

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 4075 Charlotte County

**SPONSOR(S):** Roberson

**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	11 Y, 0 N	Tait	Hoagland
2) Economic Affairs Committee	15 Y, 0 N	Tait	Tinker

### SUMMARY ANALYSIS

Florida law authorizes local governments to enact ordinances relating to animal control or cruelty. A violation of such an ordinance is a civil infraction punishable by a maximum \$500 fine plus applicable administrative fees and court costs. Local governments may impose a surcharge of up to \$5 upon each civil penalty imposed for violation of an ordinance. The proceeds of the surcharges must be used to pay the costs of training for animal control officers.

The bill repeals a 1984 Charlotte County special act relating to animal control. Repeal of this act will allow Charlotte County to exercise its powers as a charter county to develop animal control ordinances under less restrictive general law provisions.

The Economic Impact Statement indicates that repeal of ch. 84-404, L.O.F., may increase efficiency relating to animal control operations, resulting in a cost savings to taxpayers.

The bill provides an effective date of upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

###### *General Law*

Section 828.27, F.S., was first created in 1986. It authorizes local governments to enact ordinances relating to animal control or cruelty. A violation of such an ordinance is a civil infraction punishable by a maximum \$500 fine plus applicable administrative fees and court costs. An animal control officer must have probable cause to believe that a person has violated the ordinance before the officer can issue a warrant. Failure to pay or contest the citation can result in contempt of court. County-employed animal control officers shall, and municipally employed animal control officers may, successfully complete a 40-hour minimum standards training course on topics such as: animal cruelty investigations, search and seizure, animal handling, courtroom demeanor, and civil citations. Local governments may impose a surcharge of up to \$5 upon each civil penalty imposed for violation of an ordinance. The proceeds of the surcharges must be used to pay the costs of training for animal control officers.

Any person who willfully refuses to sign and accept a citation issued by an officer is guilty of a misdemeanor of the second degree. The local government may require mandatory court appearances for aggravated violations or multiple violations. Failure to appear in court can result in contempt of court.<sup>1</sup> Otherwise, penalties must be civil in nature.<sup>2</sup>

###### *Charlotte County*

The specific requirements regarding animal control in Charlotte County are found in ch. 84-404, L.O.F. The chapter provides definitions, creates an Animal Control Agency for the county, and includes sections on nuisance animals, vicious animals, animal licenses, rabies vaccination, and impoundment of animals. It also provides that a person, firm, or corporation which violates the Special Act is guilty of a criminal offense and misdemeanor as defined by s. 775.08, F.S., and shall be punished as provided by law. In addition, the Special Act provides for impoundment fees and fees for the disposition of dead animals, but does not provide for other fees related to other violations. The Special Act may only be changed through action of the Legislature.

Charlotte County became a charter county in 1986. The Florida Constitution provides a direct constitutional grant of the power of self-government to a county upon charter approval, which means the governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. However, as Charlotte County gained charter county status after ch. 84-404, L.O.F., took effect, it is required to follow the more restrictive requirements of the Special Act, instead of creating its own county ordinances relating to animal control.

##### **Effect of Proposed Changes**

HB 4075 repeals ch. 84-404, L.O.F. Repeal of this special act will allow Charlotte County to exercise its powers as a charter county to develop animal control ordinances in compliance with Florida statute. The Economic Impact Statement indicates that repeal of ch. 84-404, L.O.F., may increase efficiency relating to animal control operations, resulting in a cost savings to taxpayers.

The bill provides an effective date of upon becoming law.

---

<sup>1</sup> S. 828.27(2)(f), F.S.

<sup>2</sup> Florida Attorney General Opinion 88-48 (November 3, 1988).

B. SECTION DIRECTORY:

**Section 1:** Repeals chapter 84-404, L.O.F, relating to the Charlotte County Animal Control Agency.

**Section 2:** Provides an effective date of upon becoming a law.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? September 16, 2011.

WHERE? *The Charlotte Sun*, a daily paper of general circulation published in Charlotte Harbor, Charlotte County, Florida and distributed in Charlotte County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**