council on a

monthly basis. Nonodorized propane gas shall not be subject to assessment until odorized.

The commissioner and the council, in concurrence, may establish an alternate method for collection of the assessment if another means is found to be more efficient and effective. The commissioner may, by rule, establish a late payment charge and rate of interest to be imposed on any person failing to remit amounts due to the council.

All funds collected under the provisions of this act shall be paid into the General Revenue Fund. The council may accept contributions from individuals, corporations, organizations, or the National Propane Education and Research Council for use in programs authorized by law. No funds collected by the council shall be used in any manner for influencing legislation or for campaign contributions.

Section 527.25, F.S., allows the department to adopt rules necessary for administering, collecting, reporting and payment of assessments collected under this act.

Section 527.26, F.S., allows the commissioner to conduct investigations as deemed necessary to see that the department's responsibilities are being carried out or to determine whether a violation of this provision has occurred. The cost of such investigations will be covered by funds collected pursuant to this act.

Section 527.27, F.S., sets the penalty for a violation of any provision of this act as a misdemeanor of the second degree, punishable as provided in s. 775.083, F.S.

Section 527.29, F.S., provides that this act will neither preempt nor supersede any other program relating to propane gas education, safety and research organized and operated under the laws of this state.

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?

(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. <u>Non-recurring Effects:</u>	(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:

This act will take into effect upon becoming a law, thus fiscal year 1996-1997 will not generate a significant amount of revenue. This act does allow for revenues to reach a maximum of \$1.5 million, using current estimates.

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:

The bill incorrectly states that assessment revenues shall be deposited into the General Revenue Fund. The correct fund is the General Inspection Trust Fund of the department. An amendment will make the correction. An amendment has been attached to this bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

An amendment was offered and passed, without objection, to correct the discrepancy mentioned in the "Comments" section.

A strike all amendment was added in the Committee on Finance and Taxation. The following is the analysis for that amendment. The amendment did not effect the fiscal impact of this bill.

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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.

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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.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Legislative Research Director:

Debbi Kaiser

Susan D. Reese

AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:

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Adam D. Shamy

Keith G. Baker, Ph.D.