

**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 Children, Families, and Elder Affairs

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BILL: SB 976

INTRODUCER: Senator Sobel

SUBJECT: Senior Services

DATE: April 11, 2013                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Hendon	CF	<b>Pre-meeting</b>
2.			CA	
3.			AFT	
4.			AP	
5.				
6.				

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**I. Summary:**

SB 976 creates the “Florida Act for Responsible Persons,” (the act) which authorizes county governments to create a countywide, independent special taxing district to fund services for seniors. The act is modeled after part V of ch. 125, F.S., which authorizes counties to create independent taxing districts to fund children’s services. The bill provides that a district may levy up to 0.5 mill, subject to referendum approval. The bill specifies that the district will be governed by an 11-member council that is required to assess the needs of seniors in the county and report to the county commission on what services will be provided and how. Annually, thereafter, the council is required to report to the county commission on the ongoing activities of the council, including, at a minimum, an assessment of the program’s effectiveness; any necessary changes to its programs and services; and a detailed budget. The council is required to prepare its budget in accordance with the requirements applicable to special districts in ch. 189, F.S., and s. 200.065, F.S., which establishes the requirements for establishing millage rates.

The bill will not have a fiscal impact to the state and has an effective date of July 1, 2013.

This bill creates an undesignated section of the Florida Statutes that will become part of part V of chapter 125 of the Florida Statutes.

## II. Present Situation:

### 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, 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>6</sup> Special districts are held accountable to the public and are therefore subject to public sunshine laws and financial reporting requirements.<sup>7</sup>

### Dependent vs. Independent Special Districts

There are two types of special districts in Florida: dependent special districts and independent special districts. With some exceptions, dependent special districts are districts created by individual counties and municipalities that meet at least one of the following characteristics:

- the membership of its governing body is identical to the governing body of a single county or municipality,
- all members of its governing body are appointed by the governing body of a single county or 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 municipality,
- 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 municipality.<sup>8</sup>

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

<sup>7</sup> See e.g. ss. 189.417 and 189.418, F.S.

<sup>8</sup> Section 189.403(2)(a)-(d), F.S. Dependent districts functionally operate as an arm of either a municipality, county or state agency.

Section 189.403(3), F.S., defines an independent special district as a district that does not meet the statutory classifications of a dependent special district. Except as otherwise authorized by general law, only the Legislature may create independent special districts.<sup>9</sup>

General laws or special acts that create or authorize the creation of independent special districts must address and require the following in their charters:

- powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities and budget preparation and approval,
- membership, organization and compensation of the governing board of the district,
- if authorized to do so, the procedures and requirements for issuing bonds,
- procedures for conducting any district elections or referenda required,
- if authorized to levy ad valorem taxes, the authorized millage rate,<sup>10</sup> and
- methods for collecting non-ad valorem assessments, fees, or service charges.<sup>11</sup>

### **Children's Services Districts (CSD)**

Section 125.901, F.S., authorizes counties to create, by ordinance, an independent or dependent special district to provide funding for preventative, developmental, treatment, and rehabilitative services for children throughout the county. Upon approval by the electors in the county, the district may annually levy ad valorem taxes, not to exceed 0.5 mills. In addition, this section provides for an appointed governing board for the special district, specifying the powers and functions of the board; requires each board to identify and assess the needs of the children in the county served by the board and to provide an annual written report to the governing body of the county; requires the board to prepare a budget and prepare and file a financial report with the governing body of the county; and provides for the dissolution of the district.

Currently, there are eight independent Children's Services Districts in Florida:<sup>12</sup>

- Children's Board of Hillsborough County
- Children's Services Council of Brevard County
- Children's Services Council of Broward County
- Children's Services Council of Martin County
- Children's Services Council of Okeechobee County
- Children's Services Council of Palm Beach County
- Children's Services Council of St. Lucie County
- The Children's Trust (Miami-Dade County)

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<sup>9</sup> Section 189.404(4), F.S.

<sup>10</sup> The maximum millage rate authorized for independent district ad valorem taxes varies depending on district type and the rate authority specified in general laws or special acts.

<sup>11</sup> See s. 189.404(3), F.S.

<sup>12</sup> Fla. Dep't. of Economic Opportunity, Division of Community Redevelopment, *Official List of Special Districts Online, Customized Special District List by Children's Services as of 2/28/2010*, available at <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/criteria.cfm> (last visited April 11, 2013).

## Florida Seniors

Between 2000 and 2010, the population of the United States age 65 years and over increased by 15.1 percent. At the same time, the total population increased by 9.7 percent<sup>13</sup>. As compared with other states, Florida had the greatest share of the senior population in both 2000 and 2010 (17.6 percent and 17.3 percent, respectively).<sup>14</sup> In 2010, three of the top five counties with the highest percentages of the population age 65 and older were in Florida: Sumter County (43.4 percent), Charlotte County (34.1 percent), and Highlands County (32.2 percent).<sup>15</sup> Fifty-one of Florida's counties had higher percentages of people 65 years and older than the nation, and the percentage of people age 85 and older was higher in 31 Florida counties than the nation.<sup>16</sup>

In January 2012, the Florida Department of Elder Affairs (DOEA) published the Florida Statewide Needs Assessment, which reflects the results of a survey conducted by the Bureau of Business and Economic Research at the University of Florida of 1,850 seniors age 60 and older.<sup>17</sup> The DOEA conducts the survey to assist professional services planners, agency directors, and policy makers with their efforts to anticipate and plan for the needs of Florida's seniors. In addition to demographics, data that are part of the report include information on seniors' living circumstances, self-care limitations, nutrition, housing, healthcare, and other issues of particular effect on the geriatric population. Results are excerpted as follows:

- **Living Situation:** Nearly one-third of elders surveyed lived alone (31 percent); nearly one-half (49 percent) lived with a spouse; and the remainder lived with a child, grandchild, relative, friend, or other person.
- **Self-Care Limitations:** Of elders surveyed, 17 percent needed assistance with activities of daily living.<sup>18</sup> An additional 51 percent required assistance with instrumental activities of daily living (tasks that enable an individual to live independently).<sup>19</sup>
- **Caregiving:** One in five elders surveyed was a caregiver. Over one-half of caregivers (56 percent) did not receive needed help with their responsibilities. Of the 21 percent of caregivers who sought help, information about resources, emotional support, help with household chores, and financial assistance were the types most often cited.
- **Health and Health Promotion:** Nearly one-quarter of surveyed elders (24 percent) reported they were not regularly exercising. Ten percent of elders reported delaying filling prescription medications; 30 percent delayed receiving dental care, and 24 percent delayed getting new eyeglasses or eye care. Over one-quarter of these elders (27 percent) delayed care because they could not afford the expense. Just over one-tenth (11 percent) had to go without treatment for emotional or mental health problems.

<sup>13</sup> United States Census Bureau, *The Older Population: 2010, 2010 Census Briefs* (Nov. 2011), available at <http://www.census.gov/prod/cen2010/briefs/c2010br-09.pdf> (last visited April 11, 2013).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Fla. Dep't. of Elder Affairs, *Assessing the Needs of Elder Floridians* (Jan. 11, 2012), available at [http://elderaffairs.state.fl.us/does/pubs/pubs/Assessing\\_the\\_Needs\\_of\\_Elder\\_Floridians\\_Jan\\_2012.pdf](http://elderaffairs.state.fl.us/does/pubs/pubs/Assessing_the_Needs_of_Elder_Floridians_Jan_2012.pdf) (last visited April 11, 2013).

<sup>18</sup> Eating, bathing, dressing, grooming, walking, and toileting. *Id.* at p. 13.

<sup>19</sup> Money management, taking medication, performing chores, and using transportation of the telephone. *Id.*

- Nutrition: Over one-quarter of elders (26 percent) surveyed reported that they were not receiving adequate nutrition.
- Transportation: Approximately 4 percent of elders reported not being able to get where they needed or wanted, with a higher percentage reported by minority elders (12 percent) and low-income elders (7 percent).
- Community: Fifteen percent of elders reported feeling that their city was not elder friendly.
- Housing: Nine percent of elders reported feeling unsafe. Another 21 percent reported problems with their home or neighborhood, including upkeep and minor repairs, difficulty paying rent or the mortgage, roofing and plumbing issues, and other major repairs.
- Abuse, neglect, and Exploitation: Of elders surveyed, 12 percent reported that they had been a victim of consumer fraud or swindle.

### III. Effect of Proposed Changes:

**Section 1** creates the “Florida Act for Responsible Persons,” which authorizes counties to create a countywide, independent special taxing district to fund services for seniors, defined as individuals 65 years or older. The effect of the bill is to create authority for funding senior services that is similar to the authority that currently exists in part V of ch. 125, F.S., for funding children’s services and which was first authorized in 1986.<sup>20</sup>

The bill authorizes the board of county commissioners to create a district by ordinance with the authority to levy up to 0.5 mill, subject to referendum approval. Districts created pursuant to the Act must levy and fix millage as provided in s. 200.065, F.S., which describes the requirements for determining millage applicable to all taxing authorities, and comply with the same reporting requirements applicable to children’s services districts, including the documentation required by ss. 189.415, 189.417, and 189.419, F.S. The bill provides that a district may be dissolved by special act of the Legislature; by ordinance of the county commission, subject to referendum approval; or as provided in s. 189.4042, F.S., relating to special districts. Before dissolving the district, the county would be required to assume all debts and liabilities within its available millage rate.

The referendum creating the district may specify the number of years it is authorized; alternatively, the board of county commissioners must put the issue on the ballot every 12 years after the district is authorized, subject to input from the district council.

The bill requires that the district be governed by an 11-member board consisting of:

- Four permanent positions representing
  - The executive director of the area agency on aging, or a designee who is a director of senior programs in the county.
  - The county director of social services, or a designee who is a director of services for the elderly.
  - The director of the Adult Protective Services program at the Department of Children and Families, or a designee.

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<sup>20</sup> Chapter 86-197, Laws of Fla.

- The deputy secretary for Statewide Services at the Department of Health, or a designee who may be the senior administrator of the county health department.
- Two members appointed by a majority of the county governing body.
- Three members appointed by the Governor and representing, to the greatest extent possible, the cultural diversity of the county's population, of which at least one member is from the business community and one member is 60 years of age or older.
- One member appointed by the President of the Senate.
- One member appointed by the Speaker of the House.

Members of the council serve without compensation.

The bill requires the council to assess the needs of seniors in the community and submit a report to the board of county commissioners describing the activities and services the council will provide; the manner in which services will be provided; the implementation schedule; what outreach will be performed to provide services to at-risk seniors; how the council will obtain funding for unmet needs; and a strategy for interagency coordination. Thereafter, the council must provide an annual report to the county commission which contains an assessment of the effectiveness of the district; a detailed anticipated budget; a description of procedures for the early identification of at-risk seniors; a description of the degree to which the district's objectives and activities are meeting the goals of the Act; detailed information on the district's programs and services; and an assessment of what programs should be eliminated.

The council is authorized to provide preventive, developmental, treatment, rehabilitative, and other services; to allocate funds to other county agencies for services; to collect data and conduct research that may be useful in the administration of its responsibilities; to seek outside funding; to acquire or lease necessary property; and to employ necessary staff.

The bill allows two or more districts to enter into a cooperative agreement to share administrative costs, to seek grants or other funding, or to jointly fund programs serving multiple counties.

The bill specifies procedures that must be followed by the council to prepare and obtain approval of its annual budget. Officers of the district who are authorized to write checks must file a surety bond in the amount of at least \$1,000/\$1 million of the district's annual budget. The council must provide the county commission with quarterly financial reports.

The bill expresses legislative intent that funds collected by a district be used to augment, and not supplant, available resources.

**Section 2** directs the Division of Law Revision and Information to place the Act in part V of ch. 125, F.S., which relates to children's services, and to retitle the part appropriately.

**Section 3** provides an effective date of 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:

The bill authorizes<sup>21</sup> a district to levy up to 0.5 mill to fund its operation. Although the district is created by ordinance of the board of county commissioners, it is expressly described as an independent district, which means the millage would be subject to the limitations of article VII, section 9(b) of the Florida Constitution, which limits the millage that may be levied by a special district to the millage that has been authorized by law and approved by vote of the electors.

## B. Private Sector Impact:

Seniors in a senior services district should benefit from access to services paid for by the district. By its terms, the bill anticipates these will be new services.

The bill creates a funding source to pay for purchase of goods and services for seniors which should benefit private providers of those goods and services.

## C. Government Sector Impact:

If approved, the bill would expand services at the local level, thereby assisting senior services agencies in meeting the needs of the population by providing services which they have identified as needed and by providing a direct source of funding.

**VI. Technical Deficiencies:**

Lines 53 – 61 describe the process for obtaining voter approval of the millage for a district, but do not contain language that expressly authorizes the millage, which is required by the constitution.

Lines 82 – 86 reference “a referendum creating the district” and describe subsequent procedures for reauthorizing the district. The Act provides that the district is created by the board of county

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<sup>21</sup> See “Technical Deficiencies Section” below.

commissioners. Initially, it is the taxing authority that is approved by referendum. The Legislature may wish to strike the term “referendum” as it appears in those lines and substitute the term “ordinance.”

Section 189.404(4), F.S., states that, except as authorized by law, only the Legislature may create independent special districts. The subsection then enumerates specific exceptions to the general prohibition, which include districts created pursuant to s. 125.901, F.S., relating to children’s services districts. Although the Act is general law authority for a county commission to create a senior services district and, therefore, complies with the general limitation of s. 189.404(4), F.S., the Legislature may wish to amend that section to strike the reference to s. 125.901, F.S., and substitute in its place part V of ch. 125, F.S., since the Act and the children’s services provisions will be codified together in that part.

**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.