

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.)

Prepared By: The Professional Staff of the Judiciary Committee

BILL: SB 2372

INTRODUCER: Senator Rich

SUBJECT: Animal Control or Cruelty Ordinances

DATE: April 16, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wolfgang	Yeatman	CA	Favorable
2.	Bradfuhrer	Maclure	JU	Favorable
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Currently, local governments are authorized to impose a surcharge of up to \$5 on violations of local animal control or cruelty ordinances. This bill makes imposition of the surcharge mandatory for any violation of local animal control or cruelty ordinances. The bill also increases the amount of the surcharge to \$15 dollars. The bill provides that \$1 of the surcharge may be retained by the clerk of the court, \$5 shall go toward the cost of training animal control officers, and the remaining revenue shall be used to subsidize the cost to spay and neuter animals. The bill does not require a local government to enact an animal control or cruelty ordinance.

This bill substantially amends section 828.27, Florida Statutes.

II. Present Situation:

Spay and Neuter Programs

Approved in the 2004 legislative session, 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 (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.

Besides the coalition, there are several national and local humane and animal services organizations, such as the Humane Society of the United States, the Society for the Prevention of Cruelty to Animals, 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.

In 2008, the Gertrude Maxwell Save a Pet direct-support organization (DSO) was created.¹ The purpose of the DSO includes:

- Providing grants to animal shelters for spaying and neutering animals.
- Providing grants for shelters and services during times of emergencies.
- Developing and disseminating pet care education materials.

Animal Control and Cruelty Ordinances

Section 828.27, F.S., authorizes local governments to enact ordinances relating to animal control or cruelty. Violation of such an ordinance is a civil infraction not to exceed \$500. An animal control officer must have probable cause to believe that a person has violated the ordinance before the officer can issue a warrant. Failure to pay or contest the citation can result in contempt of court. County-employed animal control officers shall, and municipally employed animal control officers may, successfully complete a 40-hour minimum standards training course on topics such as: animal cruelty investigations, search and seizure, animal handling, courtroom demeanor, and civil citations. Local governments can impose a surcharge of up to \$5 upon each civil penalty imposed for violation of an ordinance. The proceeds of the surcharges must be used to pay the costs of training for animal control officers.

Any person who willfully refuses to sign and accept a citation issued by an officer is guilty of a misdemeanor of the second degree. The local government may require mandatory court appearances for aggravated violations or multiple violations. Failure to appear in court can result in contempt of court.² Otherwise, penalties must be civil in nature.³

III. Effect of Proposed Changes:

Section 1 amends s. 828.27, F.S., to make the surcharge a local government levies for a violation of an animal control or cruelty ordinance mandatory and to increase the amount to \$15, from “up to \$5” under current law. One dollar may be retained by the clerk of the court; \$5 shall be used to pay for training animal control officers; and the remaining money shall subsidize the cost of spaying or neutering dogs and cats whose owners voluntarily submit their animals for sterilization. Owners of such animals may not be charged more for the spaying or neutering than the cost of sterilization less the subsidy paid from the surcharge.

This bill does not require a county or municipality to enact an ordinance relating to animal control or cruelty.

Section 2 of the bill provides an effective date of July 1, 2010.

¹ Section 570.97, F.S.

² Section 828.27(2)(f), F.S.

³ Fla. Atty. Gen. Op. 88-48 (Nov. 3, 1988).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The local governments mandates provision appears to apply because the bill requires local governments to subsidize the costs of spaying or neutering dogs and cats whose owners voluntarily submit their animals for sterilization. This provision would require the local government to spend funds; however, an exception applies because article VII, section 18(a) of the Florida Constitution provides an exception for expenditures in which sufficient funds have been appropriated to cover the mandate requirement. The surcharge should provide for sufficient funds to cover this requirement.

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:

Subsidizing pet owners to have their dogs and cats spayed and neutered should allow more pet owners to spay and neuter their pets. In 2008, the Legislature found 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 \$100.⁴ Encouraging spaying and neutering of animals, therefore, may be a cost saving measure for the public at large despite the fact that violators of the ordinances may be required to pay an additional \$10 surcharge.

C. Government Sector Impact:

The clerks of court are explicitly authorized to use \$1 for their costs in administering this program. Training for animal control officers should continue to receive \$5 per violation when a local government has a surcharge.

VI. Technical Deficiencies:

None.

⁴ Chapter 2008-72, Laws of Fla.

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.

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