

**STORAGE NAME:** h1049z.lgva.doc  
**DATE:** July 1, 2002

**\*\*AS PASSED BY THE LEGISLATURE\*\***  
**CHAPTER #:** 2002-374, Laws of Florida

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
LOCAL GOVERNMENT & VETERANS AFFAIRS  
FINAL ANALYSIS – LOCAL LEGISLATION**

**BILL #:** HB 1049, 1ST ENG  
**RELATING TO:** City of Lakeland / Electric Utility  
**SPONSOR(S):** Representative Ross  
**TIED BILL(S):**

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
  - (2) UTILITIES & TELECOMMUNICATIONS (RIC) (W/D)
  - (3) COUNCIL FOR SMARTER GOVERNMENT (W/D)
  - (4)
  - (5)
- 

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

The bill redefines terms in the City Charter.

The bill prohibits the city from selling, leasing, or disposing of all or substantially all of the assets of the electric utility or water plant unless authorized by two-thirds of the voters in an election called for that purpose. The City Council is given the latitude to make decisions regarding selling or leasing assets of the water plant or utility, such as a peaking station or a percentage of a generator's capacity, without having to ask for a referendum.

According to the Economic Impact Statement, this bill does not impact state or local budgets.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Allows the City Council to sell, lease or dispose of certain electric utility properties without voter approval.

B. PRESENT SITUATION:

The current charter of the City of Lakeland was adopted by ordinance 1976 on August 16, 1976 and subsequently approved by a referendum of the electorate on November 2, 1976. This charter replaced all previous city charters. The current provision relating to disposal of any light or water plant or gas plant requires a referendum by two-thirds of the electorate.

Amending a Municipal Charter

After a charter is enacted, a municipality may amend its charter in accordance with chapter 166, Florida Statutes, notwithstanding any charter provisions to the contrary. The Act provides that the governing body of a municipality may, by ordinance, submit to the electors a proposed charter amendment.

Alternatively, the electors of a municipality may, by petition signed by 10 percent of the registered electors as of the last preceding municipal general election, submit to the electors of a municipality a proposed amendment to its charter. Such an amendment may be to any part or to all of the charter except the part describing the boundaries of the municipality. The governing body of the municipality shall place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election or at a special election called for such purpose.

Upon adoption of an amendment to the municipal charter by a majority of the electors voting in a referendum, the governing body of the municipality is required to incorporate the amendment into the charter and file the revised charter with the Department of State. All amendments are effective on the date specified, or as otherwise provided in the charter.

A municipality may, without referendum and by unanimous vote of the governing body, abolish municipal departments provided for in the municipal charter. It may amend provisions or language out of the charter if judicially construed, either by judgment or by binding legal precedent from a decision of a court of last resort, to be contrary to either the State Constitution or Federal Constitution.

In addition, a municipality may, by ordinance and without referendum, redefine its boundaries to include those lands previously annexed. Such redefinitions must be filed with the Department of State.

Section 30-64 of the Lakeland City Code states that proposed amendments or revisions to the city charter shall be proposed and submitted in compliance with chapter 166.031, F.S.

Paragraph (b) of section 9 of Division 1 of Part 1 of the amended Charter of the City of Lakeland

According to paragraph (b) of section 9 of Division 1 of Part 1 of the amended Charter of the City of Lakeland, 1976, the City of Lakeland is not allowed to sell, lease or dispose of any light, water, or gas plant unless authorized by two-thirds of electors voting in a referendum called for that purpose.

The City of Lakeland must now call for a referendum every time it wants to sell or lease assets of the utility, such as a peaking station or percentage of a generator's capacity. Referendums that are triggered during an election year are placed on the November ballot. The City Commission has the authority to set referendums that are triggered during a non-election year.

C. EFFECT OF PROPOSED CHANGES:

The bill amends paragraph (b) of section 9 of Division 1 of Part 1 of the amended Charter of the City of Lakeland, 1976 to prohibit the city from selling, leasing, or disposing of all, or substantially all, of the assets of the electric utility or water plant unless authorized by two-thirds of electors voting in a referendum called for that purpose. The City Council is given the latitude to make decisions regarding selling or leasing assets of the water plant or utility, such as a peaking station or percentage of a generator's capacity, without having to ask for a referendum.

The bill removes the terms, "light plant" and "gas plant" and replaces them with the term, "electric utility."

The bill would require fewer referendums, and possibly only one, as the City of Lakeland can only sell, lease, or dispose of all, or substantially all, of the assets of the water plant or electric utility.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Amends paragraph (b) of section 9 of Division 1 of Part 1 of the amended Charter of the City of Lakeland, 1976. Prohibits the city from selling, leasing, or disposing of all or substantially all of the assets of the water plant or electric utility unless authorized by two-thirds of electors voting in a referendum called for that purpose. Updates the definition of electric utility.

**Section 2:** This act takes effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN?

December 11, 2001

WHERE? Lakeland Ledger, Lakeland, Florida

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:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 14, 2002, the House considered, adopted one amendment, and passed HB 1049. The amendment replaces the term, "water plant" which was removed in the original bill. This subjects any sale or lease of the water plant to the referendum requirement.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Kevin Doyle

Joan Highsmith-Smith

**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:**

Prepared by:

Staff Director:

Kevin Doyle

Joan Highsmith-Smith