

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 219  
**SPONSOR(S):** Domino  
**TIED BILLS:**

Gertrude Maxwell Save a Pet Act

**IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Agribusiness	6 Y, 2 N	Kaiser	Reese
2) Environment & Natural Resources Council			
3) Policy & Budget Council			
4) _____			
5) _____			

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**SUMMARY ANALYSIS**

The bill creates a direct-support organization (DSO) within the Department of Agriculture and Consumer Services (department) for the purpose of preventing animal cruelty, assisting with pet overpopulation management, and reducing the need for euthanasia of animals. The act is known as the “Gertrude Maxwell Save a Pet” Act.

The bill provides for the DSO to operate under a written contract with the department to raise funds, conduct programs and activities, and request and receive grants, gifts and bequests of moneys, securities or property to achieve the goals stated above. The Commissioner of Agriculture is authorized to approve the articles of incorporation and bylaws as well as oversee other provisions relating to the organization of the DSO. The bill provides for any funds of the DSO to revert to the department if the DSO is terminated.

The bill appears to have a minimal fiscal impact to the state. The effective date of this legislation is upon becoming law.

**HB 219 has one strike-all amendment traveling with the bill. For an explanation of this amendment, please refer to Section IV. (Amendments/Council Substitute Changes).**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government:** According to the Department of Agriculture and Consumer Services (department), 1 new FTE will be required to carry out the duties associated with the creation of the direct-support organization (DSO). Additionally, the bill provides for the use of property and facilities of the department, as well as services provided by department staff, not available to other similar not-for-profit organizations involved in similar endeavors.

#### B. EFFECT OF PROPOSED CHANGES:

A direct support organization (DSO) is a separate, not-for-profit corporation organized and operated exclusively to assist a specific organization by providing supplemental resources from grants, gifts and bequests of money and/or services. These organizations are authorized by Florida statute to receive, hold, invest and administer property and to make expenditures to or for the benefit of the specific organization. The Department of Agriculture and Consumer Services (department) currently monitors at least four separate DSOs: Animal Friend Council, Agriculture in the Classroom, the Florida Museum and the Florida Agricultural Center and Horse Park Authority.

Approved in the 2004 legislative session, the Florida Animal Friend license plate provides a funding mechanism for spay/neuter initiatives in the state. The Florida Animal Friend Coalition (coalition), comprised of animal care groups such as the Florida Animal Control Association, the Florida Veterinary Medical Association, and the Humane Society of the United States, after reviewing grant applications, distributes funds to non-profit organizations and governmental agencies around the state for spay/neuter programs. For the FY 2006-07, the coalition distributed \$275,000 in grants across the state.

Besides the coalition, there are several national and local humane and animal services organizations such as the Humane Society of the United States, the Society for the Prevention of Cruelty to Animals, private and publicly operated animal shelters, various animal rescue organizations, and spay/neuter clinics currently operating in Florida. Like the coalition, many of these organizations conduct fund-raising activities or provide grants to organizations that further their goals.

The bill creates the "Gertrude Maxwell Save a Pet" direct-support organization (DSO) within the department. Gertrude Maxwell is a 96-year-old benefactor of animal causes. She has spent her life championing the causes of abandoned animals and providing money and resources towards the humane care and protection of stray and abandoned dogs and cats. The purpose of the DSO includes:

- Preventing animal cruelty;
- Assisting with pet overpopulation management;
- Providing grants to animal shelters for the purpose of spaying and neutering; and,
- Reducing the need for euthanasia of animals.

The bill stipulates the DSO must be a Florida not-for-profit corporation and shall be exempt from paying fees under s. 617.0122, F.S.<sup>1</sup> The DSO must be organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the purposes stated above.

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<sup>1</sup> Fees paid to the Secretary of State for the filing of documents and issuance of certificates.

If the Commissioner of Agriculture (Commissioner) determines the DSO is operating in a manner not befitting the department or in the best interest of the state, he/she may terminate the contract between the department and the DSO. The Commissioner is authorized to appoint a board of directors for the DSO and may designate employees of the department to serve on the board. All members of the board shall serve at the pleasure of the Commissioner.

The bill provides for the DSO to operate under a written contract with the department. The contract must provide for:

- The articles of incorporation and bylaws to be approved by the Commissioner;
- Submission of an annual budget approved by the Commissioner;
- Any funds of the DSO to revert to the department if the DSO is terminated;
- The fiscal year to begin July 1 and end June 30 of the following year; and
- The disclosure of material provisions of the contract and the distinction between the department and the DSO to all donors, as well as on all promotional and fundraising publications.

The bill authorizes the Commissioner to allow, as well as prescribe conditions, for the use of facilities and property, other than moneys, owned by the department. The Commissioner may also allow for the use of personal services provided by department employees. The use of department facilities and property is stipulated upon the DSO providing equal employment opportunities to all persons, regardless of race, color, religion, sex, age, or national origin.

The bill allows for the moneys of the DSO to be held in a separate depository account in the name of the DSO, subject to the provisions of the contract with the department. The bill forbids any state employee from receiving compensation from the DSO for service on the board of directors or for services rendered to the DSO.

The department is currently involved with other DSOs such as Agriculture in the Classroom, the Florida Museum, and the Florida Agricultural Center and Horse Park Authority. Current statute<sup>2</sup> provides for the department to enter into a memorandum or letter of agreement with these DSOs specifying the approval of the department, the powers and duties of the DSO, and rules of compliance for the DSO. The bill states the provisions relating to other DSOs within the department do not apply to the organization created by this legislation.

### C. SECTION DIRECTORY:

**Section 1:** Identifies the act as the “Gertrude Maxwell Save a Pet Act.”

**Section 2:** Creates s. 570.236, F.S., authorizing the creation of a direct-support organization (DSO) within the Department of Agriculture and Consumer Services to prevent animal cruelty, assist pet overpopulation management, provide grants to animal shelters for spaying and neutering, and reduce the need for euthanasia of animals; requiring the DSO to be a Florida not-for-profit; providing organizational criteria; granting the Commissioner of Agriculture authority to terminate the DSO under certain conditions; providing for the DSO to operate under a written contract; providing details required for written contract; requiring the Commissioner of Agriculture to appoint a Board of Directors; providing for authorization by the Commissioner of Agriculture for the use of property and services; providing criteria regarding moneys collected; providing for an annual audit; providing limits for the DSO; and, specifying inapplicability of potentially conflicting provision of law.

**Section 3:** Provides an effective date of upon becoming law.

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<sup>2</sup> Section 570.903, F.S.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

	FY 07-08	FY 08-09	FY 09-10
<b>Recurring (GR):</b>			
Salaries (1 FTE)			
Sr. Mgt. Analyst (PG-22)	\$ 54,544	\$ 54,544	\$ 54,544
Expenses – 1 Prof. Exp. Pkg @			
\$10,088 N/R of \$3,388	6,700	6,700	6,700
HR Services (1 FTE) @ \$398	<u>398</u>	<u>398</u>	<u>398</u>
Total Recurring	\$ 61,642	\$ 61,642	\$ 61,642
<b>Non-Recurring (GR):</b>			
1 Prof. Exp. Pkg. @ \$3,388	3,388		
1 Std. OCO Pkg. @ \$1,000	1,000		
Total Non-Recurring	<u>4,388</u>		
Total	<u>\$ 66,033</u>	<u>\$ 61,642</u>	<u>\$ 61,642</u>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Unknown

2. Expenditures:

Unknown

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown

### D. FISCAL COMMENTS:

The Department of Agriculture and Consumer Services (department) states that the initial establishment of the direct-support organization (DSO) requires the services of the department's legal staff, contracting personnel and the appointment of liaison staff. Eventually, permanently-assigned liaison staff would be required to monitor and ensure proper operation and auditing of the DSO.

Due to the effective date of the legislation being "upon becoming law," the recurring revenues for FY 07-08 are forecast at the maximum amount. Depending upon the date the legislation takes effect, the recurring revenues will decrease accordingly.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect municipal or county government.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Agriculture and Consumer Services (department) has concerns over the bill as drafted.

- The department questions the necessity of the agreement between the direct-support organization (DSO) and the department. The department is currently involved with other DSOs (Agriculture in the Classroom, the Florida Museum, and the Florida Agricultural Center and Horse Park Authority) through memoranda of agreement. Under these agreements, rules have been established regarding the operation of the various DSOs.
- Additionally, as stated in the bill, the scope of the DSO is very broad. An agreement would need to more narrowly define the operations and goals of the DSO.
- The department suggests the need to provide for a percentage of the funds to be authorized for administrative costs, as well as hiring a paid executive director.
- And lastly, the department suggests, as an alternative to setting up a second grant-reviewing and administration structure similar to the Animal Friend License plate non-profit, all or some of the funds generated by the DSO could be transferred to a single fund for grant review and distribution.

D. STATEMENT OF THE SPONSOR

No statement submitted.

#### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On February 20, 2008, the Agribusiness Committee adopted a strike-all amendment to HB 219. The strike-all amendment establishes the "Gertrude Maxwell Save a Pet" Act through a direct-support organization (DSO) within the Department of Agriculture and Consumer Services (department). The purpose of the DSO is for the prevention of animal cruelty, as well as assisting with pet overpopulation management and reducing the need for euthanasia of animals. The amendment provides for the DSO to be organized and governed according to the provisions of ss. 570.902 and 570.903, F.S.