STORAGE NAME: h0355z.ca ****FAILED TO PASS THE LEGISLATURE****
DATE: May 9, 2000

HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
FINAL ANALYSIS

BILL #: HB 355

RELATING TO: Dangerous Dogs

SPONSOR(S): Representative Stafford

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) COMMUNITY AFFAIRS (PRC) YEAS 9 NAYS 0
(2) AGRICULTURE YEAS 5 NAYS 4
(3)
(4)
(5)

I. SUMMARY:

HB 355 removes the current restriction that regulations may not be specific to breed when a local government places further restrictions or additional requirements on owners of dangerous dogs or when that local government develops procedures and criteria for the implementation of state law governing dangerous dogs.

The bill removes language specifying any local dangerous dog ordinance or adopted criteria which is breed specific, in effect prior to October 1, 1990, is not affected by the breed specific restriction found in s. 767.14, F.S. In light of the above changes, the language is no longer needed since its purpose in 1990 was to allow local ordinances which were breed specific to remain valid.

The bill does not impact state revenues or expenditures and might have an insignificant impact on local government expenditures.

A strike-everything amendment, which is traveling with the bill, was adopted on January 19, 2000 by the House Committee on Community Affairs. Please see section VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES.

A strike-everything amendment, which is traveling with the bill, was adopted on April 5, 2000 by the House Committee on Agriculture. Please see section VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No [X]	N/A []
2.	Lower Taxes	Yes []	No []	N/A [X]
3.	Individual Freedom	Yes []	No []	N/A [X]
4.	Personal Responsibility	Yes []	No []	N/A [X]
5.	Family Empowerment	Yes []	No []	N/A [X]

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

The bill does not support less government. By removing the prohibition that any local ordinances/restrictions may not be breed specific, local governments may now authorize additional ordinances and/or criteria for implementation of chapter 767, F.S. This may result in owners of specific breeds of dangerous dogs being more restricted in activities connected with their dogs.

B. PRESENT SITUATION:

Animal control authorities are entities acting alone or with local governments to enforce local animal control ordinances or laws of the state. Most counties and municipalities have established animal control agencies, but some counties in Florida do not have an animal control agency. However, in some counties without an agency, there is an animal control director or officer in charge of animal control issues. In those areas without an agency, the sheriff carries out the duties of the animal control agency.

Prior to 1990, animal control was generally regulated on a local basis, as the Florida Statutes did not specifically provide for regulating dangerous dogs. However, in 1990, the Legislature passed HB 1345 which provided a procedure for certain dogs to be classified as dangerous and required that such dogs be registered. The bill also established requirements for control and confinement of dangerous dogs, as well as an appeals procedure.

Chapter 767, F.S., relates to damage by dogs. Owners of dogs are liable for any damage done by their dogs to a person or any animal as defined in section 585.01, F.S. Owners are liable for damages suffered by persons bitten regardless of the former viciousness of the dog or the owner's knowledge of viciousness. This includes liability arising from bites both on or in a public place or in a private place, including the property of the owner of the dog. In determining liability, contributory negligence can be shown to reduce the owner's liability. In addition, the owner is not liable, unless the person is under the age of 6, if at the time of such injury, the owner had a sign with the language of "bad dog" prominently displayed on the premises. Also, the chapter provides that satisfactory proof that a dog killed any animal included in the definitions of domestic animal and livestock as provided by section 585.01, F.S., shall constitute a good defense for killing or injuring a dog.

A dangerous dog is any dog that according to the appropriate records has:

- aggressively bitten, attacked, endangered, or severely injured a human being on private or public property;
- severely injured or killed a domestic animal while off the owner's property;
- been used primarily or in part for dog fighting or has been trained for dog fighting; or
- when unprovoked, chased or approached a person on the street or other public place in a menacing fashion or apparent attitude of attack (such actions must be attested to).

Section 767.12, F.S., requires animal control authorities to investigate reported incidents involving dogs that may be dangerous. During the time of investigation, dogs are impounded with the authorities or securely confined by the owner pending the outcome. After an investigation, the animal control authority makes an initial determination regarding whether there is enough information (sufficient cause) to classify the dog as dangerous. If so, the owner is afforded a hearing before final determination of the dog's status. The owner has seven days to request a hearing with the animal control authority. If the dog is classified as dangerous after the hearing, the owner may file a written request for a hearing in the county court to appeal the classification within 10 days after receipt of a written determination of the dangerous dog classification. Pending resolution of the appeal, the dog must be confined in a securely fenced or enclosed area.

An owner has 14 days to obtain a certificate of registration after a dog has been classified as dangerous. This certificate must be renewed annually and can only be issued to persons at least 18 years old who have presented evidence of the following:

- current rabies vaccination;
- the dog is confined in a proper enclosure and the premises has warning signs at all entry points; and
- the dog has permanent identification, such as a tattoo.

An annual fee is authorized to be imposed for the issuance of registration certificates.

If a dog is classified as a dangerous dog, the owner must immediately notify the authorities when the dog:

- is loose or unconfined;
- has bitten a human or attacked an animal;
- has been sold, given away or dies; or
- is moved to a new location.

Prior to a dangerous dog being sold or given away, several things must first occur. The owner must give the animal control authority information regarding the new owner. Second, the new owner must comply with all statutory and local provisions relating to dangerous dogs, even if the dog is being moved to another jurisdiction within the state. The new owner must also notify the local animal control authority that a dangerous dog is now in his jurisdiction.

A dangerous dog is not permitted to be outside its proper enclosure unless it is muzzled, restrained by a substantial chain or leash, and under control of a competent person. The dog may be exercised in an enclosure or area without a top, only if the dog is never out of

the owner's sight. When being transported, the dog must be securely restrained in the vehicle.

Hunting dogs are exempt from the provisions of section 767.12, F.S., while engaged in any legal hunt or training exercise. However, at all other times, hunting dogs are subject to section 767.12, F.S. Dangerous dogs may not be used for hunting purposes. In addition, this section is not applicable to law enforcement dogs.

A person who violates any provision relating to the certification, confinement of the dog, or unlawful acts, is guilty of a noncriminal infraction and may be fined up to $500.

The classification of a dog as a dangerous dog is serious as it may mean life or death for the dog if the dog ever bites a human *or* animal. If a dog that has been classified as a dangerous dog bites a person or domestic animal without provocation, then the dog is immediately confiscated and placed in quarantine or impounded. The dog is held for 10 business days from notification to its owner, and then destroyed. The 10 days allows the owner to request a hearing. If an appeal is filed, then the dog may not be destroyed pending the appeal. In addition, the owner is guilty of a misdemeanor of the first degree and is liable for boarding costs and fees arising from the holding of the dog during any appeal procedure. A similar scenario occurs when a dog that has not been classified as a dangerous dog, attacks and causes severe injury to or death of any human. A dog that has not been classified as dangerous, will not be destroyed if it causes harm to a domestic animal. However, the attack may lead to the classification of the dog as a dangerous dog.

Local governments are authorized to adopt additional ordinances/restrictions relating to dangerous dogs pursuant to section 767.014, F.S. However, these restrictions may not be *breed specific*. In addition, these restrictions may not lessen the provisions of chapter 767, F.S. Finally, the breed specific restriction does not apply to any ordinance adopted prior to October 1, 1990.

C. EFFECT OF PROPOSED CHANGES:

The bill allows local governments to place further restrictions on specific breeds of dangerous dogs. Since 1990, local governments have been restricted in their authority to place further restrictions or additional requirements on owners of dangerous dogs or to develop procedures and criteria for the implementation of state law governing dangerous dogs. The restrictions can not be breed specific. The bill removes this restriction.

The bill removes language stating that any local dangerous dog ordinance or adopted criteria which is breed specific that is in effect prior to October 1, 1990 is not affected by the breed specific restriction found in section 767.14, F.S. In light of the above changes, this language is no longer needed since its purpose in 1990 was to allow those local ordinances which were breed specific to remain valid.

D. SECTION-BY-SECTION ANALYSIS:

<u>Section 1</u>: Amends section 767.14, F.S.; removes the prohibition that local restrictions, requirements, and criteria relating to dangerous dogs can not be breed specific; revises the applicability of section 767.14, F.S. to certain local ordinances.

<u>Section 2</u>: Provides effective date of upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There may be a potential increase in local government revenues depending on the ordinances local governments adopt which are breed specific.

2. Expenditures:

There may be a potential increase in local government expenditures depending on the ordinances local governments adopt which are breed specific.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of specific breeds of dangerous dogs may be significantly impacted by the bill as they may be required to abide by further restrictions and requirements.

D. FISCAL COMMENTS:

None

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The 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:

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

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

The bill does not reduce the tax authority that counties or municipalities have to raise revenue in the aggregate.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

Committee on Community Affairs

The Florida League of Cities supports the bill.

The Florida Association of Counties was contacted regarding the bill. Although the Association has no position on the authority to adopt breed-specific ordinances, it does believe that the process regarding dangerous dogs is in need of legislative review and revision.

The Humane Society of the United States, Southeast Regional Office, (Society) does not support the bill in its current form. Although it supports the bill's intent to enhance public safety, the Society does not feel allowing local governments to enact ordinances that could place restrictions regarding ownership of certain dog breeds is the answer. According to the Society, the problem the bill is addressing may not be a "breed of dog" problem but rather a pet ownership and enforcement issue. The Society also states breed specific ordinances will unfairly penalize responsible dog owners, and it is these responsible dog owners, whose dogs do not pose a threat, who will make an effort to comply with any new ordinances. In addition, it appears as though the bill does not provide any restrictions on what breed of dogs local governments can further restrict. However, the Society does *support* any attempt to streamline the existing statute regarding the dangerous dog classification and appeal process. It believes that by streamlining the appeal process, the law will be easier to enforce and will minimize animal authorities' reluctance to classify a dog as dangerous. A copy of the complete letter is available at the committee office upon request.

Committee on Agriculture

The substance of this legislation does not fall within the jurisdiction of the Division of Animal Industry within the Department of Agriculture and Consumer Services.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 19, 2000, the House Committee on Community Affairs approved a strike everything amendment, offered by Representative Stafford, that:

- Creates section 767.06, Florida Statutes. This newly created section adds a new section to the bill and authorizes local governments to pass regulations that are breed specific as long as the regulations do not lessen the requirements of chapter 767. This authorization is not limited to regulations regarding dangerous dogs.

- Revises section 767.12, Florida Statutes. These revisions clarify and streamline the dangerous dog classification process and the appeal process of both the classification and the decision to destroy a dog. Currently, upon receipt of an initial determination of sufficient cause to classify a dog as dangerous, the owner has 7 days to request a hearing before the animal control authority before a final determination is made. If a final dangerous dog determination is made, the owner has 10 business days from written receipt of the classification to appeal the classification and request a hearing in county court. This process is also followed once an owner receives written notice that the dog is to be destroyed. This amendment revises and clarifies this process by providing that once the owner is notified of a finding of sufficient cause, the owner has 10 business days to request an evidentiary hearing in county court to challenge the finding of sufficient cause. If no hearing is requested, then the animal is deemed to be classified as dangerous. The dog owner is no longer afforded a hearing before the animal control authority. This amended process is also to be used when an animal control authority determines to destroy a dog under section 767.13, Florida Statutes. This amendment also provides the owner must confine the dog and follow other limited restrictions until the county case is resolved. Finally, the amendment allows the court to deem further restrictions if there is an appeal of the county court's decision.

On April 5, 2000, the House Committee on Agriculture approved a strike everything amendment, offered by Representative Bronson, that:

- Creates section 767.06, Florida Statutes. This newly created section authorizes local governments to pass regulations, applicable to public places, that are breed specific as long as the regulations do not lessen the requirements of chapter 767. This authorization is not limited to regulations regarding dangerous dogs.

- Revises section 767.12, Florida Statutes. These revisions clarify and streamline the dangerous dog classification process and the appeal process of both the classification and the decision to destroy a dog. Currently, upon receipt of an initial determination of sufficient cause to classify a dog as dangerous, the owner has 7 days to request a hearing before the animal control authority before a final determination is made. If a final dangerous dog determination is made, the owner has 10 business days from written receipt of the classification to appeal the classification and request a hearing in county court. This process is also followed once an owner receives written notice that the dog is to be destroyed. This amendment revises and clarifies this process by providing that once the owner is notified of a finding of sufficient cause, the owner has 10 business days to request an evidentiary hearing in county court to challenge the finding of sufficient cause. If no hearing is requested, then the animal is deemed to be classified as dangerous. The dog owner is no longer afforded a hearing before the animal control authority. This amended process is also to be used when an animal control authority determines to destroy a dog under section 767.13, Florida Statutes. This amendment also provides the owner must confine the dog and follow other limited restrictions until the county case is resolved. Finally, the amendment allows the court to deem further restrictions if there is an appeal of the county court's decision.

- Revises section 784.05, Florida Statutes, providing penalties for culpable negligence for a person who knowingly permitted his/her dog or dogs to run at large, as a pack, which resulted in the bodily harm or death of another person.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:	Staff Director:
Laura L. Jacobs, Esq.	Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON AGRICULTURE:

Prepared by:	Staff Director:
Debbi Kaiser	Susan D. Reese

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:	Staff Director:
Laura L. Jacobs, Esq.	Joan Highsmith-Smith