

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 Governmental Operations Committee

BILL: CS/SB 1462

INTRODUCER: Military Affairs and Domestic Security Committee and Senator Dean

SUBJECT: Veterans' Affairs/Direct-Support Organization

DATE: March 14, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue	McElroy	MS	Fav/CS
2.	Rhea	Wilson	GO	Favorable
3.			HA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill provides for the establishment of a direct-support organization for the Department of Veterans' Affairs. The organization will serve to assist the department in raising funds and obtaining federal grants, expend funds for the direct or indirect benefit of Florida's veterans, and assist the department in carrying out its mission. It is authorized to administer securities, funds, and property in its own name consistent with the goals of the department and in the best interest of the state.

The bill annually redirects twenty percent (approximately \$80,000) of the fee proceeds of the Florida Supports Veterans specialty license plate from the State Veterans Nursing Homes Trust Fund to the proposed direct-support organization for a period not to exceed 24 months. These funds will be used for administrative operations of the organization.

The bill abolishes the Florida Commission on Veterans' Affairs and amends pertinent sections of Florida Statutes relating to the commission.

This committee substitute creates s. 292.055, amends ss. 265.002 and 337.111, substantially amends s. 320.08058, and repeals s. 292.04 of the Florida Statutes.

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."¹

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.²

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, and Agriculture and Consumer Services; and the Florida Prepaid College Board.³

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.

One means of raising funds used by direct-support organizations is the receipt of specialty license plate fees. Section 320.08058, F.S., provides for the establishment of specialty license plates and for the distribution of specialty license plate fees to some direct-support organizations.

Currently, s. 320.08058, F.S., authorizes the establishment of a Florida Salutes Veterans license plate and requires that the proceeds be deposited in the State Homes for Veterans Trust Fund. All such moneys are to be administered by the Department of Veterans' Affairs solely for the purpose of constructing, operating, and maintaining the State's veterans domiciliary and nursing homes and for marketing the license plate.

Section 265.002, F.S., established a commemorative wall display located in the Plaza level of the Capitol Building in Tallahassee that honors Floridians who are recipients of the Medal of Honor.

¹ Section 617.01401, F.S.

² Sections 39.0011, 250.115, 267.1732, 267.1736, 288.1226, 570.903, 744.7082, 944.802, 960.002, 985.672, 1001.453, 1004.28, 1004.70, and 1009.983, F.S.

³ *Id.*

This section of statute directs the Department of Management Services to consult with the Florida Commission on Veterans' Affairs regarding the design and theme of the display.

Section 337.111, F.S., provides for the installation of monuments or other memorials, plaques, markers, or retired military equipment at highway rest areas around the state that honor the accomplishments of military veterans and the sacrifices made by them and their families. This section directs that members of the Florida Commission on Veterans' Affairs serve on a committee appointed to contract with any not-for-profit group or organization that has been operating for not less than two years, for installation of such monuments and memorials.

Section 292.04, F.S., established the Florida Commission on Veterans' Affairs. The commission is composed of nine commissioners appointed by the Governor, subject to Senate confirmation, to serve as an advisory body to the Department of Veterans' Affairs. It is required to meet four times annually. It is also tasked with conducting a biennial survey of possible contributions that veterans or state organizations of veterans could make to the state and to make recommendations for encouraging such contributions. Commissioners serve without compensation and are authorized per diem and travel expenses reimbursement in accordance with s. 112.061, F.S.

III. Effect of Proposed Changes:

This committee substitute names the bill the "Sergeant First Class Paul R. Smith Memorial Act."

The bill creates s. 292.055, F.S., which authorizes the Department of Veterans' Affairs 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 corporation not for profit;
- 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 the Department of Veterans' Affairs, Florida's veterans, and congressionally chartered veterans service organizations that have subdivisions that are incorporated in Florida; and
- Determined by the Department of Veterans' Affairs to be operating in a manner consistent with the goals of the department and in the best interest of the state.

The organization shall be governed by a board of at least five directors appointed by the executive director of the department. The bill allows veteran service organizations to recommend board of directors nominees to the department's executive director.

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 executive director of the department or his or her designee shall serve as an ex officio member of the board.

The bill provides for board membership qualifications including current state residency and being highly knowledgeable of military and veterans' issues. The executive director of the department shall have the authority to remove a board member for cause with the approval of a majority of the board of directors. The executive director shall appoint a replacement for any vacancy that occurs.

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 department approval of any transaction or agreement between the direct-support organization and any other direct-support organization or entity.

Finally, the bill prescribes under this section:

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

This committee substitute amends s. 265.002, F.S., relating to the administration of the Florida Medal of Honor Wall to reflect the disestablishment of the Florida Commission on Veteran's Affairs. The bill transfers the functions of the commission relating to the Medal of Honor Wall to the department.

This committee substitute substantially amends s. 320.08058, F.S., by revising the distribution formula for the proceeds of sales of the "Florida Salutes Veterans" specialty license plate. The bill authorizes twenty percent of the proceeds to be distributed to the direct-support organization for a period not to exceed 24 months after the organization's incorporation. Any remaining fees must be deposited in the State Homes for Veterans Trust Fund.

This committee substitute amends s. 337.111, F.S., relating to contracting for monuments and memorials at Department of Transportation rest areas in order to reflect the disestablishment of the Florida Commission on Veteran's Affairs. The bill replaces the commissioners who by law

serve on a committee that approves proposed installation of monuments and memorials with members of the board of directors of the direct-support organization. The bill prescribes that:

- Appointed committee members' terms may not exceed two years;
- Committee appointments shall run concurrently with members' board membership terms; and
- Committee members may be reappointed to the committee.

This committee substitute repeals s. 292.04, F.S., thereby abolishing the Florida Commission on Veterans' Affairs.

The bill provides for an effective date of July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

This bill is linked to SB 1464 which provides for a public records exemption that grants confidentiality for direct-support organization donors who request it.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Veterans' Affairs, this bill will shift approximately \$80,000 annually for a period not to exceed 24 months from the State Veterans Nursing Homes Trust Fund to the direct-support organization. The department believes that other legislation that has been introduced, if passed, would more than offset the funds redirected from the trust fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill is linked to SB 1464 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.)**CS by Military Affairs and Domestic Security on March 11, 2008:**

- Authorizes the direct-support organization to make expenditures to or for the direct or indirect support of Florida’s veterans and congressionally chartered veterans service organizations’ subdivisions incorporated in Florida;
- Provides the department’s executive director the authority to remove a direct-support organization board member for cause with approval of the majority of the board;
- Clarifies language relating to veterans service organizations’ nominations of direct-support organization board members.
- Amends ss. 265.002 and 337.111, F.S., to reflect the disestablishment of the Florida Commission on Veterans’ Affairs; and
- Provides for a distribution of twenty percent of the fee proceeds from the sales of “Florida Salutes Veterans” specialty license plates to the direct-support organization for a period not to exceed 24 months.

B. Amendments:

None.