

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1127 Pet Services and Welfare Programs

**SPONSOR(S):** Artiles

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1738

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Nelson	Rojas
2) Government Operations Subcommittee			
3) Finance & Tax Subcommittee			

### SUMMARY ANALYSIS

HB 1127 authorizes counties to create, by ordinance, an independent special district to provide funding for pet services and welfare programs. The funds must be used for:

- spay and neuter programs,
- improvement of animal care,
- providing veterinary medical care for animals with low-income owners,
- pet education,
- surrender prevention,
- adoption programs, and
- prevention of animal cruelty.

In order to levy ad valorem taxes to fund the district, the county governing body must obtain approval from the majority of county electors. The bill provides for the membership of such a district's governing board, its powers and duties, district financial requirements, and dissolution procedures.

The bill has an effective date of July 1, 2013.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

Most households in the United States possess at least one pet. Pets are said to provide numerous benefits to humans, including decreased blood pressure, cholesterol levels, triglyceride levels and feelings of loneliness, while increasing opportunities for exercise, outdoor activities and socialization.<sup>1</sup>

Nonetheless, four million cats and dogs—about one every eight seconds—are euthanized in U.S. shelters each year. Often these animals are the offspring of cherished family pets. Spay/neuter is a proven way to reduce pet overpopulation.<sup>2</sup>

Although animal cruelty is illegal in every state (and a felony in 46), such behavior continues to persist.<sup>3</sup> According to the American Society for the Prevention of Cruelty to Animals (ASPCA), one of the most powerful tools available for preventing cruelty to animals is education.<sup>4</sup> Additional factors contribute to the care of our nation's pets, including financial hardship on the part of their owners. Numerous programs exist that provide these individuals with assistance, including pet food and discounted veterinary services.<sup>5</sup>

#### Sterilization Requirement for Florida Dogs and Cats

Section 823.15, F.S., provides a finding that:

The Legislature has determined that uncontrolled breeding of dogs and cats in the state results in the production of many more puppies and kittens than are needed to replace pet animals which have died or become lost or to provide pet animals for new owners. This leads to many dogs, cats, puppies, and kittens being unwanted, becoming strays and suffering privation and death, being impounded and destroyed at great expense to the community, and constituting a public nuisance and public health hazard. It is therefore declared to be the public policy of the state that every feasible means of reducing the production of unneeded and unwanted puppies and kittens be encouraged.

In furtherance of this policy, the Legislature required provision for the sterilization of all dogs and cats sold or released for adoption from any public or private animal shelter or animal control agency operated by a humane society or by a county, city, or other incorporated political subdivision, by either:

- providing sterilization by a licensed veterinarian before relinquishing custody of the animal; or
- entering into a written agreement with the adopter or purchaser guaranteeing that sterilization will be performed within 30 days or prior to sexual maturity. Failure by either party to comply with these provisions is a noncriminal violation as defined in s. 775.08(3), F.S.

All costs of sterilization are paid by the prospective adopter unless otherwise provided for by ordinance of the local governing body, with respect to animal control agencies or shelters operated or subsidized by a unit of local government, or provided for by the humane society governing body, with respect to an

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<sup>1</sup> [http://www.cdc.gov/healthypets/health\\_benefits.htm](http://www.cdc.gov/healthypets/health_benefits.htm).

<sup>2</sup> [http://www.humanesociety.org/issues/pet\\_overpopulation/](http://www.humanesociety.org/issues/pet_overpopulation/).

<sup>3</sup> [http://www.humanesociety.org/issues/abuse\\_neglect/tips/cruelty\\_action.html](http://www.humanesociety.org/issues/abuse_neglect/tips/cruelty_action.html).

<sup>4</sup> <http://www.asPCA.org/fight-animal-cruelty/>.

<sup>5</sup> [http://www.humanesociety.org/animals/resources/tips/trouble\\_affording\\_pet.html](http://www.humanesociety.org/animals/resources/tips/trouble_affording_pet.html).

animal control agency or shelter operated solely by the humane society and not subsidized by public funds.

### The Florida Animal Friend License Plate

Authorized in the 2004 legislative session by SB 2020, the Florida Animal Friend license plate provides a funding mechanism for spaying and neutering initiatives in the state. After reviewing grant applications, the Florida Animal Friend Coalition, comprised of animal care groups such as the Florida Animal Control Association, the Florida Veterinary Medical Association, and the Humane Society of the United States, distributes funds to non-profit organizations and governmental agencies around the state for spaying and neutering programs. In 2012, more than \$396,000 was distributed to spay/neuter programs.<sup>6</sup>

Besides the coalition, there are several national and local humane and animal services organizations, such as the Humane Society of the United States, the ASPCA, private and publicly operated animal shelters, various animal rescue organizations, and spaying and neutering clinics currently operating in Florida. Like the coalition, many of these organizations conduct fund-raising activities or provide grants to organizations that further their goals.

### Gertrude Maxwell Save a Pet Act

In 2008, the Florida Legislature passed the “Gertrude Maxwell Save a Pet Act,” which created the Gertrude Maxwell Save a Pet Direct-Support Organization (DSO) within the Department of Agriculture and Consumer Services.<sup>7</sup> A DSO is a separate, not-for-profit corporation organized and operated exclusively to assist a specific organization by providing supplemental resources from grants, gifts and bequests of money and/or services. These organizations are authorized by Florida statute to receive, hold, invest and administer property, and to make expenditures to or for the benefit of the specific organization.

This direct-support organization was created for the purpose of providing grants to animal shelters for spaying and neutering animals, providing grants for shelters and services during times of emergencies, and developing and disseminating pet care education materials. The bill expressed justification for its provisions in that:

- it is estimated that over 800,000 homeless, discarded, abandoned, stray and unclaimed dogs and cats are euthanized in the state each year;
- in seven years one female cat and her offspring can theoretically produce 420,000 cats, and in six years one female dog and her offspring can theoretically produce 67,000 dogs;
- the cost to spay or neuter a pet or feral cat is about \$20-\$70 per animal, while the approximate cost to capture, house, feed, and eventually euthanize a homeless animal is about \$100; and
- reducing euthanasia of unwanted animals can save lives of companion animals and potential service animals and save tax dollars, and many homeless animals can be trained as service or therapy animals.

Gertrude Maxwell Save a Pet, Inc., entered into a memorandum of agreement with the department on December 19, 2008. Located in Tallahassee, this DSO is governed by a 10-member board, which includes one representative of each of the following groups: the Florida Veterinary Medical Association, the Cat Fanciers’ Association, the Florida Association of Kennel Clubs, a humane organization designated by the commissioner, the Florida Animal Control Association, the National Rifle Association, a consumer member not affiliated with any of the aforementioned associations, and the commissioner or his or her designee. According to department personnel, this direct-support organization never was fully functional, i.e., board meetings were not held and a bank account was not established. Therefore, on December 17, 2012, the department notified all board members of the department’s intent to

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<sup>6</sup> <http://www.floridaanimalfriend.org/freqaskgrantq.html>.

<sup>7</sup> Section 570.97, F.S.

terminate the memorandum of agreement. As part of that termination, the department indicated that it will be recommending legislation, which will repeal the creation of the DSO.<sup>8</sup>

### Pets' Trust Miami, Inc.

Pets' Trust Miami, Inc. is a Florida nonprofit corporation based in Miami, which registered with the Florida Department of State's Division of Corporations on Feb 16, 2012. The Trust was formed to raise awareness about the shelter animals and unacceptable number of pets euthanized, and to improve animal welfare, increase adoptions and decrease overpopulation by providing free and low-cost spay/neuter, low-cost veterinary care and educational programs. Trust members believed that their community wanted change and would be willing to pay for it with a small, designated property tax. After a campaign to educate the public about the issues, the Miami-Dade Board of County Commissioners uniformly expressed support for allowing the tax issue to be placed on the ballot. Subsequently, the following question was included on the November 6, 2012, presidential ballot:

#### NON-BINDING STRAW BALLOT ON FUNDING IMPROVED ANIMAL SERVICES PROGRAMS

*Would you be in favor of the County Commission increasing the countywide general fund millage by 0.1079 mills and applying the additional ad valorem tax revenues generated thereby to fund improved animal services, including:*

- *decreasing the killing of adoptable dogs and cats (historically approximately 20,000 annually);*
- *reducing stray cat populations (currently approximately 400,000 cats); and*
- *funding free and low-cost spay/neuter programs, low-cost veterinary care programs, and responsible pet ownership educational programs?*

The straw ballot question was approved by 64.47 percent of voters. In other words, 483,284 people voted in favor of imposing an additional property tax to fund the Trust's goals. The Trust has estimated the amount of funds from such a tax at approximately \$20 million per year.

### Special Districts

Special district governments are limited purpose government units that exist as separate entities and have substantial fiscal administrative independence from general purpose governments. Special district governments have existed in the United States for over 200 years and are found in every state and in the District of Columbia.

In Florida, special districts perform a wide variety of functions, such as providing fire protection services, delivering urban community development services, and managing water resources. Special districts typically are funded through ad valorem taxes, special assessments, user fees or impact fees.

The Uniform Special District Accountability Act, ch. 189 F.S., contains general provisions relating to special districts. Section 189.4031, F.S., provides that all special districts, regardless of the existence of other, more specific provisions of applicable law, must comply with the creation, dissolution and reporting requirements set forth in this chapter.

#### *Dependent Special Districts*

A "dependent special district" is defined by s. 189.403(2), F.S., as a special district that meets at least one of the following criteria:

- the membership of its governing body is identical to that of the governing body of a single county or a single municipality;

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<sup>8</sup> Department of Agriculture and Consumer Services, Office of Inspector General, Review of Department Direct-Support Organizations, March 4, 2013.

- all members of its governing body are appointed by the governing body of a single county or a single municipality;
- during their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality; or
- the district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

A county is authorized to create, by ordinance, a dependent special district within the county, subject to the approval of the governing body of the incorporated area affected. See, s. 189.4041(2), F.S.

### *Independent Special Districts*

An "independent special district" is defined by the ch. 189, F.S., as a special district that is not a dependent special district as defined in statute. Independent special districts do not possess home rule power. Therefore, the only powers possessed by independent special districts are those expressly provided by, or which can be reasonably implied from, the special district's charter or by general law.

General law authorizes the creation of certain types of independent special districts without specific action of the Legislature. General law authorizes counties to create, by local ordinance, several types of independent special districts, including:

- juvenile welfare boards/funding for children's services (s.125.901, F.S.);
- county health or mental health care special districts/funding for indigent health care services (s. 154.331, F.S.);
- public hospital districts (ch.155, F.S.);
- community development districts of less than 1,000 acres (s. 190.005, F.S.); and
- neighborhood improvement districts (part IV, ch. 163, F.S.).

Notwithstanding any general law, special act or ordinance of a local government to the contrary, all independent special district charters are required contain the information required by s. 189.404, F.S. This section provides that it is the intent of the Legislature that, at a minimum, the requirements of s. 189.404 (3), F.S., must be satisfied when an independent special district is created.

General laws or special acts that create or authorize the creation of independent special districts and are enacted after September 30, 1989, must address and require the following minimum requirements in their charters:

- the purpose of the district;
- the powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements;
- the methods for establishing the district;
- the method for amending the charter of the district;
- the membership and organization of the governing board of the district;
- the maximum compensation of a governing board member;
- the administrative duties of the governing board of the district;
- the applicable financial disclosure, noticing, and reporting requirements;
- if a district has authority to issue bonds, the procedures and requirements for issuing bonds;
- the procedures for conducting any district elections or referenda required and the qualifications of an elector of the district;
- the methods for financing the district;
- if an independent special district has the authority to levy ad valorem taxes, other than taxes levied for the payment of bonds and taxes levied for periods not longer than two years when authorized by vote of the electors of the district, the millage rate that is authorized;

- the method or methods for collecting non-ad valorem assessments, fees, or service charges;
- planning requirements; and
- geographic boundary limitations.

### Dissolution of Independent Special Districts

Section 189.4042, F.S., provides general merger and dissolution procedures for special districts. Section 189.4042 (3)(a), F.S., describes voluntary dissolution of an active independent special district:

If the governing board of an independent special district created and operating pursuant to a special act elects, by a majority vote plus one, to dissolve the district, the voluntary dissolution of an independent special district created and operating pursuant to a special act may be effectuated only by the Legislature unless otherwise provided by general law.

Provision also is made for “other dissolutions.” If an independent special district was created by a county (or municipality) by referendum or any other procedure, the county (or municipality) that created the district may dissolve the district pursuant to a referendum or any other procedure by which the independent special district was created. However, if the independent special district has ad valorem taxation powers, the same procedure required to grant the independent special district ad valorem taxation powers is required to dissolve the district.

Section 189.4042(3)(d), F.S., provides that financial allocation of the assets and indebtedness of a dissolved independent special district will be pursuant to s. 189.4045, F.S. Section 189.4045 (2), F.S., provides that unless otherwise provided by law or ordinance, the dissolution of a special district government transfers the title to all property owned by the preexisting special district government to the local general-purpose government, which also assumes all indebtedness of the preexisting special district.

### **Effect of Proposed Changes**

HB 1127 creates a new part VII in ch. 125, F.S. (“County Government”), which authorizes counties to create independent special districts to provide funding for pet services and welfare programs. Many of the provisions in the bill are similar to those provided in s. 125.901, F.S., relating to children’s services independent special districts.

Pursuant to the bill, each county may, by ordinance, create an independent special district to provide funding for pet services and welfare programs throughout the county. The boundaries of the district are coterminous with the boundaries of the county.

The county governing body must obtain approval, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes which may not exceed 0.10 mills. Once the millage is approved by the electors, the district must seek approval of the electors in future years to levy the previously approved millage.

Any district created will be governed by a council on pet services and welfare, which is designated as the county “Pets’ Trust.” The council is established by the governing body of the county and consists of 14 members as follows:

- two representatives from a private not-for-profit animal shelter located in the county or from the county animal shelter;
- three members of the county governing body appointed by the county commission, except that if a county has a mayor who is not a member of the county commission, one member of the county governing body appointed by the county mayor and two members of the county governing body appointed by the county commission;

- two veterinarians practicing in the county;
- one representative from a not-for-profit animal welfare and education or rescue group with a presence in the county;
- one expert in targeted spay and neuter programs;
- one certified public accountant practicing in the county;
- one attorney practicing in the county;.
- one representative from a not-for-profit animal rescue organization in good financial standing that actively rescues animals in the county; and
- two at-large members elected by the electors of the county.

Members are appointed or elected for two-year terms, except that the length of the terms of the initial members at-large are adjusted to stagger the terms.

Council members must be residents of the county in which the council is located for a period of at least 24 months before appointment or election to the council. The council may remove a member for cause by majority vote or upon the written petition of the county governing body.

Members of the council serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses consistent with the provisions of s. 112.061, F.S. The council is required to maintain minutes of each meeting, including a record of all votes cast, and make such minutes available to any interested person.

The council has the powers and duty to:

1. Allocate funds to not-for-profit or municipal organizations in good financial standing that will deliver the services such a way as to:
  - create the greatest impact on the animal overpopulation crisis in the county;
  - improve animal care in the county;
  - provide veterinary medical care for animals with low-income owners;
  - implement pet education, surrender prevention, and adoption programs; and
  - address the prevention of animal cruelty.

Each council must develop an application process for organizations eligible to provide services within the county.

2. Lease real estate and buy equipment and personal property, provided such leases and purchases are not made unless paid for with cash on hand or secured by funds deposited in financial institutions.
3. Collect information and statistical data that will be helpful to the council and the county in deciding the needs of pets in the county.
4. Allocate an amount not to exceed five percent of the revenue generated to employ, compensate, and provide benefits for any part-time or full-time personnel, including office space for such personnel and associated administrative costs.
5. Fund spay and neuter programs, including the provision of these services by existing providers, and building additional spay and neuter facilities that are targeted specifically at low-income pet owners.

Up to 80 percent of the council's revenue must be used for the spay and neuter programs in each of the first three years of the council's existence, or until shelter deaths reach half the volume of the current state average, whichever time period is longer.

Additionally, the council must allocate a portion of the remaining 10 percent of its revenue to pet retention, surrender prevention, adoption, and animal welfare education programs for both children and adults.

The council must decide how the revenue is allocated to most significantly impact the animal overpopulation problem in the community and to address the root causes of animal abuse and abandonment.

If the current animal welfare and spay and neuter organizations in the county are unable to provide all services that may be funded during any one year, revenues may be rolled over and used by the council in the following year.

6. Allocate up to five percent of the revenue to assist rescue groups that specialize in the transport, impound and care of victims of large animal cruelty and neglect each year.
7. Ensure that all animals adopted from or sent to a rescue partner from an animal shelter are sterilized, if medically feasible, pursuant to the time periods specified in applicable law.
8. Ensure that funds are allocated only to those organizations providing services in the county served by the council.
9. Allocate the appropriate budget for a yearly professional audit to ensure effectiveness and transparency.
10. Allocate a portion not to exceed two percent for public relations, including notifying the public of locations and services provided.

Each council is required to:

1. Elect a chair and a vice chairs, and elect other officers as deemed necessary by the council.
2. Hire a staff to identify and assess the needs of the pets in the county served by the council, and pay them reasonable compensation. The bill specifies that compensation for any lobbyists hired to represent a council must be capped at \$50,000 annually. Staff must submit to the governing body of the county a written description of:
  - a. The activities, services, and opportunities that will be provided to pets.
  - b. The anticipated schedule for providing activities, services and opportunities.
  - c. The manner in which pets will be served, including a description of arrangements and agreements that will be made with community organizations.
  - d. The manner in which the council will seek and provide funding for unmet needs.
  - e. The strategy that will be used for interagency coordination to maximize existing human and fiscal resources and reduce the duplication of services.
3. Provide training and orientation to all new members sufficient to allow them to perform their duties.
4. Adopt bylaws, rules and regulations.
5. Provide a biannual written report, to be presented no later than January 1 and July 1 of each year, to the governing body of the county.

On or before July 1 of each year, the council is required to prepare a tentative annual written budget of the district's expected income and expenditures, including a contingency fund.<sup>9</sup> The council must compute a proposed millage rate within the voter-approved cap necessary to fund the tentative budget and, fix the final millage rate by resolution. The adopted budget and final millage rate must be certified and delivered to the governing body of the county. A district levy millage may not exceed a maximum of 0.10 mills of assessed valuation of all properties within the county that are subject to ad valorem county taxes.

The certified district budget is not subject to change or modification by the governing body of the county or any other authority. All tax money collected is paid directly to the council by the tax collector of the county, or the clerk of the circuit court if the clerk collects delinquent taxes.

All moneys received by the council are required to be deposited in qualified public depositories with separate and distinguishable accounts established specifically for the council, and withdrawn only by checks signed by the chair of the council and countersigned by a chief executive officer. District funds may not be expended except by check, except that expenditures not exceeding \$100 may be made from a petty cash account. All expenditures from petty cash must be recorded in the books and records of the Pets' Trust. Funds of the district, except expenditures from petty cash, may not be expended without prior approval of and budgeting by the council.

Within 10 days after the expiration of each quarter annual period, the council is required to file a financial report with the governing body of the county that includes:

1. the total expenditures of the council for the quarter annual period;
2. the total receipts of the council during the quarter annual period;
3. a statement of the funds the council has on hand, has invested, or has deposited with qualified public depositories at the end of the quarter annual period; and
4. the total administrative costs of the council for the quarter annual period.

A pet welfare district may be dissolved by a special act of the Legislature, or the county governing body may, by ordinance, dissolve the district subject to the approval of the electors. The governing body of the county must submit the question of retention or dissolution of a district with voter-approved taxing authority to the electors in the next available election after four years of the district's existence.

If a district is dissolved, each county must first obligate itself to assume the debts, liabilities, contracts and outstanding obligations of the district within the total millage available to the county governing body for all county and municipal purposes pursuant to s. 9, Art. VII of the State Constitution. A district may also be dissolved pursuant to s. 189.4042, F.S.

After or during the first year of operation of the council, the governing body of the county, at its option, may fund in whole or in part the budget of the council from its own funds. However, any current allocations for shelter operations from revenue generated by the county shelter must continue.

Any district created pursuant to the bill must comply with all other statutory requirements of general application that relate to the filing of any financial reports or compliance reports required under part III of ch. 218, F.S., or any other report or documentation required by law, including the requirements of ss. 189.415, 189.417 and 189.418, F.S.

The bill has an effective date of July 1, 2013.

#### B. SECTION DIRECTORY:

Section 1: Creates part VII of ch.125, F.S., consisting of s. 125.98, F.S., relating to pet services and welfare programs.

Section 2: Provides an effective date.

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<sup>9</sup> The fiscal year of the district is the same as that of the county.  
**STORAGE NAME:** h1127a.LFAC  
**DATE:** 4/2/2013

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Property owners in a county that establishes a pet services and welfare special district will pay additional property taxes.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

#### **Drafting Issues**

Line 28: the provision requiring the district to seek approval of the electors in future years to levy the previously approved millage is unusual, and will require multiple referendums.

Line 59: the mechanism for staggering the terms of members is not included in the bill.

Line 63: the provision stating that the council may remove a member upon the written petition of the county governing body could be viewed as allowing county officials to exert unintended control over an independent special district.

Line 114: the revenue roll-over provision contains no spending allocations in keeping with the regular budgets for such special districts.

Line 152: although it does not appear that a council has the power to seek additional funds, this provision requires the council to describe how it will seek and provide funding for unmet needs.

Line 240: the provision allowing for dissolution of a special district by the Legislature appears to not require a referendum.

Line 246: the provision requiring the governing body of the county to submit the question of retention or dissolution of a district with voter-approved taxing authority to the electors in the next available election after four years of the district's existence is unclear as to whether this is required every four years (it is also unnecessary as the county may do so at any time pursuant to s. 189.4042, F.S.).

Line 264: the language providing that after or during the first year of operation of the council, the governing body of the county may fund the budget of the council from its own funds seems unwarranted if the council has its own ad valorem funding.

Line 267: the language regarding county shelter allocations is unclear.

No provision is included that provides the method for amending the charter of an independent special district, or for conducting district elections.

#### **Other Comments**

A county currently has the authority to create a dependent pet special district without legislative authorization.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N./A.