

STORAGE NAME: H1395a.ft

DATE: April 21, 1997

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FINANCE AND TAXATION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1395

RELATING TO: Elder Services

SPONSOR(S): Representatives Frankel & others

STATUTE(S) AFFECTED:

COMPANION BILL(S): SB 1230

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

- (1) Elder Affairs & Long Term Care YEAS 6 NAYS 0
- (2) FINANCE AND TAXATION YEAS 8 NAYS 1
- (3) Health and Human Services Appropriations
- (4)
- (5)

I. SUMMARY:

House Bill 1395 provides for the creation by counties of independent special districts to provide funding and coordination of elder services throughout the county. The bill provides the authorities, powers, procedures, terms, conditions, and limitations for elder services districts, including combinations of districts involving more than one county. It provides for the appointment of seven-member boards responsible to the citizens of the county, the county commission, the Governor and the legislature. The bill vests with the board the authority and responsibility to provide for the comprehensive planning and delivery of appropriate services for the elderly citizens of the county. For purposes of this act "elderly" means those citizens over 65 years of age who are determined by the governing board to be socially or economically needy or at risk of abuse, neglect or exploitation. The bill provides the means for the board to generate, spend and account for revenues for this purpose. The bill also sets forth the legal obligation of counties in the dissolution of elder services districts. The bill will take effect upon becoming a law.

The fiscal impact of the bill is indeterminate. The maximum amount of property tax revenue that could be raised in FY 1997-98 if all counties created the independent special district for elder services is estimated to be \$291.4 million.

Amendments were adopted and are traveling with the bill. See amendment section.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 189 sets forth the statutory basis and requirements for the creation of special districts, and Chapter 200 sets forth the statutory requirements for the determination of millage. At present, there is no specific provision in Florida Statutes authorizing the establishment by a county of an independent special district to provide funding and coordination of elder services throughout the county.

B. EFFECT OF PROPOSED CHANGES:

House Bill 1395 provides the authority and sets forth the procedures by which the citizens of a county can create an independent special district to provide funding and coordination of elder services.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

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

(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?

N/A

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

N/A

(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?

N/A

4. Individual Freedom:

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

No.

- 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 RESEARCH:

This section need be completed only in the discretion of the Committee.

Section 1. This bill may be cited as the “Elder Services District of the Local County Act.”

Section 2. This section provides that each county may create an independent special district by ordinance to provide funding for elder services in accordance with this section. The ordinance creating the special taxing district will take effect only upon a majority vote of qualified electors voting in a local referendum. The referendum must be held in conjunction with a state primary or general election.

The ordinance must provide for the creation of an endowment fund or account to provide a stable and growing source of revenue. The district will be governed by a council which may be named in the ordinance.

Section 3. This section provides that the boundaries of the district shall be coterminous with the boundaries of the county. The county governing body shall obtain approval by a majority of those electors voting to annually levy ad valorem taxes not to exceed the maximum millage rate authorized by this section. The district must levy and fix millage subject to the provisions of s. 200. 065, F.S. The district shall not be required to seek approval of the electorate to levy the previously approved rate. Two or more elder services districts may enter into a cooperative agreement to share administrative costs including staff and office space for greater efficiency and effectiveness. The agreement shall include provisions on apportioning costs, keeping separate and distinct financial records for each district, and conflict resolution. Two or more districts can agree to seek grants, accept donations, and fund multi county programs, but must account for separate and joint funds. Any combination of districts shall be by ordinance, subject to the approval of a majority of voters of the interested counties.

Section 4. This section defines “elderly” as those citizens over age 65 years of age who are determined by the district governing board to be socially or economically needy or at risk of abuse, neglect, or exploitation. The governing board is vested with the authority and responsibility to provide for the comprehensive planning and delivery of appropriate

services for elderly citizens of the county. This section sets forth the following powers and authority of the board:

1. To plan, set policy guidelines for, fund, establish, construct, lease, operate, and maintain facilities necessary for the use of the district's elderly in a location determined by the board.
2. To fund services and allocate funds to other agencies operated for the benefit of the elderly, but as a supplement, not to supplant existing funding.
3. To provide services and facilities jointly with other public or private providers, and consult and coordinate services to prevent overlapping services and to reduce costs.
4. To provide services to the elderly using facilities not owned and operated by the district.
5. To adopt an official seal and alter it at the board's pleasure.
6. To maintain an office at such place or places as it may designate.
7. To sue and be sued in its own name and to plead and be impleaded, but with all sovereign immunity and limitations provided by the State Constitution or general law.
8. To acquire or to obtain options for the acquisition of any real or personal property it deems proper to carry out the purposes of this act, provided that the district shall not have the power of eminent domain, and to hold and dispose of all assets or property as it deems proper.
9. To plan and fund the construction, acquisition, ownership, leasing, repair, maintenance, extension, expansion, improvement, rehabilitation, renovation, furnishing, and equipping of facilities and to pay the costs from proceeds of operating revenue, bonds, lease-purchase financing, or other district obligation of indebtedness or from any contribution, gift, or donation or other funds of the district.
10. To establish an endowment fund and to invest and reinvest moneys in the fund, with moneys in excess of the principal being available annually for expenditure by the board.
11. To provide to and file with the county governing body a quarterly financial report within 10 days after the end of each quarter, including a statement of total expenditures, total receipts, funds the board has on hand, invested, or deposited and total administrative costs.
12. To provide an annual written report no later than January 1 to the governing body of the county on the district's effectiveness and cost-effectiveness, anticipated budget and status of the endowment fund, objectives and activities, programs and services and the successful use of them by elders, and programs and services to be eliminated, continued, and added.

13. To prepare on or before July 1 of each year a tentative annual budget.
14. To make and execute agreements of lease, contracts, deeds, mortgages, notes and other instruments necessary or convenient in the exercise of its powers and functions.
15. To lease any facilities or property to carry out the purposes of this act.
16. To pledge or assign any revenues and any proceeds.
17. To borrow money and issue bonds or other evidence of indebtedness, to levy such tax as may be authorized, and to charge fees and other user charges.
18. To raise money by user charges or fees necessary for the conduct of the district's activities and services, and to enforce their collection.
19. To hire necessary employees and agents and to fix their compensation.
20. To acquire existing facilities and reimburse their costs by agreement.
21. To acquire existing facilities and to refund, refinance, or satisfy outstanding obligations by such facilities.
22. To mortgage any facility and site.
23. To cooperate with , or contract with, other governmental agencies or private entities.
24. To assess and impose upon lands in the district ad valorem taxes as provided by this act.
25. To annually determine and approve a district budget and millage in accordance with chapter 200, F.S.
26. To adopt and promulgate policies and regulations for the operation of the district.
27. To establish or become part of one or more qualified self-insurance trust funds to protect district assets and operations.
28. To provide for reimbursement to providers or facilities of services for the elderly.
29. To establish criteria for the provision of services for the elderly.
30. To exempt the district of each county from the payment of any fees, taxes, or increment revenue to community redevelopment agencies established pursuant to part III of chapter 163, F.S.
31. To establish and appoint members to boards, committees, or advisory bodies.
32. To do all things necessary to carry out the purposes of this act.

Section 5. This section provides for the appointment of district board members, the length and conditions of their terms, and certain requirements and responsibilities. The board is composed of seven members, three appointed by the area agency on aging, one appointed by the Governor, one a county commissioner by a majority vote of the county commissioners, one the director of the county health department, and one the director of the district of the Department of Children and Family Services. Vacancies are filled in the same manner as for initial appointments. Board members receive no compensation but may be reimbursed for approved expenses. Terms are for four years except three initial appointments are for two years. Terms commence on October 1 of the year of appointment. A member of the board may not serve more than two consecutive terms except for the directors of the county health department and the district department of Children and Family Services, who shall serve as long as they hold office. The board shall elect its chair, vice chair, and secretary, and is authorized to adopt bylaws. It shall meet regularly as determined by its bylaws. Each member shall give a \$5,000 surety bond to the Governor which premiums shall be paid as part of the expenses of the board. Four members shall constitute a quorum, and three members voting is required to transact business of the district. Board members are bound by the Code of Ethics for Public Officers and Employees, part III of chapter 112, F.S. As soon as practicable after the board is constituted, it shall conduct a needs assessment of elders in the county and submit to the Governor a written description of its planned services, schedule, and manner of services, its outreach efforts to elders, its manner of seeking and providing funding, its strategy for interagency coordination. The board shall also provide training and orientation to all new members, and shall make and adopt bylaws and regulations not inconsistent with federal or state laws or county ordinances.

Section 6. This section defines the term “ agent of the district ” and details the powers of the district to indemnify persons acting as an agent against expenses, including attorney’s fees, judgments, fines, and amounts paid in settlements. It empowers the district to purchase and maintain insurance on behalf of agents of the district against any liability asserted.

Section 7. This section gives the board power to levy and assess ad valorem taxes on all the taxable property in the district for the purposes and needs of the district incurred in exercising the powers and for the purposes set forth in this act. It requires the board to publish in a newspaper of general circulation in the district a complete detailed statement of all moneys received and disbursed, the balance of moneys on hand and the financial condition of the district. The collection and enforcement of all taxes levied shall be at the same time and in like manner as the collection and enforcement of county taxes, and subject to the same discounts. Such taxes shall become delinquent and bear penalties like county taxes. Revenues derived by the district are exempt from all taxes by the state or by any political subdivision, agency, or instrumentality to the extent allowed by general law.

Section 8. This section authorizes the district to borrow money in anticipation of the sale of bonds and to issue bond anticipation notes in an amount not to exceed the authorized maximum amount of such bond issue. It authorizes short term borrowing for paying the expenses of the district. General obligation bonds or revenue bonds may be authorized by resolution adopted by a majority of the board members then in office. Such authorizing resolution shall provide that such bonds shall be executed in accordance with chapter 279, F.S., the Registered Public Obligations Act of Florida. The district shall have the power to issue bonds to provide for the retirement or

refunding of any bonds or obligations of the district. The district shall have the power to issue revenue bonds without limitation as to amount. It shall also have the power to issue general obligation bonds to finance or refinance capital projects to refund outstanding bonds. Ad valorem funding shall not be used to support the issuance of bonds, unless the bond issue has been approved by referendum and the debt service as a percentage of total millage must be less than 10 percent of all district revenue. The district shall have the authority to issue taxable or tax-exempt bonds bearing interest at fixed or variable rates.

Section 9. This section requires the district to submit annually a report, including its budget, to the local board of county commissioners and to the local legislative delegation.

Section 10. This section provides for the dissolution of the elder services district by the county governing body by ordinance subject to the approval of the electorate, provided that the county shall first obligate itself to assume the debts, liabilities, contracts, and outstanding obligations of the district within the total millage to the county governing body. Any district may also be dissolved pursuant to the provisions of s. 189.4043 or s. 189.4044, F.S.

Section 11. This section provides a severability clause for this act.

Section 12. This act shall take effect upon becoming a law.

III. FISCAL RESEARCH & 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:

The bill has a positive indeterminate fiscal impact on these independent special districts. If all counties created such elder services independent special districts and impose the maximum millage rate allowed \$291.4 million in property tax revenue could be raised in FY 1997-98. The amount of revenue raised by user charges and fees authorized by the bill is also indeterminate.

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:**

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

A. **APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

Section 7 of the bill provides an exempts the bonds issued under the act, the interest paid on the bonds and all fees, charges, and other revenues derived by the district from taxes imposed by the state or by any political subdivision, agency, or instrumentality thereof to the extent allowed by general law. As a prerequisite to imposing corporate income tax on federal debt obligations, all debt obligations of the state and governmental entities of the state are to be similarly taxed. Consequently, the exemption should be amended to exclude the imposition of corporate income tax imposed pursuant to ch. 220, F.S. See amendment section.

Section 4 of the bill provides for the powers and authority of the district governing board. Subsection 30 authorizes the board to exempt the elder services district of each county from the payment of any fees, taxes, or increment revenue to community redevelopment agencies established pursuant to part III of chapter 163, F.S. It is solely within the purview of the legislature to grant an exemption from fees, taxes, or increment revenue. This subsection should be deleted. See amendment section.

This bill authorizes the creation by counties of independent special districts to provide funding and coordination of elder services throughout the county. The creation of such districts is within the jurisdiction of the Committee on Community Affairs. However, this bill has not been referred to the Committee on Community Affairs.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Finance and Taxation adopted two amendments which are traveling with the bill.

Amendment #1 deletes the authority of the district governing boards to exempt the district from the payment of fees, taxes, or increment revenue to community redevelopment agencies.

Amendment #2 exempts the district from the payment of fees, taxes, or increment revenue to community redevelopment agencies. The amendment also provides that the exemption from the payment of all taxes imposed by the state or by any political subdivision, agency, or instrumentality thereof does not include any imposition of corporate income tax imposed pursuant to ch. 220, F.S.

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VII. SIGNATURES:

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