

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: SB 1314

INTRODUCER: Senator Rich

SUBJECT: Services for Seniors

DATE: February 16, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Yeatman	CA	Favorable
2.	_____	_____	CF	_____
3.	_____	_____	GE	_____
4.	_____	_____	HA	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill authorizes each county, by ordinance, to create an independent special district to fund services for seniors throughout the county. The county must obtain approval, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes that may not exceed 0.5 mills of assessed valuation of all properties within the county which are subject to ad valorem county taxes. The referendum required to approve the ad valorem tax levy must be held at the first general election immediately following adoption of the ordinance creating the independent special district.

The bill provides for such districts to be governed by a senior council consisting of 11 members, including: the executive director of the area agency on aging; the county director of human services; one member of the board of county commissioners for a 4-year term; two nonvoting members of the legislative delegation for the county appointed by the delegation chair for a 4-year term; two representatives of the Florida League of Cities for a 4-year term; and four members appointed by the Governor for a 4-year term, initially staggered, with reappointment for one additional term permitted, and who meet certain additional qualifications.

The bill sets forth duties and responsibilities, permissive powers, and the financing and budgeting requirements of these districts.

This bill substantially amends section 189.404 of the Florida Statutes. This bill creates section 125.903 of the Florida Statutes.

II. Present Situation:

Special Districts in Florida - The Florida Constitution specifically provides for four types of local governments: counties, school districts, municipalities, and special districts. The 67 counties are subdivisions of the state, providing a variety of core services through constitutional officers (county commissioners, sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the court) pursuant to authority granted in the constitution and consistent with general law.¹ The 67 school districts are coterminous with the boundaries of the county, and are responsible to operate, control and supervise all free public schools within the district.² The 408 municipalities exist pursuant to charters established by law and approved by the electorate in a referendum. They possess “home rule” authority to provide traditional municipal services, to the extent consistent with their charters and not inconsistent with general law.³ The State Constitution limits the property taxing authority of these forms of local government to 10 mills on the assessed value of real estate and tangible personal property in each jurisdiction, respectively.⁴

According to the Special District Information Office (SDIO) of the Department of Community Affairs, there are 1,386 special districts in Florida.⁵ These districts provide a variety of governmental services pertaining to airports; the arts; beach restoration; children’s services; community development; conservation; emergency medical services; environmental protection; expressways and bridges; fire control and rescue; health care; housing; juvenile welfare; libraries; mosquito control; navigation; neighborhood improvement; ports; recreation and parks; soil and water conservation; transportation; water control and supply; and water and sewer services.

Chapter 189, F.S., the Uniform Special District Act of 1989, generally governs the creation and operation of special districts in the state. It also establishes procedures and limitations on the election of district officers, levy of ad valorem taxes and special assessments, bonding of district revenues, budgeting, and reporting requirements. Section 189.403(1), F.S., defines a special district as:

“...a local unit of special purpose, as opposed to general-purpose, government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers...”

The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, F.S., a municipal service taxing or benefit unit as specified in s. 125.01, F.S., or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

¹ Section 1, Art. VIII of the State Constitution.

² Section 4(a), Art. IX of the State Constitution.

³ Section 2, Art. VIII of the State Constitution.

⁴ Section 9, Art. VII of the State Constitution.

⁵ Of this total, 1,320 are single-county special districts, and 66 are multiple-county special districts.

http://www.floridaspecialdistricts.org/OfficialList/numbr_of.asp 2/16/06

Dependent and Independent Special Districts - Special districts are further delineated as “independent” and “dependent” special districts. Dependent special districts are defined in subsection (2) as a special district that meets at least one of the following criteria:

- The membership of its governing body is identical to that of the governing body of a single county or a single municipality;
- All members of its governing body are appointed by the governing body of a single county or a single 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 a single municipality; or
- 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 a single municipality.

According to the SDIO, there are 588 dependent special districts in the state.⁶ These districts are components of county or municipal governments, created by ordinance or special act of the Legislature. As such, these districts are accountable to the respective county or municipal government. If the district levies ad valorem taxes, such taxes are subject to the constitutional millage limitation for the respective jurisdiction.

An independent special district is defined in subsection (3) as “...a special district that is not a dependent special district as defined in subsection (2).” Furthermore, a district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality. According to the SDIO, there are 798 independent special districts in the state.⁷

Section 189.404, F.S., sets forth the legislative intent for creating independent special districts. Subsection (3) requires that general laws or special acts that create or authorize the creation of an independent special district must address the following in their charters:

- The purpose of the district;
- The powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements;
- The methods for establishing the district;
- The method for amending the charter of the district;
- The membership and organization of the governing board of the district;
- The maximum compensation of a governing board member;
- The administrative duties of the governing board of the district;
- The applicable financial disclosure, noticing, and reporting requirements;

⁶ Ibid.

⁷ Ibid.

- If a district has authority to issue bonds, the procedures and requirements for issuing bonds;
- The procedures for conducting any district elections or referenda required and the qualifications of an elector of the district;
- The methods for financing the district;
- If an independent special district has the authority to levy ad valorem taxes, the millage rate that is authorized;
- The method or methods for collecting non-ad valorem assessments, fees, or service charges;
- Planning requirements; and
- Geographic boundary limitations.

Subsection (4) of s. 189.404, F.S., provides that except as otherwise authorized by general law, only the Legislature may create independent special districts. Authorized exceptions to this provision include:

- A municipality may create Community Development Districts established by ordinance in accordance with s. 190.005, F.S., or as otherwise authorized in general law;
- A county may create Children's Services Districts (pursuant to s. 125.901, F.S.), Health Care Districts (pursuant to s. 154.331, F.S.), County Hospital Districts, (pursuant to ch. 155, F.S.), or Community Development Districts (pursuant to s. 190.055, F.S.), or as otherwise authorized by general law;
- The Governor and Cabinet may create Community Development Districts, established by rule in accordance with s. 190.005, F.S., or as otherwise authorized in general law, and Regional Water Supply Authorities, in accordance with s. 373.1962, F.S., or as otherwise authorized in general law;
- Any combination of two or more counties may create a regional special district for a regional jail, established in accordance with s. 950.001, F.S., or as otherwise authorized in general law;
- Any combination of two or more counties or municipalities may create Regional Water Supply Authorities, established in accordance with s. 373.1962, F.S., or as otherwise authorized by general law; and
- Any combination of two or more counties, municipalities, or other political subdivisions may create regional transportation authorities, in accordance with s. 163.567, F.S., or as otherwise authorized in general law.

Children's Services District - 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. According to SDIO, there are nine Children's Services Districts in Florida.⁸

Health Care District - Section 154.331, F.S., authorizes counties to create, by ordinance, an independent or dependent special district to provide funding for indigent and other health and mental health care services throughout the county. Upon approval by the electors in the county, the district may annually levy ad valorem taxes, not to exceed 5 mills. In addition, this section creates an appointed governing board for the special district, specifying the powers and functions of the board; 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. According to SDIO, there are six Health Care Districts in Florida.⁹

III. Effect of Proposed Changes:

This bill authorizes each county, by ordinance, to create an independent special district to provide funding for services for seniors. Seniors are defined as a "person who is at least 60 years of age." The boundaries of such a district must be coterminous with the boundaries of the county. The county must obtain approval, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes that may not exceed 0.5 mills of assessed valuation of all properties within the county which are subject to ad valorem county taxes. The specific provisions contained in the bill are discussed below.

District Governing Board - The governing board of each district is a senior council, which must consist of 11 members, including:

- the executive director of the area agency on aging, or his or her designee who is a director of senior programs, as a permanent position;
- the county director of human services or his or her designee who is a director of elderly services, as a permanent position;
- one member of the board of county commissioners for a 4-year term;
- two nonvoting members of the legislative delegation for the county appointed by the delegation chair for a 4-year term;
- two representatives of the Florida League of Cities for a 4-year term; and
- four members appointed by the Governor for 4-year terms, initially staggered, with reappointment for one additional term permitted, and meeting these additional qualifications:
 - these members must, to the greatest extent possible, represent the cultural diversity of the county's population;
 - one of these members must be 60 years of age or older and a caretaker for an elderly person;
 - these members must have been residents of the county for the previous 24-month period; and

⁸ Brevard, Broward, Hillsborough, Martin, Miami-Dade, Okeechobee, Palm Beach, Pinellas, and St. Lucie counties.
http://www.floridaspecialdistricts.org/OfficialList/funct_sa.asp

⁹ Hardee, Lake, Madison, Orange, Palm Beach, and Volusia counties.
http://www.floridaspecialdistricts.org/OfficialList/funct_sa.asp

- the county must recommend three names for each vacancy, determined by category, and the Governor must make a selection within a 45-day period or request a new list of candidates.

The Governor may remove a member for cause or upon the written petition of the county governing body. If any of the members of the senior council required to be appointed by the Governor resign, die, or are removed from office, the vacancy is filled by appointment by the Governor, using the same method as the original appointment, and such appointment to fill a vacancy shall be for the unexpired term of the person who resigns, dies, or is removed from office. Members of the senior council shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses consistent with s. 112.061, F.S.

District Duties - The district senior council is charged with a number of specific duties and responsibilities, including:

- election of a chair and a vice chair from among its members, and election of other officers as deemed necessary by the senior council;
- identification and assessment of the needs of the county's seniors and submission to the county governing body of a written report describing:
 - the activities, services, and opportunities that will be provided to seniors;
 - the anticipated schedule for providing those activities, services, and opportunities;
 - the manner in which seniors will be served, including a description of arrangements and agreements which will be made with community organizations, state and local educational agencies, federal agencies, public assistance agencies, the court system, guardianship groups, and other applicable public and private agencies and organizations;
 - the special outreach efforts that will be undertaken to provide services to at-risk, abused, or neglected and ailing seniors;
 - the manner in which the senior council will seek and provide funding for unmet needs; and
 - the strategy that will be used for interagency coordination to maximize existing human and fiscal resources;
- providing training and orientation to all new senior council members;
- creation and adoption of bylaws and rules, not inconsistent with federal or state laws or county ordinances, for the senior council's operation; and
- providing an annual written report, due January 1 of each year, to the county's governing body, which includes:
 - information on the effectiveness of activities, services, and programs offered by the senior council, including cost-effectiveness;
 - a detailed anticipated continuation budget and a list of all sources of requested funding, both public and private;
 - procedures used for early identification of at-risk seniors who need additional or continued services and methods for ensuring receipt of those services;
 - a description of the degree to which the senior council's objectives and activities are consistent with the goals of this section;
 - detailed information on the various programs, services, and activities available to, and the degree to which they have been successfully used by, seniors; and

- information on those programs, services, and activities that should be eliminated, those which should be continued, and those that should be added to the basic format of the senior council.

Additionally, the senior council must also maintain minutes of each meeting, including a record of all votes cast, and make them available to any interested person.

District Permissive Powers - The district senior council is also given a number of permissive powers. For example, the council is authorized to provide and maintain in the county such preventive, treatment, and rehabilitative services for seniors as the senior council determines are needed for their general welfare. Similarly, the council may allocate and provide funds for other agencies in the county which are operated for the benefit of seniors. The council is authorized to lease or buy real estate, equipment, and personal property and construct buildings as needed to execute district powers and functions. Such purchases must be paid for with cash on hand or secured by funds deposited in financial institutions; no authority to issue bonds is granted.

District Financing and Budgeting - The bill also provides a number of financial and budgeting parameters for the districts, including:

- The senior council must prepare a tentative annual written budget of the district's expected income and expenditures, including a contingency fund.
- The senior council must also compute a proposed millage rate sufficient to fund the tentative budget and comply with the provisions of s. 200.065, F.S., relating to the method of fixing millage, and fix the final millage rate by resolution of the senior council prior to adopting a final budget.
- The adopted budget and final millage rate are then certified and delivered to the governing body of the county as soon as possible following adoption. The millage rate necessary to be applied to raise the funds budgeted for district operations and expenditures, once adopted by resolution of the senior council, must be included in each certified budget.
- The millage rate may not exceed 0.5 mills of assessed valuation of all properties subject to ad valorem county taxes within the county.
- After the district budget is certified and delivered to the county's governing body, it may not be changed or modified by the county's governing body or any other authority.
- All taxes collected under this section shall be paid directly to the senior council by the county tax collector or clerk of the circuit court, as appropriate.
- All moneys received by the senior council must be deposited in qualified public depositories, as defined in section 280.02, F.S., with separate and distinguishable accounts established specifically for the senior council. These funds may only be withdrawn by checks signed by the council chair and countersigned by one other member of the senior council or by a chief executive officer authorized by the senior council.
- The chair and the other member of the senior council or chief executive officer who signs its checks must each give a surety bond in the sum of at least \$1,000 for each \$1 million or portion thereof of the senior council's annual budget, which bond shall be conditioned on each faithfully discharging the duties of his or her office. The premium on such bond may be paid by the district as part of the expense of the senior council. No other senior council members have to give bond or other security.

- District funds may only be expended by check, except expenditures from a petty cash account not exceeding \$100. Such petty cash expenditures must be recorded. The funds may not be expended without the prior approval of the senior council, except for expenditures paid from petty cash or for a check made payable for less than \$5,000. Budgeted expenditures of \$5,000 or less which have not received prior council approval must be approved by the chief executive officer.
- Council funds other than petty cash may not be spent unless first budgeted for and approved by the senior council.
- The district must timely prepare and file a quarterly financial report which includes: for the quarter -- total council expenditures and receipts; a statement of the funds on hand, invested, or deposited; and total council administrative costs.
- After or during the first year of operation of the senior council, the governing body of the county, at its option, may fund in whole or in part the council budget from its own funds.

District Dissolution - Any district created by the provisions of this bill may be dissolved by (1) a special act of the Legislature, (2) an ordinance of the county governing body, subject to the approval of the electorate, or (3) the procedures set forth in s. 189.4042, F.S. Prior to being dissolved, the county must first obligate itself to assume the debts, liabilities, contracts, and outstanding obligations of the district within the total millage available to the county governing body for all county and municipal purposes as provided for under section 9, Article VII of the State Constitution.

District Compliance with Other Statutory Requirements - The bill requires that any district created pursuant to this section must comply with all other statutory requirements of general application which relate to the filing of any financial reports or compliance reports required under part III of ch. 218, F.S., or any other report or documentation required by law, including the reporting requirements of ss. 189.415, 189.417, and 189.418, F.S.

Redesignation of Part V of Chapter 125, F.S. - The bill changes the title of Part V of ch. 125, F.S., from “Children’s Services” to “Human Services” to include within the Part the purposes of the newly-created section.

Finally, the bill amends s. 189.404, F.S., to specifically authorize counties to create an independent special district pursuant to the section created in this bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The bill authorizes counties to create, by ordinance, an independent special district to provide funding for seniors' services 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.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill permits the establishment of an independent special district to provide funding for services for seniors throughout a county through the annual levy of an ad valorem tax as approved by the electors of the county. The Revenue Estimating Conference determined a similar bill (SB 62) filed in the 2005 Legislative session had an indeterminate fiscal impact on local government revenues. If all counties created a district and imposed the maximum 0.5 millage in ad valorem taxes, the Conference estimated the impact of that bill to have been \$621.8 to \$668.6 million in FY 2005-06.¹⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

¹⁰ The Revenue Estimating Conference at an Impact Conference held on February 22, 2005.

VIII. Summary of Amendments:

None.

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