

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1121 Support Organizations

SPONSOR(S): State Affairs Committee, Agriculture & Natural Resources Appropriations Subcommittee, Altman

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	9 Y, 0 N	Card	Shugar
2) Agriculture & Natural Resources Appropriations Subcommittee	11 Y, 0 N, As CS	White	Pigott
3) State Affairs Committee	20 Y, 0 N, As CS	Card	Williamson

SUMMARY ANALYSIS

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily authorized or created not for profit corporations that carry out specific tasks in support of public entities or causes. The functions and purposes of a CSO or DSO are prescribed by its enacting statute and, for most organizations, by a written contract with the agency the CSO or DSO was created to support.

A law creating or authorizing the creation of a CSO or DSO must provide for repeal of the statutory authorization for the CSO or DSO on October 1 of the fifth year after enactment, unless reviewed and saved from repeal through reenactment by the Legislature. The provisions authorizing CSOs and DSOs for the Department of Environmental Protection (DEP), the Department of State, the Florida Intergovernmental Relations Foundation (FIRF), the Fish and Wildlife Conservation Commission (FWC), and the Department of Agriculture and Consumer Services (DACs) are scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.

Current law does not allow the transfer of state funds held in trust by a CSO supporting DEP to another CSO supporting DEP. Further, current law does not provide authority for judges to require violators of fish and wildlife laws to pay penalties directly to the Wildlife Alert Rewards Association (WARA), a CSO under FWC that rewards members of the public in exchange for information leading to the arrest of such violators.

The bill removes the scheduled repeal of the statutory authorizations for CSOs and DSOs established under DEP, Department of State, FWC, and DACs. The bill extends the scheduled repeal date for The Friends of Babcock Ranch Preserve, Inc., and the Florida Beef Council, Inc., from October 1, 2019, to October 1, 2024. The bill repeals the statutory authorization for FIRF, effective October 1, 2019. It further requires the Executive Office of the Governor and FIRF to ensure liabilities of FIRF are satisfied by September 1, 2019, and it transfers any remaining funds to the Florida International Trade and Promotion Trust Fund within the Department of Economic Opportunity by September 15, 2019.

Further, the bill requires DEP to submit a report to the Legislature that examines the financial transparency, accountability, and ethics of its CSOs by December 1, 2019. The bill specifies that any audits conducted after March 1, 2019, must be conducted in accordance with Government Auditing Standards.

Finally, the bill authorizes courts to continue the existing practice of ordering violators of fish and wildlife rules or orders to pay penalty assessments directly to WARA, and further authorizes WARA to pay rewards from the assessments to persons who provide information leading to an arrest of a person for a violation of fish and wildlife rules or orders.

The bill may have an indeterminate positive fiscal impact on state government, but does not appear to have a fiscal impact on local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1121d.SAC

DATE: 4/11/2019

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Citizen Support Organizations and Direct-support Organizations

Citizen support organizations (CSOs) and direct support organizations (DSOs) are statutorily authorized or created not for profit corporations that carry out specific tasks in support of public entities or public causes.¹ The functions and purpose of a CSO or DSO are prescribed by its enacting statute and, for most organizations, by a written contract with the agency the CSO or DSO was created to support.

CSO and DSO Transparency and Reporting Requirements

Chapter 2014-96, Laws of Fla., established reporting and transparency requirements for each CSO or DSO created or authorized pursuant to law or executive order and created, approved, or administered by a state agency.² The CSO or DSO must report information related to its organization, mission, and finances to the agency it was created to support by August 1 of each year.³ Specifically, a CSO or DSO must provide:

- The name, mailing address, telephone number, and website of the organization;
- The statutory authority or executive order that created the CSO or DSO;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).⁴

Each agency receiving the above information from a CSO or DSO must make the information publicly available on its website.⁵ The agency's website must also provide a link to the CSO's or DSO's website, if applicable.⁶ Additionally, any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting the above information.⁷ If a CSO or DSO fails to submit the required information for two consecutive years, the agency must terminate its contract with the CSO or DSO.⁸ The contract must also include a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁹

By August 15 of each year, each agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by each CSO or DSO. The report must also include a

¹ See ss. 20.2551, 257.43, 258.015(1), 265.703, 267.17, 259.10521, 379.223, 570.83, and 570.691, F.S.; specific CSOs and DSOs are granted the authority to operate and conduct programs and activities; raise funds; request and receive grants and gifts; acquire, receive, hold, invest, and administer funds and property; and make expenditures.

² Section 20.058, F.S.

³ Section 20.058(1), F.S.

⁴ Sections 20.058(1)(a)-(f), F.S.

⁵ Section 20.058(2), F.S.

⁶ *Id.*

⁷ Section 20.058(4), F.S.

⁸ *Id.*

⁹ *Id.*

recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each CSO or DSO.¹⁰

Finally, a law creating, or authorizing the creation of a CSO or DSO must provide for repeal of the CSO or DSO on October 1 of the fifth year after enactment, unless reviewed and saved from repeal through reenactment by the Legislature. CSOs or DSOs in existence on July 1, 2014, must be reviewed by the Legislature by July 1, 2019.¹¹

CSO and DSO Audit Requirements

CSOs or DSOs created or authorized pursuant to law with annual expenditures in excess of \$100,000 must provide for an annual financial audit of accounts and records to be conducted by an independent certified public accountant.¹² However, the expenditure threshold for an independent audit of a not for profit CSO for the Department of Environmental Protection (DEP) or a not for profit CSO or DSO for the Department of Agriculture and Consumer Services (DACS) is \$300,000.¹³ The audit must be performed in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the CSO or DSO.¹⁴ The Auditor General has adopted the Government Auditing Standards as the standards for audits of nonprofit and for-profit organizations.¹⁵ The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports.¹⁶

The Auditor General may, pursuant to his or her own authority or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of the accounts and records of the CSO or DSO.¹⁷ The Auditor General is authorized to require and receive any records from the CSO or DSO, or from its independent auditor.¹⁸

CSO and DSO Code of Ethics

A CSO or DSO created or authorized pursuant to law is required to adopt its own code of ethics.¹⁹ The code of ethics must contain the statutory standards of conduct and disclosures.²⁰ A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.²¹

CSOs Supporting the Department of Environmental Protection

A CSO under DEP must be a not for profit Florida corporation, incorporated under ch. 617, F.S.²² DEP, or DEP's Division of Recreation and Parks, must determine that the CSO is consistent with DEP or the state park system's goals and in the best interests of the state. DEP must provide a letter of agreement approving the CSO to operate for the direct or indirect benefit of DEP, the state park system, or its individual units.²³

¹⁰ Section 20.058(3), F.S.

¹¹ Section 20.058(5), F.S.

¹² Section 215.981(1), F.S.

¹³ Section 215.981(2), F.S.

¹⁴ Section 215.981(1), F.S.

¹⁵ Chapter 10.651(4), rules of the Auditor General.

¹⁶ Section 215.981(1), F.S.

¹⁷ Section 11.45(3), F.S.

¹⁸ Section 11.45(3)(d), F.S.

¹⁹ Section 112.3251, F.S.

²⁰ The standards of conduct and disclosures are found in ss. 112.313 and 112.3143, F.S.

²¹ Section 112.3251, F.S.

²² Sections 20.2551(1)(a) and 258.015(1)(a), F.S.

²³ Sections 20.2551(1)(c)-(d) and 258.015(1)(c)-(d), F.S.

DEP holds agreements with 83 CSOs that support the Division of Recreation and Parks, and 13 CSOs that support the Office of Resilience and Coastal Protection.²⁴ The statutes authorizing DEP's CSOs²⁵ are scheduled to repeal October 1, 2019, unless reviewed and saved from repeal by the Legislature.

Division of Recreation and Parks

The Division of Recreation and Parks (division) oversees 175 state parks, trails, and historic sites.²⁶ CSOs provide numerous benefits to the division including fundraising, programs, activities, services, and volunteer time to assist in park operations. CSOs also provide financial support to purchase equipment, improve facilities, develop exhibits, and provide other enhancements. CSOs provide community outreach and educational activities to children and adults as well as staff assistance and volunteers when needed by state parks.²⁷

The CSOs under the division are in substantial compliance with their enabling legislation²⁸ and statutory requirements.²⁹ However, there are two areas where individual CSOs are not in full compliance.

First, a contract between an agency and a CSO must contain a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved.³⁰ DEP's contracts with CSOs supporting the division do not generally provide for the return of state funds, but instead expressly authorize a CSO that is dissolved to transfer its funds to another CSO.³¹ Second, each CSO with annual expenditures in excess of \$300,000 must provide for an annual financial audit of its accounts and records in accordance with rules adopted by the Auditor General.³² Several CSO audits were not conducted as required by the Auditor General.³³

Office of Resilience and Coastal Protection

The Office of Resilience and Coastal Protection coordinates the protection and management of the state's coastal resources, including more than 4.5 million acres of submerged lands and coastal uplands.³⁴ The CSOs provide operational support from volunteers and financial support from fundraising to secure grants and donations, plan and staff special events and programs, conduct research as citizen scientists, and increase outreach to benefit Florida's coastal and aquatic resources.³⁵

²⁴ DEP, *CSO 2018 Annual Report* (Aug. 15, 2018), available at <https://floridadep.gov/sites/default/files/2018%20DEP%20Annual%20Report%20for%20Citizen%20Support%20Organizations.pdf> (last visited Feb. 26, 2018); the annual report and information for each CSO is available on DEP's website at <https://floridadep.gov/comm/comm/content/citizen-support-organizations-reports>; the Office of Resilience and Coastal Protection was formerly called the Florida Coastal Office.

²⁵ Sections 20.2551 and 258.015, F.S.

²⁶ DEP, *Division of Recreation and Parks*, available at <https://floridadep.gov/parks> (last visited Feb. 26, 2019).

²⁷ Florida State Parks, *Friend Groups*, available at <https://www.floridastateparks.org/friend-groups> (last visited Feb. 26, 2019).

²⁸ Sections 20.2551 and 258.015, F.S.

²⁹ Section 20.058, F.S.

³⁰ *Id.*

³¹ Letter of Agreement between DEP and Friends of Islamorada Area State Parks, Inc. (Jan. 14, 2015) (on file with House of Representatives Agriculture & Natural Resources Subcommittee).

³² Sections 215.981 and 11.45(8), F.S.

³³ The required audits were not conducted and provided to the Auditor General to be posted on their website. Staff contacted DEP and its CSOs and confirmed the required audits have not been conducted.

³⁴ DEP, *RCP*, available at <https://floridadep.gov/rcp> (last visited Mar. 5, 2019).

³⁵ See DEP, *Citizen Support Organizations Reports* (Aug. 16, 2018), available at <https://floridadep.gov/comm/comm/content/citizen-support-organizations-reports> (last visited Mar. 5, 2019).

The CSOs supporting the Office of Resilience and Coastal Protection are in substantial compliance with their enabling legislation³⁶ and statutory requirements.³⁷ However, there are two areas where DEP and individual CSOs are not in full compliance.

First, a contract between an agency and a CSO must contain a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved.³⁸ DEP's contracts with its CSOs do not generally provide for the return of state funds, but instead expressly authorize a CSO that is dissolved to transfer its funds to another CSO.³⁹ Second, contracts between an agency and a CSO are contingent on the CSO's compliance with statutory requirements.⁴⁰ If a CSO fails to submit the required information for two consecutive years, the agency must terminate the contract.⁴¹ DEP has not terminated contracts with CSOs under the office that are not in compliance for more than two years.

CSOs Supporting the Department of State

The Department of State (DOS) manages Florida's elections, corporations, historical and cultural resources, and libraries.⁴² DOS is authorized by statute to create CSOs to provide assistance, funding, and promotional support for the Divisions of Library and Information Services,⁴³ Division of Cultural Affairs,⁴⁴ and Division of Historical Resources.⁴⁵ DOS holds agreements with four CSOs. The statutory authorizations for these CSOs are scheduled to repeal October 1, 2019, unless reviewed and saved from repeal by the Legislature.⁴⁶

Division of Library and Information Services

The Division of Library and Information Services manages the State Library and Archives, supports public libraries, directs record management services, and is the designated information resource provider for the state of Florida.⁴⁷ The Friends of the State Library and Archives of Florida, Inc., is a CSO established to promote and enhance the programs and services of the Division of Library and Information Services for the benefit of Florida's residents.⁴⁸ This CSO supports expanding public access to knowledge, cultural heritage, and information so that Floridians achieve their personal, educational, and professional goals.⁴⁹

Division of Cultural Affairs

The Division of Cultural Affairs promotes arts and culture as essential to the quality of life for all Floridians and provides funding, programs, and resources, including grants for arts in education, local arts agencies, state service organizations, museums, theater, dance, folk arts, literature, media arts,

³⁶ Section 20.2551, F.S.

³⁷ Section 20.058, F.S.

³⁸ *Id.*

³⁹ Letter of Agreement between DEP and Friends of Charlotte Harbor Aquatic Preserves (June 22, 2015) (on file with House of Representatives Agriculture & Natural Resources Subcommittee).

⁴⁰ Section 20.058(4), F.S.

⁴¹ *Id.*

⁴² DOS, *About the Department*, available at <https://dos.myflorida.com/about-the-department/> (last visited Apr. 1, 2019).

⁴³ Section 257.43(1), F.S.

⁴⁴ Section 265.703(1), F.S.

⁴⁵ Section 267.17(1), F.S.

⁴⁶ Sections 265.703(4), 267.17(4), and 257.43(4), F.S.

⁴⁷ DOS Division of Library and Information Services, *About Us: Mission*, available at <https://dos.myflorida.com/library-archives/about-us/> (last visited Apr. 1, 2019).

⁴⁸ DOS Division of Library and Information Services, *Friends of the State Library & Archives*, available at <https://dos.myflorida.com/library-archives/about-us/friends/> (last visited Apr. 1, 2019).

⁴⁹ *Id.*

multidisciplinary, music, sponsor/presenter, and visual arts programs and projects.⁵⁰ The Division of Cultural Affairs also administers the Museum of Florida.⁵¹

Citizens for Florida Arts, Inc., is a CSO created to partner with and enhance efforts of the Division of Cultural Affairs, while helping sustain and foster recognition of the arts in Florida.⁵² The organization provides critical support for the Division of Cultural Affairs' activities and programs, such as the Florida Artists Hall of Fame, Poetry Out Loud, Art in State Buildings, and Diversity and Inclusion Awards.⁵³

The Friends of the Museums of Florida, Inc., is a CSO created to enhance and perpetuate programs of the Museum of Florida History and the Knott House Museum both located in Tallahassee, Florida.⁵⁴ The CSO provides support by attracting Florida's citizens and visitors to these museum sites and promoting museum events, programs, and services.⁵⁵

Division of Historical Resources

The Division of Historical Resources is responsible for preserving and promoting Florida's historical, archaeological, and folk culture resources and is comprised of the Bureau of Historic Preservation and the Bureau of Archaeological Research.⁵⁶ The Friends of Florida History, Inc., is a CSO established to promote and enhance the archaeology, historic sites, museums, folk life, and historic preservation programs of the Division of Historical Resources for the people of Florida.⁵⁷ The Friends of Florida History, Inc., supports the Division of Historical Resources in its efforts to implement and manage programs designed to create statewide impact and position Florida as a national leader in historic preservation.⁵⁸

DSOs Supporting the Executive Office of the Governor

The Executive Office of the Governor was established by ch. 79-190, Laws of Fla.⁵⁹ The Governor is the chief administrative officer of the state responsible for the planning and budgeting for the state,⁶⁰ informs the Legislature on the conditions of the state,⁶¹ directs executive programs, and participates with the Cabinet.⁶²

Florida Intergovernmental Relations Foundation

The Florida Intergovernmental Relations Foundation (FIRF) was created within the Executive Office of the Governor to solicit, receive, hold, invest, and administer property and to make expenditures to or for

⁵⁰ DOS Division of Cultural Affairs, *About Us: Mission*, available at <https://dos.myflorida.com/cultural/about-us/> (last visited Apr. 1, 2019).

⁵¹ *Id.*

⁵² DOS Division of Cultural Affairs, *Partners: Citizens for Florida Arts, Inc.*, available at <https://dos.myflorida.com/cultural/about-us/partners/citizens-for-florida-arts-inc/> (last visited Apr. 1, 2019).

⁵³ DOS Division of Cultural Affairs, *Programs*, available at <https://dos.myflorida.com/cultural/programs/> (last visited Apr. 1, 2019).

⁵⁴ Friends of the Museums of Florida History, Inc., *FY 2018-2019 Report*, available at http://museumoffloridahistory.com/about/docs/FY.2018-19_Friends_of_the_Museums_of_Florida_History_Inc.Report.pdf (last visited Apr. 1, 2019).

⁵⁵ Museum of Florida History, *Membership*, available at <http://www.museumoffloridahistory.com/support/membership.cfm> (last visited Ar. 1, 2019).

⁵⁶ DOS Division of Historical Resources, *Program Areas*, available at <https://dos.myflorida.com/historical/about/program-areas/> (last visited Apr. 1, 2019).

⁵⁷ Friends of Florida History, Inc., *FY 2018-2019 Report*, available at <https://dos.myflorida.com/media/699692/2018-ffh-cso-annual-report-990-attached.pdf> (last visited Apr. 1, 2019).

⁵⁸ *Id.*

⁵⁹ Section 14.201, F.S.; the head of the Executive Office of the Governor is the Governor.

⁶⁰ Art. IV, s. 1(a), Fla. Const.; *see also* s. 216.151, F.S.

⁶¹ Art. IV, s. 1(e), Fla. Const.

⁶² Section 20.03(1), F.S., provides that "Cabinet" means the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, as specified in article IV, section 4, Florida Constitution.

the promotion of intergovernmental relations programs.⁶³ The FIRF facilitates and strengthens Florida's economic relationships with international partners.⁶⁴ The statutory authority for the FIRF is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.⁶⁵

The FIRF was inactive during fiscal years 2015 through 2018. Funding for FIRF originated from private donations and interest accrued from a money market account that was closed in December 2014. Donations were not received during fiscal years 2015 through 2018. The current bank account balance for FIRF's funds is approximately \$8,709.99. Expenditures for FIRF from July 2014 through June 2018 were approximately \$558.16.⁶⁶ Because the FIRF expenditures were less than \$100,000, an audit was not required.⁶⁷

The FIRF is in partial compliance with its enabling legislation⁶⁸ and statutory requirements.⁶⁹ However, there are several outstanding issues. The FIRF did not include a brief description of the organization's plans for the next three fiscal years in its annual submission and did not have a contract with the Executive Office of the Governor.⁷⁰ It is unclear whether the FIRF adopted an ethics code as required.⁷¹ Further, the FIRF's articles of incorporation require the Secretary of State to appoint the board of directors,⁷² but current law requires the Governor to appoint the FIRF board of directors.⁷³

Although the FIRF had no significant activity in fiscal years 2015-2018, the required certification by the state protocol officer for the FIRF's operation was not completed.⁷⁴ Finally, the state protocol manual has not been developed, maintained, published, and distributed as required.⁷⁵

CSOs Supporting the Florida Fish and Wildlife Conservation Commission

The Florida Fish and Wildlife Conservation Commission (FWC) regulates, manages, protects, and conserves Florida's fish and wildlife resources.⁷⁶ FWC is authorized to establish CSOs to provide assistance, funding, and promotional support for commission programs.⁷⁷ The CSOs are organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; and make expenditures for the benefit of FWC.⁷⁸ FWC holds agreements with two CSOs. The statutory authorization for the CSOs is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.⁷⁹

⁶³ Section 288.809, F.S.; FIRF, *2018 Report for Compliance*, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=18037&DocType=PDF> (last visited Apr. 1, 2019).

⁶⁴ *Id.*

⁶⁵ Section 288.809 (5), F.S.

⁶⁶ FIRF Bank Account Information for fiscal years 2015 through 2018 (on file with the House of Representatives Agriculture & Natural Resources Subcommittee).

⁶⁷ Section 215.981, F.S.

⁶⁸ Section 288.809, F.S.

⁶⁹ Section 20.058, F.S.

⁷⁰ *Id.*

⁷¹ Section 112.3251, F.S.

⁷² FIRF Articles of Incorporation (June 21, 1996) (on file with House of Representatives Agriculture and Natural Resources Subcommittee).

⁷³ In 2004, the FIRF was transferred from the Department of State to the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor; see Ch. 2004-242, ss. 1 and 8, Laws of Fla.

⁷⁴ Section 288.809(1)(a)(3), F.S.

⁷⁵ Section 288.012(7), F.S.

⁷⁶ Art. IV, s. 9, Fla. Const.

⁷⁷ Section 379.223, F.S.

⁷⁸ See FWC, *2017-2018 Annual Report*, 1-4, available at <https://myfwc.com/media/19043/cso-annualreport2017-18.pdf> (last visited Mar. 5, 2019).

⁷⁹ Section 379.223(4), F.S.

Fish and Wildlife Foundation of Florida

The Fish and Wildlife Foundation of Florida, Inc. (FWFF), was established to support the health and well-being of Florida's fish and wildlife resources and their habitats.⁸⁰ The FWFF focuses on providing outdoor education and recreational opportunities for youth, wildlife conservation, reefs, and hunting and shooting sports.⁸¹

FWFF is in substantial compliance with its enabling legislation⁸² and statutory requirements.⁸³ A contract between an agency and a CSO must contain a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved;⁸⁴ however, the letter of agreement and memorandum of understanding between FWFF and FWC lack specific parameters providing guidance on the general operation or management of funds.⁸⁵ It also fails to provide guidance on the CSO's use of state property, the provision of equal membership, or the use of funds for proper purposes.

Wildlife Alert Reward Association

The Wildlife Alert Reward Association, Inc. (WARA), is a non-profit program created in 1979, which offers rewards to members of the public in exchange for information leading to the arrest of poachers or other violators of the state's fish, wildlife, environmental, and boating laws.⁸⁶ WARA's goal is to provide incentives for concerned citizens to report witnessed violations.⁸⁷ The reward depends on the severity of the violation reported and ranges from \$100 to \$1,000.⁸⁸

Most of WARA's funding comes from judges requiring violators to donate to WARA in addition to any penalty assessed for a violation of the law.⁸⁹ When a violator is arrested and convicted in court, judges often order a donation be made to the Wildlife Alert Reward Fund separate from any fines ordered.⁹⁰ Funds from such donations are used to pay rewards for reporting violations and for promotion of the WARA program.⁹¹

WARA is in substantial compliance with its enabling legislation⁹² and statutory requirements.⁹³ However, there are two main outstanding items where FWC and WARA are not in full compliance.

First, a contract between an agency and a CSO must contain a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after

⁸⁰ Wildlife Florida, *Who We Are*, available at <https://wildlifeflorida.org/our-mission/> (last visited Feb. 26, 2019).

⁸¹ FWFF, *Presentation on Citizen Support Organizations to the Florida Senate Committee on Environment and Natural Resources* (Jan. 22, 2019), available at http://www.flsenate.gov/PublishedContent/Committees/2018-2020/EN/MeetingRecords/MeetingPacket_4355.22.19.pdf (last visited Mar. 5, 2019); see FWC, *2017-2018 Annual Report from the Fish & Wildlife Foundation of Florida*, 1-4, <https://myfwc.com/media/19043/cso-annualreport2017-18.pdf> (last visited Mar. 5, 2019).

⁸² Section 379.223, F.S.

⁸³ Section 20.058, F.S.

⁸⁴ *Id.*

⁸⁵ Letter of Agreement between FWC and Wildlife Foundation of Florida (Apr. 3, 2003) (on file with House of Representatives Agriculture & Natural Resources Subcommittee).

⁸⁶ FWC, *2017-2018 Annual Report*, <https://myfwc.com/media/19043/cso-annualreport2017-18.pdf> (last visited Mar. 5, 2019).

⁸⁷ *Id.*

⁸⁸ FWC, *Reward Categories*, available at <https://myfwc.com/contact/wildlife-alert/reward-categories/> (last visited Mar. 5, 2019).

⁸⁹ FWC, *Wildlife Alert Reward Association Committee Brochure*, available at <https://myfwc.com/media/4539/wildlife-alert.pdf> (last visited Mar. 5, 2019).

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Section 379.223, F.S.

⁹³ Section 20.058, F.S.

its authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁹⁴ The letter of agreement and memorandum of understanding between WARA and FWC lacks specific parameters providing guidance on the general operation or management of funds.⁹⁵ It also fails to provide guidance on the CSO's use of state property, the provision of equal membership or the use of funds for proper purposes. Second, although most of WARA's funding comes from judges requiring violators to donate to the Wildlife Alert Reward Fund, this practice is not expressly authorized in statute.⁹⁶

CSOs and DSOs Supporting the Department of Agriculture and Consumer Services

DACS serves to safeguard the public and support Florida's agricultural economy.⁹⁷ DACS may establish CSOs or DSOs in order to provide assistance, funding, and promotion support for the programs of DACS.⁹⁸ DACS holds agreements with one CSO, Babcock Ranch Preserve, and six DSOs.⁹⁹ The statutes authorizing CSOs and DSOs are scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.¹⁰⁰

The Friends of Babcock Ranch Preserve, Inc.

The Babcock Ranch Preserve Act passed the Legislature in 2006, authorizing the acquisition of Babcock Ranch. The Babcock Ranch Preserve Act further authorized the creation of the Babcock Ranch Preserve that protected regionally important water resources, diverse natural habitats, scenic landscapes, and historic and cultural resources in southwest Florida.¹⁰¹

The creation of a CSO was authorized to raise funds; request and receive grants, gifts, and bequests of money; and acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal.¹⁰² On August 1, 2016, the Florida Forest Service (FFS) in DACS began managing the Babcock Ranch Preserve as a working ranch, while preserving public recreation opportunities compatible with agricultural operations.¹⁰³ The Friends of the Babcock Ranch Preserve, Inc., will be established when the sale agreement for the Babcock Ranch Preserve is completed, which is anticipated to be in place before the end of 2019.¹⁰⁴

Friends of the Florida State Forests

Friends of the Florida State Forests is a DSO of the FFS that supports recreation and reforestation projects on Florida's 37 state forests.¹⁰⁵ The Friends of Florida State Forests work with the community to assist the FFS in expanding opportunities for recreation that include hunting, horseback riding,

⁹⁴ *Id.*

⁹⁵ Letter of Agreement between FWC and Wildlife Alert Reward Association, Inc. (Sept. 25, 2014) (on file with House of Representatives Agriculture & Natural Resources Subcommittee).

⁹⁶ *See Bell v. State*, 216 So. 3d 751 (Fla. 5th DCA 2017); *see also, Antosh v. State*, 510 So. 2d 1158 (Fla. 3d DCA 1987); *see also, Cumberland v. State*, 225 So. 3d 952 (Fla. 5th DCA 2017).

⁹⁷ DACS, *About*, <https://www.freshfromflorida.com/About/> (last visited Apr. 3, 2019).

⁹⁸ Sections 570.691 and 259.10521, F.S.

⁹⁹ DACS, *Direct Support Organizations*, <https://www.freshfromflorida.com/About/Direct-Support-Organizations> (last visited Feb. 26, 2019).

¹⁰⁰ Sections 570.691(10) and 259.10521(4), F.S.

¹⁰¹ DACS, *Babcock Ranch Preserve*, available at <https://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service/Our-Forests/State-Forests/Babcock-Ranch-Preserve> (last visited Mar. 15, 2019).

¹⁰² Section 259.10521(1)(b), F.S.

¹⁰³ DACS, *Babcock Ranch Preserve*, available at <https://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service/Our-Forests/State-Forests/Babcock-Ranch-Preserve> (last visited Mar. 15, 2019).

¹⁰⁴ Memo from Jim Karels, Director of the FFS, DACS, RE: Babcock Ranch Direct Support Organization (Feb. 13, 2019).

¹⁰⁵ Friends of Florida State Forests, *About us*, available at <https://floridastateforests.org/about-us> (last visited Mar. 15, 2019).

hiking, off highway vehicle opportunities, environmental education, and forest management within Florida's state forests.¹⁰⁶

Forestry Arson Alert Association, Inc.

The Forestry Arson Alert Association, Inc., is a DSO providing public awareness related to the economic costs, environmental damage, and cultural deprivations that accompany forest fires, along with the importance of promptly reporting forest arson and providing accurate information to law enforcement officials to assist with the apprehension of persons engaged in forest arson. Further, the Forestry Arson Alert Association rewards citizens who assist law enforcement officials in the apprehension and conviction of persons engaged in forest arson.¹⁰⁷

Florida Agricultural Museum

The Florida Agricultural Museum is a DSO that was established in 1983 and in 1992, it was designated the "Museum of Agriculture and Rural History of the State of Florida." The mission of the Florida Agricultural Museum is to preserve Florida's agricultural past, interpret agricultural issues of the past and present, and to educate the public about those issues.¹⁰⁸ The Florida Agricultural Museum conserves heritage livestock, including rare Florida Cracker cattle, horses, and sheep, and provides agricultural education to students.¹⁰⁹

Florida Agriculture in the Classroom, Inc.

Florida Agriculture in the Classroom, Inc. (FAITC), is a DSO that develops and trains teachers and agriculture industry volunteers in agricultural curricula and materials, which then is used to educate students about the importance of agriculture.¹¹⁰ FAITC provides grant money to teachers and volunteers for projects that teach students about the sources of their food and the contributions Florida farmers make to their communities and the state.¹¹¹

Florida Agricultural Center and Horse Park Authority

The Florida Agriculture Center and Horse Park (the park) in Ocala is a 500-acre, nonprofit, multipurpose, recreational and sporting organization dedicated to developing an international facility.¹¹² The park is a DSO that strives to advance agriculture and equine education and to provide the state and community with a recreational facility capable of hosting equestrian and non-equestrian events.¹¹³ In fiscal year 2017-2018, 186 events were held at the park.¹¹⁴

¹⁰⁶ DACS, *2018 Direct Support Organizations Report*, available at <https://www.freshfromflorida.com/content/download/82076/2387865/FDACS-DSO-Report-2018.pdf>, p. 3 (last visited Mar. 16, 2019).

¹⁰⁷ Sections 590.61(1)-(4), F.S.

¹⁰⁸ DACS, *2018 Direct Support Organizations Report*, available at <https://www.freshfromflorida.com/content/download/82076/2387865/FDACS-DSO-Report-2018.pdf>, p. 29 (last visited Mar. 16, 2019).

¹⁰⁹ Florida Agricultural Museum, *About Us*, available at <https://www.floridaagmuseum.org/about-us.html> (last visited Mar. 15, 2019).

¹¹⁰ Florida Agriculture in the Classroom, *About Us*, available at <https://faitc.org/about-faitc/> (last visited Mar. 15, 2019).

¹¹¹ *Id.*

¹¹² DACS, *2018 Direct Support Organizations Report*, available at <https://www.freshfromflorida.com/content/download/82076/2387865/FDACS-DSO-Report-2018.pdf>, p. 54 (last visited Mar. 16, 2019).

¹¹³ Florida Horse Park, *About Us*, available at <https://flhorsepark.com/> (last visited Mar. 15, 2019).

¹¹⁴ DACS, *2018 Direct Support Organizations Report*, available at <https://www.freshfromflorida.com/content/download/82076/2387865/FDACS-DSO-Report-2018.pdf>, p. 54 (last visited Mar. 16, 2019).

Living Healthy in Florida, Inc.

Living Healthy in Florida, Inc. (Living Healthy), is a DSO that is a collaborative effort among multiple agencies and organizations to communicate consistent information to Florida's children, families, and seniors about healthy eating, good nutrition, and active living. Living Healthy has three principles: ensure all Floridians have access to nutritious food and recreational opportunities, share knowledge about the components of a healthy lifestyle, and forge strategic partnerships with those willing to invest in the well-being of Floridians to create a resource network that advances a healthier lifestyle.¹¹⁵

Florida Beef Council, Inc.

The federal Beef Promotion and Research Act (act) was passed as part of the 1985 Farm Bill and created the basis for a producer-funded beef promotion and research program, the national Beef Checkoff Program, with the purpose to build demand for beef and beef products, both domestically and internationally.¹¹⁶ The act required cattle producers to pay a fee or "checkoff" on all sales of cattle to fund advertisements. The act was challenged by cattle producers who disagreed with the content of the advertisements and brought action against the United States Department of Agriculture alleging that the government-required fee for advertising violated their First Amendment right to free speech.

In response to the challenge, the Florida cattle industry worked with the Legislature to create the Beef Market Development Act in the event the Florida cattle industry decided to hold a referendum to start a state "checkoff" program. The Beef Market Development Act created the Florida Beef Council, Inc., to operate as a DSO under DACS. Since the original federal challenge was not successful, there has not been a need to set up the Florida Beef Council, Inc. However, another challenge is before the United States Court of Appeals for the Ninth Circuit,¹¹⁷ and the Florida cattle producers have requested that the DSO remain in statute in the event there is a need to move forward with a state program.

Effect of Proposed Changes

The bill amends ss. 20.2551, 257.43, 258.015, 265.703, 267.17, 379.223, and 570.691, F.S., to remove the scheduled repeal of provisions governing CSOs and DSOs established under DEP, DOS, FWC, and DACS, allowing the existing CSOs and DSOs to continue operating.

The bill amends s. 20.2551, F.S., to require DEP to submit to the President of the Senate and the Speaker of the House of Representatives a report that examines the financial transparency, accountability, and ethics of CSOs under DEP by December 1, 2019. The bill provides that the report must:

- Include audits for the three most recent fiscal years for any CSO that is subject to the statutory requirement for an audit;¹¹⁸
- Demonstrate that the CSOs under the office, as of November 1, 2018, are in compliance with statutory provisions;
- Identify any of the CSOs under DEP that are not in compliance with statutory requirements and describe whether DEP has terminated its contracts with those CSOs; and
- Demonstrate how the contracts between DEP and its CSOs have been revised to comply with all relevant provisions of law.

The bill specifies that any audits conducted after March 1, 2019, must be conducted in accordance with Government Auditing Standards, reinforcing the existing requirement¹¹⁹ that audits be conducted in accordance with rules adopted by the Auditor General.

¹¹⁵ DACS, *Direct Support Organization*, available at <https://www.freshfromflorida.com/Consumer-Resources/Health-and-Safety/Living-Healthy-in-Florida/Direct-Support-Organization> (last visited Mar. 15, 2019).

¹¹⁶ Beef Checkoff, *Beef Act and Order*, available at https://www.beefboard.org/library/beefact_order.asp (last visited Mar. 15, 2019).

¹¹⁷ *Ranchers-Cattlemen Action Legal Fund v. Vilsack*, CV_16-41-BMM-JTJ, 2016 WL 9804600 (D. MT Dec. 12, 2016).

¹¹⁸ Section 215.981(2), F.S.; the statutory requirement only includes DEP's CSOs with annual expenditures of \$300,000 or more.

The bill creates s. 379.2231, F.S., to authorize courts to continue the existing practice of ordering a person convicted of a violation of FWC rules or orders to pay an assessment directly to WARA. The bill further authorizes WARA to pay a reward from the assessments collected by court order to persons who provide information leading to an arrest of a person for a violation of FWC rules or orders.

The bill amends s. 259.10521, F.S., to extend the scheduled repeal of the Babcock Ranch Preserve CSO from October 1, 2019, to October 1, 2024.

The bill repeals s. 288.809, F.S., to remove the provision authorizing FIRF, effective October 2019. The bill requires FIRF and the Executive Office of the Governor to satisfy liabilities and transfer any remaining funds to the Florida International Trade and Promotion Trust Fund within the Department of Economic Opportunity by September 15, 2019.

The bill amends s. 570.83, F.S., to extend the scheduled repeal of the Florida Beef Council, Inc., from October 1, 2019, to October 1, 2024.

B. SECTION DIRECTORY:

Section 1 amends s. 20.2551, F.S., to remove the scheduled repeal of CSOs under the Office of Resilience and Coastal Protection and require DEP to submit a report to the Legislature examining the financial transparency, accountability, and ethics of its CSOs.

Section 2 amends s. 257.43, F.S., to remove the scheduled repeal of CSOs under the Division of Library and Information Services.

Section 3 amends s. 258.015(4), F.S., to remove the scheduled repeal of CSOs under the Division of Recreation and Parks.

Section 4 amends s. 259.10521, F.S., to extend the scheduled repeal of the Babcock Ranch Preserve CSO to October 1, 2024.

Section 5 amends s. 265.703, F.S., to remove the scheduled repeal of CSOs under the Division of Cultural Affairs.

Section 6 amends s. 267.17, F.S., to remove the scheduled repeal of CSOs under the Division of Historical Resources.

Section 7 amends s. 288.772, F.S., to conform provisions to changes made by the act.

Section 8 repeals s. 288.809, F.S., to remove provisions authorizing FIRF, effective October 1, 2019.

Section 9 requires FIRF and the Executive Office of the Governor to satisfy liabilities related to FIRF and requires any remaining funds to be transferred to the Florida International Trade and Promotion Trust Fund by September 15, 2019.

Section 10 amends s. 379.223, F.S., to remove the scheduled repeal of CSOs under FWC.

Section 11 creates s. 379.2231, F.S., to authorize courts to continue ordering violators of FWC rules to pay an assessment directly to WARA and authorize assessments collected by court order to reward certain persons.

Section 12 amends 570.691, F.S., to remove the scheduled repeal of DSOs under DACS.

Section 13 amends 570.83, F.S., to extend the scheduled repeal of the Florida Beef Council, Inc., to October 1, 2024.

Section 14 provides an effective date of July 1, 2019, unless otherwise provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate positive fiscal impact on state governments by allowing CSOs and DSOs under DEP, DOS, FWC, and DACS to continue raising funds, grant money, and provide volunteer support. The bill may also have an indeterminate positive fiscal impact by allowing WARA to continue using penalties assessed against violators as reward money for members of the public who provide information leading to the arrest of poachers or other violators of fish and wildlife laws through its reward program.

As the entity designated to receive any funds remaining following FIRF's satisfaction of liabilities, the Florida International Trade and Promotion Trust Fund within the Department of Economic Opportunity may experience an indeterminate positive fiscal impact.

2. Expenditures:

The bill may have an insignificant negative fiscal impact on DEP to prepare and submit the report to the Legislature, which can be absorbed within existing resources.

By repealing FIRF, the DSO may experience an indeterminate fiscal impact as it satisfies any liabilities and prepares to end its operations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate positive impact on the private sector by allowing WARA to offer reward money to the public who provide information leading to the arrest of poachers or other violators of fish and wildlife laws.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 26, 2019, the Agriculture & Natural Resources Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed the requirement that DEP include in its contracts with its CSOs a provision that any state funds held by the CSO be transferred to another CSO or reverted back to the state. The amendment added that the report on its CSOs must demonstrate how the contracts between DEP and its CSOs have been revised to comply with all relevant provisions of law.

On April 10, 2019, the State Affairs Committee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The bill removed the scheduled repeal of certain CSOs under DEP and FWC, where as the PCS also removed the scheduled repeal of the CSOs and DSOs under DOS and DACS. The PCS maintained the requirement that DEP submit a report to the Legislature and the authorization for the courts to continue the existing practice of ordering violators of fish and wildlife rules or orders to pay penalty assessments directly to WARA. The PCS extended the repeal date for the Friends of Babcock Ranch Preserve, Inc., and the Florida Beef Council, Inc. The PCS also repealed the FIRF and required the Executive Office of the Governor and the FIRF to satisfy liabilities and transfer remaining funds to the Florida International Trade and Promotion Trust Fund within the Department of Economic Opportunity.

This analysis is drafted to the committee substitute as approved by the State Affairs Committee.