

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1366

SPONSOR: Governmental Oversight & Productivity Committee and Senator Klein

SUBJECT: Animal Welfare Protection Programs

DATE: March 25, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein/James</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable</u>
2.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/CS</u>
3.	_____	_____	<u>TR</u>	_____
4.	_____	_____	<u>FT</u>	_____
5.	_____	_____	<u>AGG</u>	_____
6.	_____	_____	<u>AP</u>	_____

I. Summary:

This committee substitute creates the "Animal Friend" specialty license plate, and establishes an annual use fee of \$25, to be paid by purchasers of the plate in addition to license taxes and fees. Annual use fees are distributed to Florida Animal Friends, Inc., a direct-support organization of the Department of Agriculture and Consumer Services that is created as a nonprofit Florida corporation. The direct-support organization is authorized to spend up to 25 percent of the annual use fees in the first year of issuance for administrative costs directly associated with operations, marketing and promotion. Thereafter, administrative costs are limited to 20 percent of annual use fees collected.

The corporate board of the direct-support organization consists of representatives of the Humane Society, the Florida Veterinary Medical Association, the Florida Animal Control Association, and at-large members appointed by the board and the Commissioner of Agriculture, and must meet at least twice a year to determine the distribution of annual use fee proceeds.

The direct-support organization is required to develop and administer a grant solicitation and award process that supports Florida spay and neuter programs, or if unanimously agreed upon by the direct-support organization, other emergency animal welfare protection programs or projects.

This bill creates section 570.93 of the Florida Statutes.

This bill amends sections 320.08056 and 320.08058 of the Florida Statutes.

II. Present Situation:

Specialty license plates are available to anyone with a motor vehicle who to pays a fee up to \$25, along with taxes and licensing fees. Funds are distributed to the designated organization. The Legislature may create a new license plate of its own initiative or at the request of an organization under s. 320.08053, F.S.

An organization must submit a request to the Department of Highway Safety and Motor Vehicles, describing the plate, indicating how many people will purchase the plate, the application fee and a marketing strategy at least 90 days prior to the start of the regular session of the Legislature. If enacted by the Legislature a prototype of the license plate is submitted to the Florida Highway Patrol, the Governor and the Cabinet for approval. After approval, PRIDE (correctional facilities) will begin manufacturing the plates.

Chapter 20, F.S., provides for the organizational structure of the executive branch of state government. To provide uniform nomenclature throughout the structure of the executive branch, the chapter defines various types of executive branch entities. Section 20.03(7), F.S., defines “council” or “advisory council” to mean

. . . an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.

One of the most common forms of private organizations that assist public entities is the direct-support organization (DSO). No general statutory definition of a DSO exists in statute. Nevertheless, DSOs are widespread. Another private organization that assists public entities is the citizen-support organization (CSO). A CSO is, however, defined in statute. Section 20.2551(1), F.S., defines a CSO as an organization which is:

- (a) A Florida corporation not for profit incorporated under the provisions of chapter 617 and approved by the Department of State.
- (b) Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the Department of Environmental Protection or individual units of the department. . . .
- (c) Determined by the appropriate division. . . . to be consistent with the goals of the department and in the best interests of the state; and
- (d) Approved in writing by the department to operate for the direct or indirect benefit of the individual units of the department. Such approval shall be given in a letter of agreement from the department.

One of the historical differences between a DSO and a CSO is that in the former, the Legislature specifically authorizes or creates a particular DSO in statute and there is more active involvement of the governmental entity intended to benefit by the DSO. On the other hand, a

CSO typically is not created in statute and the governmental entity which benefits from it has less direct involvement in the CSO.

In Interim Project Report 98-25, which is entitled Model Contracted Services Corporation, the former Senate Committee on Governmental Reform and Oversight, recommended a number of methods to ensure the accountability of various types of entities that perform functions for or on behalf of governmental entities. These methods include:

- Requiring incorporation as a Florida corporation not for profit.
- Establishing which corporate powers the nonprofit entity should not exercise.
- Requiring that at least some board members are appointed by the agency head or requiring that some governmental personnel sit on the board.
- Requiring the director to make reports to the agency head.
- Require the agency to review the operating budget of the entity.
- Requiring an annual audit and submission of that audit and management letter to the agency head.
- Establishing performance levels.
- Requiring a contract between the private and public entities.
- Delineation of a fiscal operating year, preferably July 1-June 30.
- Reporting all required certification by state in official meeting minutes of corporation.
- Provision for turnover to state of all moneys and property held in trust by corporation for the benefit of the state, if it is no longer approved to operate for the state.
- Requiring periodic performance audits by OPPAGA.

III. Effect of Proposed Changes:

Section 1. Creates s. 570.93, F.S., providing for the creation of Florida Animal Friends, Inc., a direct-support organization of the Florida Department of Agriculture and Consumer Services to provide for distribution of annual use fees collected from the sale of the Animal Friend specialty license plate. The corporate board consists of representatives of the United States Humane Society, the Florida Veterinary Medical Association, the Florida Animal Control Association and one at-large member appointed by the board and one appointed by the Commissioner of Agriculture, and must meet at least twice a year to determine the distribution of annual use fee proceeds. The committee substitute establishes certain accountability and oversight requirements including:

- < Stating that the entity is subject to the requirements of Article I, s. 24 of the State Constitution.
- < Establishing the fiscal year of the corporation.
- < Requiring an annual financial audit.
- < Maintaining funds in a bank account outside of the state treasury and limiting the purposes for which such funds may be spent.

Section 2. Amends s. 320.08056, F.S., providing an annual use fee of \$25 for the Animal Friend specialty license plate.

Section 3. Amends s. 320.08058, F.S., creating an Animal Friend specialty license plate and providing for the distribution of annual use fees collected from its sale.

Section 4. Provides an effective date of July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

As a publicly-created entity that is performing functions on behalf of the state, the direct-support organization is subject to the requirements of Article I, s. 24 of the State Constitution, ch. 119, F.S., and s. 286.011, F.S. Bills creating direct-support organizations typically specify the applicability of those provisions to eliminate any confusion regarding whether the direct-support organization must comply with open records and meetings requirements.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who wish to purchase an Animal Friend License Plate would pay \$25 a year in addition to their annual taxes and fees.

C. Government Sector Impact:

There is a minimal cost to the Department of Agriculture and Consumer Services to act as staff to the direct-support organization which can be managed with existing resources. The Department of Highway Safety and Motor Vehicles would incur the initial estimated cost of \$59,460 for the issuance of the Animal Friend license plate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
