

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: SB 746

INTRODUCER: Senator Fasano

SUBJECT: Direct-Support Organizations

DATE: February 12, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ray	Walsh	CF	Favorable
2.	_____	_____	GO	_____
3.	_____	_____	HA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 746 provides for the establishment of a direct-support organization for the Department of Elder Affairs (“the department” or DOEA). The organization will serve to provide the department with assistance, funding, and support in carrying out its mission.

This bill creates s. 430.82, F.S.

II. Present Situation:

Florida law provides for the establishment of direct-support organizations as a means to assist state agencies in accomplishing their missions. Direct-support organizations are established as a Florida corporation not for profit incorporated under ch. 617, F.S., and approved by the Department of State. Section 617.01401(5), F.S., defines the term corporation not for profit as "a corporation no part of the income or profit of which is distributable to its members, directors, or officers."

Direct-support organizations perform a variety of services to state agencies including:

- Raising money;
- Submitting requests for and receiving grants from the federal government, the state or its political subdivisions;
- Receiving, holding, investing, and administering property;
- Assisting an agency in performing its mission; and

- Making expenditures for the benefit of the supported agency.¹

Direct-support organizations have been established to support a wide array of services and agencies including child abuse prevention and adoption; tourism; public guardianship; victims of crime; universities, community colleges, and school districts; the Florida National Guard; the Departments of Corrections, Juvenile Justice, Agriculture and Consumer Services, and Veterans' Affairs; and the Florida Prepaid College Board.²

Florida Statutes generally require direct-support organizations to:

- Operate under written contract with the supported agency;
- Be governed by a board of directors; and
- Operate for the benefit of and in a manner consistent with the goals of the agency and in the best interest of the state.

Examples of current state direct-support organizations include the:

- Florida National Guard Foundation,
- Florida Juvenile Justice Foundation, and
- Florida Veterans Foundation.

Currently, the department does not have legislative authority for a direct-support organization.

III. Effect of Proposed Changes:

The bill creates s. 430.82, F.S., authorizing DOEA to establish a direct-support organization in order to provide assistance, funding, and support for the department in carrying out its mission. The bill defines the direct-support organization as an organization that is:

- A Florida not for profit corporation;
- Incorporated under chapter 617, F.S.;
- Exempted from filing fees;
- Approved by the Department of State;
- Organized and operated exclusively to obtain funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer in its own name securities, funds, or property; and make expenditures to or for the benefit of DOEA and Floridians who are age 60 or older; and
- Determined by DOEA to be operating in a manner consistent with the goals of the department and in the best interest of the state.

The bill provides that the organization be governed by a board of at least five directors appointed by the secretary of the department. The bill allows that networks and partnerships involved in issues related to aging may recommend board of directors nominees to the department's secretary.

¹ Sections 39.0011, 250.115, 267.1732, 267.1736, 288.1226, 292.055, 570.903, 744.7082, 944.802, 960.002, 985.672, 1001.453, 1004.28, 1004.70, and 1009.983, F.S.

² *Id.*

The bill provides for a board membership term in office of three years, except in the initial appointments where some members' terms are shortened in order to develop a staggered term expiration schedule. The bill allows members to be reappointed when their terms expire. The secretary of the department or his or her designee shall serve as an ex officio member of the board.

The bill provides that members of the board must be current Florida residents and that a majority of the members shall be elders and knowledgeable about the department, its services, and its mission. The bill allows for members to be removed for cause with approval of a majority of the board members.

The bill requires that a direct-support organization operate under a written contract with the department. The contract, at a minimum, must provide for:

- Annual certification by the department that the organization is complying with the terms of the contract in a manner consistent with the purposes of the department and in the best interests of the state. Such certification shall be reported in the minutes of an official meeting of the organization;
- Reversion of moneys and property held by the organization if it is no longer approved to operate for the department or if the organization or the department ceases to exist; and
- The disclosure of the material provisions of the contract including the distinction between the department and the direct-support organization to donors and all promotional and fund raising publications.

The bill authorizes the use of department property, facilities, and personnel by the direct-support organization and allows the department to contractually prescribe conditions for such use. The bill prohibits such use if the organization does not provide equal employment opportunities.

The bill requires the secretary's approval of any transaction or agreement between the direct-support organization and any other direct-support organization or entity.

Finally, the bill prescribes:

- A fiscal year that begins July 1 of each year and ends June 30 of the following year;
- That the direct-support organization submit, to the department, certain Internal Revenue Service filings; and
- That the organization provide for an annual financial audit in accordance with s. 215.981, F.S.

The bill provides for an effective date of July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill is linked to Senate Bill 648 which provides for a public records exemption that grants confidentiality for direct-support organization donors who request it.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.