

CHAPTER 99-458

House Bill No. 1499

An act relating to the Jacksonville Electric Authority; amending chapter 92-341, Laws of Florida, being the Charter of the City of Jacksonville; authorizing the JEA to assess civil penalties of at least \$2,000 per violation for violations of the Industrial Pretreatment Program under the Clean Water Act that each day of an ongoing or continuing violation shall be deemed to be a separate violation; providing for a hearing; providing an effective date.

WHEREAS, on June 1, 1997, the Consolidated City of Jacksonville transferred its Water and Sewer Utility to the Jacksonville Electric Authority (JEA), and

WHEREAS, under its National Pollutant Discharge Elimination System (NPDES) permits, JEA operates an industrial pretreatment program (formerly operated by the Consolidated City of Jacksonville), as authorized under ss. 307(b) and 407(b) of the Clean Water Act, which program regulates the discharges of industrial wastes to JEA's wastewater treatment facilities, and

WHEREAS, administration of the federal NPDES program has been delegated to the Florida Department of Environmental Protection, and

WHEREAS, the NPDES regulations of the U.S. Environmental Protection Agency (40 CFR 403.8(f)(1)(vi)(A)) and the rules of the Florida Department of Environmental Regulation (Rule 62-625.500(2)(5)a, Fla. Admin. Code) require that industrial pretreatment control authorities, like JEA, have authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 a day for each violation by industrial users of pretreatment standards and requirements, and

WHEREAS, section 125.69(2), Florida Statutes, authorizes county ordinances establishing fines up to \$2,000 a day, if necessary for a county to carry out a federally mandated program, and

WHEREAS, JEA, in operating the wastewater treatment plants formerly owned and operated by the Consolidated City of Jacksonville, is continuing to provide industrial pretreatment discharge services formerly offered as county services by the Consolidated City of Jacksonville, and

WHEREAS, JEA seeks clear and unambiguous authority to assess the civil penalties necessary to comply with the federally mandated NPDES program and protect its water supply system, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (d) of section 21.04 of article 21 of chapter 92-341, Laws of Florida, as enacted by said law, is amended to read:

ARTICLE 21. JACKSONVILLE ELECTRIC AUTHORITY

Section 21.04. Powers.—The authority shall have the following powers, in addition to powers otherwise conferred:

(d)(1) To the extent permitted by law, to fix, regulate, and collect rates and charges for the services furnished by the electric system, only after the authority shall have given notice of and held a public hearing in Duval County. The notice shall be published not less than 1 week in advance in at least one newspaper of general circulation in the county. Said notice shall be at least one-fourth page in size, inviting the public to be present and heard. The authority shall have the power to impose sanctions to enforce compliance with any rule or regulation which the authority may adopt in the management and operation of, or the sale or use of electricity from the electric system. The city and other public bodies shall be required to pay for electricity upon the same basis as other users.

(2) To assess civil penalties in an amount up to but not to exceed \$2,000 to be paid to the authority for violation of industrial pretreatment protective regulations. Each day a violation continues shall be a separate violation. In all proceedings in which the authority seeks to impose a penalty involving air or water pollution, at the election of the person or entity whose substantial interest is at stake, such person or entity may select either:

(i) The procedures described in section 120.569, Florida Statutes, 1998 Supplement, and section 120157, Florida Statutes, 1998 Supplement, as such sections may be amended from time to time, which procedures include, when appropriately requested, the hiring and utilization of administrative law judges within the Division of Administrative Hearings of the State of Florida to preside over disputed cases; or

(ii) An alternate procedure established by the authority.

Section 2. This act shall take effect upon becoming law.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.