

STORAGE NAME: h1177.hcc.doc
DATE: February 26, 2002

HOUSE OF REPRESENTATIVES
COUNCIL FOR HEALTHY COMMUNITIES
ANALYSIS

BILL #: HB 1177
RELATING TO: Direct-Support Organizations
SPONSOR(S): Representative(s) Gottlieb & others

TIED BILL(S):

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

- (1) CHILD & FAMILY SECURITY YEAS 8 NAYS 0
 - (2) HEALTH & HUMAN SERVICES APPROPRIATIONS YEAS 9 NAYS 0
 - (3) COUNCIL FOR HEALTHY COMMUNITIES YEAS 12 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

House Bill 1177 authorizes the Department of Children and Family Services and the Department of Elderly Affairs to establish "direct-support organizations" as not-for-profit corporations, to raise funds, receive grants, gifts and bequests and make expenditures for the benefit of the departments and their projects and programs. It creates sections 20.193 and 430.065, F.S.

A "direct-support organization" is a Florida not-for-profit corporation, incorporated under the provisions of ch. 617 of Florida Statutes, and authorized by Florida law as a direct-support organization to benefit or to provide assistance to a governmental entity. Such entities have been provided for throughout Florida Statutes for different agencies and commissions, including universities and local school boards.

The bill provides that the purposes and objectives of the organization must be consistent with the priority issues and objectives of each department and in the best interest of the state. Each department is authorized to permit the appropriate use of property and facilities for the purposes of the organization. The bill provides for annual post-audit of financial accounts by an independent certified public accountant.

On February 12, 2002, the Committee on Child and Family Security adopted a strike-all amendment to the bill that retains all of the original provisions of the bill and:

- Requires funds be used to enhance department programs and projects of each department, and
- Establishes requirements for Department of Children and Family Services regarding administering of its funds and designating employees who solicit funds.

The effective date of the bill is upon becoming law.

On February 26, 2002, the Council for Healthy Communities adopted the bill with one traveling strike-all amendment.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

A "direct-support organization" is a Florida not-for-profit corporation, incorporated under the provisions of ch. 617 of Florida Statutes, and authorized by Florida law as a direct-support organization to benefit or to provide assistance to a governmental entity.

Direct-support organizations are provided for in statute for many departments and programs. These include, the Department of Education, s. 229.8021, F.S., District School Boards, s. 237.40, F.S., Community Colleges, s. 240.363, F.S., the Department of Corrections, s. 944.802, F.S., and the Department of Juvenile Justice, s. 985.4145, F.S.

Direct-support organizations are associated with various functions of the Office of Tourism, Trade and Economic Development in ch. 288, F.S., including sports promotion and economic development. Several commissions have statutory provisions for direct-support organizations, including the Florida Commission on Community Service, s. 14.29, F.S., the Florida Agriculture in the Classrooms Program, s. 570.903, F.S., and Assistance to Victims of Crime, s. 960.002, F.S.

Examples of the types of direct-support organizations that are affiliated with the State University System as of March 2, 2001 for Florida State University and the University of Florida are:

FLORIDA STATE UNIVERSITY

- The Florida State University Alumni Association, Inc.
- Florida State University International Programs Assoc., Inc.
- FSU Financial Assistance, Inc.
- The Florida State University Foundation, Inc.
- Seminole Boosters, Inc.
- The Florida State University Research Foundation, Inc.

UNIVERSITY OF FLORIDA

- Florida 4-H Club Foundation, Inc.
- University of Florida National Alumni Association, Inc.
- Florida Association of Basic Medical Scientists, Inc.
- Florida Foundation Seed Producers, Inc.
- University of Florida Foundation, Inc.
- Gator Boosters, Inc.
- University of Florida Law Center Association, Inc.

- University of Florida Research Foundation, Inc.
- University Athletic Association, Inc.
- Southwest Florida Research and Education Foundation, Inc.
- Treasure Coast Agricultural Research Foundation, Inc.
- University of Florida Leadership & Education Foundation, Inc.
- Citrus Research and Education Foundation, Inc.

Fiscal Responsibility:

Direct-support organizations authorized by law are subject to various legal, regulatory and contractual requirements. Pursuant to s. 215.981, Florida Statutes, each direct-support organization must provide for an annual financial audit of its accounts and records to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administered the direct-support or citizen-support organization.

The Office of the Auditor General has established rules for auditing direct-service organizations (Ch. 10.700). It is the intent of the rule to supplement audit requirements mandated by other governmental entities that have authority over direct-support organizations. The rule is based on the standards for Financial Statements of Not-For-Profit Organizations established by the Financial Accounting Standards Board. If the audit determines that the organization is a governmental entity, it is required to include a report on financial statements presented in accordance with reporting standards established by the Governmental Accounting Standards Board.

C. EFFECT OF PROPOSED CHANGES:

House Bill 1177 authorizes "direct-support organizations" as not-for-profit corporations to raise funds, receive grants, gifts and bequests and make expenditures for the benefit of the Department of Children and Family Services and Department of Elderly Affairs. It creates sections 20.193 and 430.065, F.S.

The legislation creates a vehicle for receiving money to benefit each department and its programs and projects. The provision allowing the corporation to raise funds to accomplish its purpose should be to the benefit of each department, which does not presently have such authority.

The bill establishes that the purposes and objectives of the organization must be consistent with the priority issues and objectives of each department and in the best interest of the state. Each department is authorized to permit the appropriate use of property and facilities for the purposes of the organization. The bill provides for an annual post-audit of financial accounts by an independent certified public accountant.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 20.193, of Florida Statutes, that authorizes establishment of a Department of Children and Family Services "direct-support organization."

It authorizes a direct-support organization, established as a corporation under ch. 617, F.S., to conduct programs and activities; initiate developmental projects; raise funds; request and receive grants, gifts, and bequests of money; acquire, hold, invest, and administer, in its own name, securities and other property; and make expenditures to or for the direct or indirect benefit of the Department of Children and Family Services, or individual programs or projects of the department.

It requires that the purposes and objectives of the organization must be consistent with the priority issues and objectives of the department and in the best interest of the state.

The department is authorized to permit the appropriate use of property and facilities of the department for the purposes of the organization.

The bill provides for annual post-audit of financial accounts by an independent CPA.

Section 2. Creates s. 430.065, of Florida Statutes, that authorizes establishment of a Department of Elderly Affairs “direct-support organization.”

The language of the section is otherwise identical to the language in Section 1.

It authorizes a direct-support organization, established as a corporation under ch. 617, F.S., to conduct programs and activities; initiate developmental projects; raise funds; request and receive grants, gifts, and bequests of money; acquire, hold, invest, and administer, in its own name, securities and other property; and make expenditures to or for the direct or indirect benefit of the Department of Elderly Affairs or individual programs or projects of the department.

It requires that the purposes and objectives of the organization must be consistent with the priority issues and objectives of the department and in the best interest of the state.

The department is authorized to permit the appropriate use of property and facilities of the department for the purposes of the organization.

Section 3. Provides an effective date on becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments below

2. Expenditures:

See fiscal comments below

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

According to the Department of Children and Family Services, the legislation creates another vehicle for receiving money to benefit the department and its programs and projects. The provision allowing the corporation to raise funds to accomplish its purpose should be to the benefit of the department, which does not presently have such authority.

According to the department, to the extent there is an expectation the department will become administratively or otherwise involved with the administration and costs of the corporation, there will be resource and accounting issues involved requiring keeping of donation and inventory records, processing of cash receipts and expenditures, personnel records for any employees of the corporation, IRS and other reporting obligations, allocation of administrative expenditures, audit and other costs.

The Department of Children and Family Services estimates an annual cost of \$75,000 (2 FTEs) to maintain accounting functions for each corporation established, if the department is required to fund function.

The Department of Elderly Affairs estimates no fiscal impact from the bill.

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 will not reduce the authority of municipalities and counties to raise revenues.

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

This bill will not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 12, 2002, the Committee on Child and Family Security adopted a strike-all amendment offered by Representative Gottlieb.

The strike-all amendment retains all of the original provisions of the bill. Changes to the bill made by the strike-all amendment are:

Section 1, relating to the Department of Children and Family Services is amended with:

- A new subsection (2) that provides for administration of direct-support organization funds.
- A new subsection (4) that requires funds be used to enhance department programs and projects.
- Requirements for an annual audit provided by reference to s. 215.981, F.S., and redundant language removed.

Section 2, is added creating s. 20.19(10), F.S., providing that the Secretary of the Department of Children and Family Services may designate employees to solicit donations pursuant to the direct-support organization.

It also adds provisions recommended by the Department of Children and Family Services regarding administering the funds, and controlling who represents the department in solicitation. It makes several technical changes.

Section 3, relating to the Department of Elderly Affairs is amended with:

- A new subsection (3) that requires funds be used to enhance department programs and projects.
- Requirements for an annual audit provided by reference to s. 215.981, F.S., and redundant language removed.

VII. SIGNATURES:

COMMITTEE ON CHILD & FAMILY SECURITY:

Prepared by:

Glenn Mitchell

Staff Director:

Robert Brown-Barrios

AS REVISED BY THE COMMITTEE ON HEALTH & HUMAN SERVICES APPROPRIATIONS:

Prepared by:

Stephanie Massengale

Staff Director:

Cynthia Kelly

AS FURTHER REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:

Glenn Mitchell

Council Director:

David De la Paz