

STORAGE NAME: h1423a.ca

DATE: March 22, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Community Affairs
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1423

RELATING TO: Lake Apopka Natural Gas District in Orange and Lake Counties

SPONSOR(S): Representative Starks and others

COMPANION BILL(S): None

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

- (1) COMMUNITY AFFAIRS YEAS 8 NAYS 0
- (2) ENVIRONMENTAL PROTECTION
- (3) FINANCE & TAXATION
- (4)
- (5)

I. SUMMARY:

The bill codifies all prior special acts relating to the Lake Apopka Natural Gas District in Orange and Lake Counties into a single act and repeals all prior special acts relating to the District's charter.

The bill requires cash deposits to assure payment for gas service furnished by the District.

The bill allows the District to accept surety bonds and other forms of financial guarantee in lieu of a cash deposit.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Lake Apopka Natural Gas District is an independent special district which was created by the Legislature in 1959 to provide the distribution and sale of natural gas by pipeline in Orange and Lake Counties.

Codification

The 1997 Legislature amended chapter 189, Florida Statutes, to provide for codification of all special districts' charters either by December 1, 2001, or when any act relating to such district is introduced to the Legislature, whichever occurs first. In addition, section 189.429, Florida Statutes, requires that no changes be made to a district's charter as it exists on October 1, 1997, in the codifying legislation and that all prior Legislative acts relating to the district be repealed.

The 1998 Legislature further amended section 189.429, Florida Statutes, by (i) extending the deadline to codify to December 1, 2004, (ii) allowing for the adoption of the codification schedule provided for in an October 3, 1997 memorandum issued by the Chair of the Committee on Community Affairs, (iii) removing the prohibition of substantive amendments in a district's codification bill, and (iv) removing the requirement that a codified charter must be submitted prior to the introduction of any act relating to the charter or prior to the scheduled deadline.

SCHEDULE OF SUBMITTALS OF SPECIAL DISTRICTS' CHARTERS

Special Districts with 2 special acts (45 districts)	1999 Legislative Session
Special Districts with 3 or 4 special acts (63 districts)	2000 Legislative Session
Special Districts with 5, 6 or 7 special acts (53 districts)	2001 Legislative Session
Special Districts with 8, 9, 10, 11 or 12 special acts (56 districts)	2002 Legislative Session
Special Districts with 13 or more (54 districts)	2003 Legislative Session
Special Fire Control Districts (47 districts)	2004 Legislative Session

Status Statement

Also, section 189.404(5), Florida Statutes, provides that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform with the department's determination or declaratory statement regarding the status of the district.

B. EFFECT OF PROPOSED CHANGES:

The bill codifies all prior special acts relating to the Lake Apopka Natural Gas District in Orange and Lake Counties into a single act and repeals all prior special acts relating to the District's charter.

The bill allows cash deposits to assure payment for gas service furnished by the District.

The bill allows the District to accept surety bonds and other forms of financial guarantee in lieu of a cash deposit.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 59-556, Laws of Florida; Chapter 74-553, Laws of Florida

D. 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?

N/A

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

N/A

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

N/A

b. If an agency or program is eliminated or reduced:

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

N/A

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

N/A

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

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

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

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

- 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?
N/A
- (2) service providers?
N/A
- (3) government employees/agencies?
N/A

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Codifies, reenacts, amends, and repeals Chapter 59-556, as amended.

Section 2: Recreates and reenacts the Lake Apopka Natural Gas District as follows:

Section 1: Reaffirms the purpose of the District in creating a gas transmission line.

Section 2: Provides definitions.

Section 3: Recreates and reaffirms the establishment of the District; Provides the objects and purpose of the District.

Section 4: Provides the boundaries of the District.

Section 5: Declares that the District's exercise of its functions is a proper governmental function.

Section 6: Provides that the members of the District are the municipalities of Apopka, Winter Garden, and Clermont.

Section 7: Grants powers to the District; Authorizes the District to sue and be sued; Allows an official seal; Authorizes the District to receive, sell, buy, lease, dispose of, any real, personal or mixed property; Authorizes the District to enter into contracts for less than forty years for a supply of natural gas and the sale and delivery of natural or manufactured gas; Authorizes the District to enter into contracts for the design, construction, extension and repairs of natural gas transmission and distribution system or facilities and services; Authorizes the District to contract for supervision or management services; Provides limitations and requirements for management services contracts; Authorizes the District to borrow money and issue interest bearing bonds; Provides payment restrictions for interest bearing bonds; Allows the District to make covenants in connection with the issuance of bonds; Requires the District to establish uniform rates as to each class of consumer; Authorizes the collection of rates and enforcement of charges; Allows the District to require a cash deposit or other form of financial guaranty in lieu of cash deposit to assure payment for services; Authorizes the District to appoint employees, including attorneys; Provides for the District to prescribe employees' duties, fix their compensation, and to determine if bonds are required; Allows for insurance; Authorizes the District to retain and confer power upon a corporate trustee; Provides purpose of corporate trustee; Grants the power of eminent domain and provides limitations.

Section 8: Authorizes the District to enter into franchise agreements, contracts, agreements, with any municipality, county, gas district, or agency; Provides that no agreement shall not be longer than 40 years.

Section 9: Grant the powers of eminent domain; Provides limitations.

Section 10: Provides Board of Commissioners as governing board of District; Provides for members; Provides for member qualifications; Provides 2 year terms of commissioners; Prohibits compensation of members but allows reimbursements for actual expenses

and payment of \$100 for each board meeting attended; Provides for appointment of vacant seats; Authorizes and provides procedures for the removal of board member.

- Section 11: Provides organization of governing board; Provides for election of chair; Allows for the selection of a secretary; Provides for the selection of other officers, agents and employees.
- Section 12: Grants powers and authority to the governing board; Requires board action to be in the form of a resolution;
- Section 13: Authorizes the issuance of bonds; Provides standards, requirements and procedures for bond issuance; Allows for interim certificates pending the preparation of definitive bonds; Authorizes and provides for the judicial validation of bonds; Provides for the setting aside of reserves, sinking funds, and replacement funds; Allows for additional agreements with bondholders; Authorizes the District to enter into any deeds or other agreements and use the revenues of the bonds as security; Declares that bonds of the District are negotiable instruments and that they shall have all the qualities and incidents of laws of the State relating to negotiable instruments; Authorizes and provides for judicial validation of District bonds; Prohibits the District from any exercise of the power of taxation; Provides that the bonds are not a debt or obligation of the State of Florida or a member municipality; Provides that no referendum or election is required to issue bonds, unless required by the Constitution of the State of Florida.
- Section 14: Provides for the remedies and rights available to the holders of bonds or certificates; Allows for appointment of trustee in the event of a default; Grants powers and duties to trustee, including authority to bring suit to enforce bondholders rights; Allows for the appointment of a receiver; Grants limited powers and duties to the receiver; Restricts receiver's authority to sell, assign, mortgage, or otherwise dispose of any assets belonging to the District.
- Section 15: Requires that all proceeds from the sale of bonds be used solely for the purposes of the District; Allows the proceeds to be used to redeem outstanding bonds; Requires the issuance of a receipt when bond is retired.
- Section 16: Requires the District to proportionally dispose of any revenues which are not subject to covenants or contracts or otherwise disposed of (net revenues) to the municipalities who are members of the District.
- Section 17: Authorizes the issuance of refunding bonds; Authorizes the single issuance of bonds for additional purposes such as paying the costs of improvements; Provides that the refunding bonds are governed by applicable provisions of the act.
- Section 18: Grants the authority to enter into agreements with political subdivisions, agencies, and individual.
- Section 19: Declares that any bonds or other obligations issued by the District constitutes legal investments.
- Section 20: Provides that the District is not required to receive consent from Lake and Orange Counties or other like instrumentality of the State, in order to construct, acquire, or improve District systems or exercise any District power.
- Section 21: Declares that the District is owned and operated by its member municipalities.
- Section 22: Provides for a covenant by the State of Florida not to alter the provisions of the act to the detriment of the holders of bonds or certificates of the District and making provisions applicable with respect to the acquisition, construction, maintenance, operation, financing and refinancing of the gas system or systems by the District.
- Section 23: Prohibits the District from using the right-of-way of any public road without first securing prior approval from the applicable jurisdiction.

STORAGE NAME: h1423a.ca

DATE: March 22, 1999

PAGE 7

Section 24: Authorizes the District to discontinue and shut off service for failure to pay any rates, fees, or charges; Provides for interest, penalties, and other charges; Authorizes the District to enter any land, water, premises, of such delinquent customers in order to discontinue or reconnect such service; Provides that charges, fees, attorney fees, and other expenses may be recovered by the District in a suit; Allows the District to enforce payment by any other lawful means of enforcement.

Section 3: Repeals all special acts relating to the District's charter.

Section 4: Provides that this act does not impair any existing contracts or obligations made and incurred by the District.

Section 5: Provides severability clause.

Section 6: Provides effective of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 26, 1999

WHERE? The Orlando Sentinel; Tavares, Lake County; Orlando, Orange County

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

Although this bill provides that the District may now require a cash deposit or other form of financial guaranty in lieu of cash deposit to assure payment for services, the District has engaged in this practice since its inception.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A strike-everything amendment was adopted by the Committee on Community Affairs on March 22, 1999. The amendment does the following:

- inserts status statement pursuant to section 189.404(5), Florida Statutes;
- removes obsolete language; and
- corrects the numbering system of the District's charter.

STORAGE NAME: h1423a.ca

DATE: March 22, 1999

PAGE 8

VI. SIGNATURES:

COMMITTEE ON Community Affairs:

Prepared by:

Staff Director:

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