

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: SB 1738

INTRODUCER: Senator Margolis

SUBJECT: Pet Services and Welfare Programs

DATE: March 14, 2013

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Halley	AG	<b>Pre-meeting</b>
2.			CA	
3.			AFT	
4.			AP	
5.				
6.				

**I. Summary:**

SB 1738 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 in the county;
- 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 independent special district, the county governing body must obtain approval from the majority of electors in the county voting on the question. The bill provides the membership of the “Pets’ Trust” council, powers and duties of the council, and reporting requirements.

This bill creates part VII of chapter 125, Florida Statutes, consisting of section 125.98 of the Florida Statutes.

## II. Present Situation:

### Special Districts

The Florida Constitution specifically provides for four types of local governments: counties, municipalities, school districts, and special districts. Special Districts are governed by the Uniform Special District Accountability Act of 1989 in Chapter 189, F.S.<sup>1</sup> Section 189.403(1), F.S., defines a “special district” as a confined local government unit established for a special purpose.<sup>2</sup> The public policy intent of special districts is to provide private and public sectors an alternative governing method to “manage, own, operate, construct, and finance basic capital infrastructure, facilities, and services.”<sup>3</sup> A special district can be created by general law, special act, local ordinance, or by Governor or Cabinet rule.<sup>4</sup> A special district does not include:

- a school district,
- a community college district,
- a special improvement district (Seminole and Miccosukee Tribes under s. 285.17, F.S.),
- a municipal service taxing or benefit unit (MSTU/MSBU), or
- a political subdivision board of a municipality providing electrical service.<sup>5</sup>

While special districts have similar governing powers and restrictions as counties and municipalities,<sup>6</sup> they do not have “local home rule” power that has been granted to general-purpose governments. Special districts have only the explicit authority granted by statute.<sup>7</sup> Like other forms of local government, special districts operate through a governing board and can “enter contracts, employ workers . . . issue debt, impose taxes, levy assessments and . . . charge fees for their services.”<sup>8</sup> Special districts are held accountable to the public and are therefore subject to public sunshine laws and financial reporting requirements.<sup>9</sup>

### Ad valorem Tax and Special Districts

Local governments may levy ad valorem taxes subject to the following limitations:

- ten mills for county purposes,
- ten mills for municipal purposes,
- ten mills for school purposes,
- a millage fixed by law for a county furnishing municipal services,

<sup>1</sup> Chapter 189, F.S.; *see s.* 189.401, F.S.

<sup>2</sup> Section 189.403(1), F.S.

<sup>3</sup> Section 189.402(4), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Mizany, Kimia and April Manatt, WHAT’S SO SPECIAL ABOUT SPECIAL DISTRICTS? CITIZENS GUIDE TO SPECIAL DISTRICTS IN CALIFORNIA, 3rd ed., 2 (Feb. 2002). Districts do not have “local home rule” power that has been granted to general-purpose governments; they have only the explicit authority granted by statute.

<sup>7</sup> *See Roach v. Loxahatchee Groves Water Control District*, 417 So. 2d 814 (Fla. 4<sup>th</sup> DCA 1982).

<sup>8</sup> *See supra* note 5. (alteration to original) (citation omitted).

<sup>9</sup> Presentation by Jack Gaskins Jr., from the Division of Community Development in the Department of Economic Opportunity, SPECIAL DISTRICT BASICS PRESENTATION (October 4, 2011) (on file with the Senate Committee on Community Affairs). *See also* ss. 189.417 and 189.418, F.S.

- a millage authorized by law and approved by voters for special districts.<sup>10</sup>

County government millages are composed of four categories of millage rates:<sup>11</sup>

- the nonvoted county millage rate set by the county's governing body,
- county debt service millage,
- county voted millage,
- county dependent special district millage as set by the county's governing body.

Municipal government millages are composed of four similar categories of millage rates which includes any municipal dependent special district millage as set by the municipality's governing body.<sup>12</sup>

Independent special district millages are the rates set by the district's governing body, and the following issues must be addressed:<sup>13</sup>

- Whether the millage authorized by a special act is approved by the electors pursuant to Section 9(b), Art. VII, State Constitution; authorized pursuant to Section 15, Art. XII, State Constitution; or otherwise authorized.
- Whether the tax is to be levied countywide, less than countywide, or on a multicounty basis.

### **Pet Services and Welfare Programs**

Four million cats and dogs are euthanized in United States shelters each year. Often these animals are the offspring of family pets. Low cost spay/neuter programs are a proven way to reduce pet overpopulation and result in the most efficient and efficacious way of decreasing shelter intake.

One of the most powerful tools available for preventing cruelty to animals is education. It is important to plant the seeds of kindness in children early, and to nurture their development as the child grows. Free and low-cost humane education material is available on the web and also distributed by many animal welfare groups. Limited educational programs have been developed, promoted, and implemented for both children and adults through public, private, and charter schools, and partnerships with charitable organizations and adult community events. Funding is needed to expand these programs.

Many pet owners are elderly, disabled, or on a fixed income and the cost of care for their pets may be too expensive. When sick or injured animals are unable to receive veterinary care, they may be abandoned or taken to shelters by owners who are experiencing financial hardship and can no longer care for the animal. Some pet owners only need short term or crisis foster care in order to avoid having to surrender their pets. Programs that organize a network of volunteer foster parents can be established to foster pets for an agreed period of time with subsequent

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<sup>10</sup> See Section 9, Article VII, Florida Constitution, Chapters 192-197 and 200, Florida Statutes.

<sup>11</sup> Section 200.001(1), F.S.

<sup>12</sup> Section 200.001(2), F.S.

<sup>13</sup> Section 200.001(4), F.S.

return of the pet to the owner. The foster parents would receive food, supplies and medical care for the animals. Programs in “high risk” and low income communities are needed to provide vaccinations for increased community immunity, affordable micro chipping, training assistance, free or low cost collars, and pet identification tags.

### **Pets’ Trust Miami, Inc.**

In 2012, Pets’ Trust Miami, Inc. was formed to raise awareness about shelter animals and the unacceptable number of pets being euthanized. Its mission is to substantially reduce both the animal overpopulation and shelter deaths of companion animals in Miami-Dade County. The Pets’ Trust Miami members believed that their community wanted change and would be willing to pay for it with a small designated property tax. In order to implement such a tax, however, the Miami-Dade Board of County Commissioners would either have to include that in the County budget or voters would have to approve it in a general election. After a successful grassroots campaign to educate the public about the issues, the Board of County Commissioners uniformly expressed support for allowing the tax issue to be placed on the ballot. 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); 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 Pets’ Trust Miami goals. Since a straw ballot is not legally binding, in order for the tax to be imposed to start raising funds for the Pets’ Trust, the Board of County Commissioners must include the Pets’ Trust tax in the County budget in September 2013. The Pets’ Trust Board of Directors and an operational framework for the organization must also be established. If these steps are not taken by the Board of County Commissioners, there will be no dedicated tax revenues to fund the Pets’ Trust and the only moneys available to address the issues covered by the straw ballot will be those included in the County’s General Funds for the Miami-Dade County Animal Services Department.

### **III. Effect of Proposed Changes:**

**Section 1** creates part VII of chapter 125, F.S., consisting of s. 125.98, F.S. to authorize counties to create independent special districts. The purpose of the districts is to provide funding for pet services and welfare programs.

Section 125.98(1), F.S., provides the following:

- Each county is authorized to create an independent special district by ordinance to provide county-wide funding for pet services and welfare programs.
- The boundaries of the special district are coterminous with the boundaries of the county in which the district is created.
- The county governing body must by referendum obtain the approval of a majority of the electors voting on the issue to levy ad valorem taxes which may not exceed the maximum millage rate authorized by this section.
- The independent special district shall levy and fix millage as provided in s. 200.065, F.S.
- Once such millage is approved by the elector, the district shall seek approval of the elector in future years to levy the previously approved millage.
- The governing board of the district shall be a council on pet services and welfare known as the “Pets’ Trust” of the county in which the council is located.
- The council shall be established by the governing body of the county and shall consist of 14 members.
- Members shall be appointed for 2-year terms, with exception.
- Council members must be residents of the county in which the council is located.
- The council may remove a member for cause by majority vote or upon the written petition of the county governing body.

Section 125.98(2), F.S., provides each council with the following powers and duties:

- Allocate funds to not-for-profit or municipal organizations that will create the greatest impact on pet services and animal welfare programs.
- Develop an application process.
- Lease real estate and buy equipment and personal property as needed to execute duties.
- Collect information and statistical data that will be helpful in deciding the needs of pets in the county.
- Allocate an amount not to exceed 5 percent of the revenue generated to employ, compensate, and provide benefits for any part-time or full-time personnel.
- Use up to 80 percent of funds on spay and neuter programs that target low-income pet owners, pet owners in high shelter-intake areas, and pet owners of community cats and animals that are adopted out, transferred, or released in any way by the county animal shelter.
- Allocate funds for pet retention, surrender prevention, adoption, and animal welfare education programs for both children and adults.
- Allocate up to 5 percent of the revenue to assist rescue groups that specialize in the transport, impound, and care of victims of large animal cruelty and neglect.
- Ensure that all animals adopted from or sent to a rescue partner from an animal shelter are sterilized, if medically feasible.
- Ensure that funds are allocated only to those organizations providing services in the county served by the council.
- Allocate the appropriate budget line item for a professional annual audit.
- Allocate a portion, not to exceed 2 percent, for public relations.
- Elect a chair, vice chair, and other officers deemed necessary.

- Hire a staff to identify and assess the needs of the pets in the county served by the council.
- Staff must provide the governing body of the county with written descriptions of specified criteria regarding services for pets and funding sources.
- Provide training and orientation to all new members.
- Develop and adopt bylaws, rules, and regulations for the council.
- Provide an annual written report to the county governing body by January 1.
- Maintain minutes of each meeting, including a record of all votes cast, and make the minutes of the meetings available to any person who asks.
- Members of the council shall serve without compensation, but shall be entitled to per diem and travel expenses.

Section 125.98(3), F.S., provides that the fiscal year of the district shall be the same as that of the county. It also provides the following with respect to the council budget:

- On or before July 1 of each year, the council must prepare a tentative annual budget of the district's expected income and expenditures, including a contingency fund.
- The council must compute a proposed millage rate within the voter-approved cap necessary to fund the tentative budget.
- Prior to adopting a final budget, the council must comply with s. 200.065, F.S., relating to the method for fixing millage, and fix the final millage rate by resolution of the council.
- After the district budget is certified and delivered to the county governing body, the budget may not be changed or modified by the governing body or any other authority.
- As soon after collection as is reasonably practicable, all taxes collected must be paid directly to the council by the county's revenue-collection entity.
- All moneys received by the council shall be deposited into qualified public depositories, as defined in s. 280.02, F.S., with separate and distinguishable accounts established specifically for the council.
- Funds of the district may only be expended by check, except expenditures may be made from a petty cash account but may not at any time exceed \$100. All petty cash expenditures must be recorded. With the exception of petty cash expenditures, funds of the district may not be expended without prior approval of and budgeting by the council.
- The council must file quarterly financial reports within 10 days from the end of the quarter.

Section 125.98(4), F.S., provides the following:

- A special district may be dissolved by a special act of the Legislature, by ordinance adopted by the county governing body subject to the approval of the electorate, and by the dissolution provisions of s. 189.4042, F.S.
- Prior to dissolution, each county must obligate itself to assume the debts, liabilities, contracts, and outstanding obligations of the special district within the total millage available to the county for all county and municipal purposes.

Section 125.98(5), F.S., provides that after or during the first year of operation of the council, the governing body of the county may fund in whole or in part the budget of the council from its own funds. However, if revenue generated by the county shelter is already allocated for shelter operations, that allocation must remain.

Section 125.98(6), F.S., provides that a special district must file all required financial or compliance reports under part III of chapter 218, F.S. The district must also comply with the provisions of s. 189.415, F.S., relating to public facilities reports; the provisions of s. 189.417, F.S., relating to meeting notices; and the provisions of s. 189.418, F.S., relating to reports, budgets, and audits.

**Section 2** provides that this act shall take effect July 1, 2013.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Property owners living within a county that establishes a special independent district will pay additional property taxes.

C. Government Sector Impact:

The Department of Revenue reviewed the bill and has determined that it has no fiscal impact to the state.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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