

STORAGE NAME: h1245.fs

DATE: March 27, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1245

RELATING TO: Charitable corporations

SPONSOR(S): Representative Lacasa

STATUTE(S) AFFECTED: Chapter 617

COMPANION BILL(S): SB 1920 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) FINANCIAL SERVICES

(2)

(3)

(4)

(5)

I. SUMMARY:

Charitable corporations would no longer be subject to the procedures outlined in s. 617.0808, F.S., for the removal of board members. Consequently, board members of charitable organizations would be removed from office "pursuant to procedures provided in the articles of incorporation or the bylaws." These procedures could mirror those in s. 617.0808 (with or without a direct reference to that section).

The bill has no fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The board of directors of a non-profit corporation is the group of people who manage its affairs, with the aim of promoting the best interests of the non-profit corporation. They oversee and approve corporate concerns which include implementing operating and financial plans, evaluating and taking action on the performance of the corporation and its senior management, selecting and evaluating executive salaries, and adopting policies of corporate conduct. s. 617.01401, F.S.; "The Corporate Lawyer," The Business Lawyer, May 1994.

Section 617.0808, F.S., sets forth procedures for removing a board member. Subsection (2) of that section speaks to charitable organizations. Section 496.404, F.S. defines a "charitable organization" as an organization held out to be established for any benevolent, educational, philanthropic, humane, scientific, artistic, patriotic, social welfare or advocacy, public health, environmental conservation, or civic purpose, or any person who employs a charitable appeal as the basis for any solicitation.

In the case of a charitable organization, a director may likewise be removed from office without cause by a majority vote of the membership. However, a majority of the members of the board of directors must first recommend the removal of the director.

Unlike other 501(c) corporations, such as labor organizations, agricultural organizations, and business leagues, charitable organizations are not exempted statutorily from these procedures.

B. EFFECT OF PROPOSED CHANGES:

Charitable corporations would no longer be subject to the procedures outlined in s. 617.0808, F.S., for the removal of board members. Consequently, in accordance with s. 617.2103(2), board members of charitable organizations would be removed from office "pursuant to procedures provided in the articles of incorporation or the bylaws." These procedures could mirror those in s. 617.0808 (with or without a direct reference to that section).

C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

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(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None.

(2) what is the cost of such responsibility at the new level/agency?

None.

(3) how is the new agency accountable to the people governed?

N/A.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A.

- (2) Who makes the decisions?

N/A.

- (3) Are private alternatives permitted?

N/A.

(4) Are families required to participate in a program?

N/A.

(5) Are families penalized for not participating in a program?

N/A.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A.

(2) service providers?

N/A.

(3) government employees/agencies?

N/A.

D. SECTION-BY-SECTION ANALYSIS:

Please see Effect of Proposed Changes section above.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A.

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON :
Prepared by:

Legislative Research Director:

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