

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 Committee on Appropriations

BILL: SB 1194

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: Citizen Support and Direct-support Organizations

DATE: March 26, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>McVaney</u>	<u>GO</u>	GO SPB 7034 as introduced
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
3.	<u>Shettle</u>	<u>Kynoch</u>	<u>AP</u>	Pre-meeting

I. Summary:

SB 1194 creates new reporting and transparency requirements for each citizen support organization (CSO) and direct support organization (DSO) that is adjunct to an executive agency. The bill requires CSOs and DSOs to make annual reports to their related agencies on the topics of organization, mission, and finances. The agencies are required to make the reported information available on agency websites, make annual recommendations to the Legislature and Governor, and terminate the contracts of organizations not in compliance with the reporting requirements.

The bill also requires that laws creating CSOs or DSOs provide a repeal date five years after creation, unless the organization is reviewed and reenacted by the Legislature. The bill also provides repeal dates for existing CSOs and DSOs.

The fiscal impact of the bill is indeterminate.

II. Present Situation:

Citizen Support Organizations and Direct Support Organizations

Citizen support organizations and direct support organizations are private entities created to assist or support governmental entities in carrying out their duties. While no single standard is set by general law, CSOs and DSOs are often created with similar organizational and reporting requirements, particularly as Florida not for profit corporations that may require approval by the Department of State.¹ The Legislature has created or authorized numerous DSOs and CSOs in law. Some of the CSOs and DSOs associated with the executive branch are identified below.

¹ See Section 258.015(1), F.S.; Section 257.43(1), F.S. Specific CSOs and DSOs are granted the authority to operate and conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer funds and property; and make expenditures.

The Florida Commission on Community Service is assigned to the Executive Office of the Governor to serve as an advisory board on matters relating to volunteerism and community service. Pursuant to s. 14.29(9), F.S., the commission may establish a DSO.

The Council on the Social Status of Black Men and Boys is established within the Department of Legal Affairs to make a systematic study of the conditions affecting black men and boys. Pursuant to s. 16.616, F.S., the Department of Legal Affairs is required to create a DSO that supports the council and develops funding initiatives.

Section 20.2551, F.S., permits the Department of Environmental Protection (DEP) or units of the department to contract with CSOs.

The Office of Adoption and Child Protection in the Executive Office of the Governor may establish a DSO pursuant to s. 39.0011, F.S., to assist the state in carrying out its purposes and responsibilities regarding the promotion of adoption, support of adoptive families, and prevention of child abuse.

Within the Justice Administrative Commission, the Statewide Guardian Ad Litem Office, which has oversight responsibilities for and provides technical assistance to all guardian ad litem and attorney ad litem programs located within the judicial circuits, is authorized to create a DSO pursuant to s. 39.8298, F.S.

Section 250.115, F.S., provides for the creation of a DSO for the Department of Military Affairs; s. 250.116, F.S., specifies that the DSO is to provide assistance in the operation of the Soldiers and Airmen Assistance Program, which provides financial assistance and services to eligible service members of the Florida National Guard and eligible members of their families.

Section 257.43, F.S., allows the Division of Library and Information Services of the Department of State to support the establishment of a CSO to provide assistance, funding, and promotional support for the library, archives, and records management programs of the division.

Section 258.015, F.S., allows the Division of Recreation and Parks within the DEP to permit CSOs to operate for the direct or indirect benefit of the state park system or individual units of the state park system. The DEP issues a handbook for benefit of the 111 CSOs, also referred to as "Friends Groups," that are listed online.²

Section 259.10521, F.S., permits the creation of a CSO for the benefit of the Babcock Ranch Preserve, to assist the Fish and Wildlife Conservation Commission and the Florida Forest Service within the Department of Agriculture and Consumer Services. This CSO appears to be inactive.

² Florida Park Service, Friends Groups, <http://www.floridastateparks.org/getinvolved/friendsgroups.cfm> (last visited Mar. 4, 2014); *See* Florida DEP, Florida State Parks Citizen Support Organization Handbook, 1st Edition (2009), available at <http://www.floridastateparks.org/getinvolved/doc/2009CSOHandbook.pdf> (last visited Mar. 4, 2014).

Section 265.703, F.S., permits the Division of Cultural Affairs of the Department of State to support the establishment of CSOs to provide assistance, funding, and promotional support for the cultural, arts, historical, and museum programs of the division.

Section 267.17, F.S., allows the Division of Historical Resources of the Department of State to support the establishment of CSOs to provide assistance, funding, and promotional support for the archaeology, museum, folk life, and historic preservation programs of the division.

The Florida Tourism Industry Marketing Corporation is a DSO of Enterprise Florida, Inc., intended to perform duties necessary to carry out the 4-year marketing plan of Enterprise Florida, pursuant to s. 288.1226, F.S.

The Florida Intergovernmental Relations Foundation is a DSO authorized in s. 288.809, F.S., related to the duties of the state protocol officer. The specific statutory duties of the DSO are not clearly ascertainable.

Section 292.055, F.S., permits the Department of Veterans' Affairs to establish a DSO to provide assistance, funding, and support for the department in carrying out its mission.

Section 379.223, F.S., permits the Fish and Wildlife Conservation Commission to authorize the establishment of CSOs to provide assistance, funding, and promotional support for the programs of the commission.

Section 413.0111, F.S., authorizes the Division of Blind Services to incorporate a DSO to conduct programs and activities, initiate developmental projects, raise funds, and make expenditures for the direct or indirect benefit of the state and for blind persons in Florida.

Section 413.615, F.S., creates the Florida Endowment Foundation for Vocational Rehabilitation as a DSO of the Division of Vocational Rehabilitation within the Department of Education, to encourage public and private support to enhance vocational rehabilitation and employment of citizens who are disabled.

Section 430.82, F.S., permits the Department of Elderly Affairs to establish a DSO to provide assistance, funding, and support for the department in carrying out its mission.

Section 570.903, F.S., permits the Department of Agriculture and Consumer Services to authorize the establishment of DSOs to provide assistance, funding, and promotional support for the museums and other programs of the department.

Section 570.9135, F.S., creates the Florida Beef Council, Inc., as a DSO of the Department of Agriculture and Consumer Services to conduct programs of promotion, research, and consumer information designed to strengthen their industry's market position. The DSO may impose an assessment of up to \$1 on each head of cattle sold in the state in order to fund its activities.

Section 626.9895, F.S., permits the Division of Insurance Fraud of the Department of Financial Services to establish a DSO, to be known as the Automobile Insurance Fraud Strike Force,

whose purpose is to support the prosecution, investigation, and prevention of motor vehicle insurance fraud.

Section 683.231, F.S., allows the Department of Law Enforcement to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day, designated each year in remembrance of Florida's past and present missing children and in recognition of continued efforts to protect the safety of children through prevention, education, and community involvement.

Section 744.7082, F.S., specifies the organizational requirements for a DSO to support the Statewide Public Guardianship Office within the Department of Elderly Affairs.

Section 893.055, F.S., permits the Department of Health to establish a DSO to provide assistance, funding, and promotional support for the activities of the prescription drug monitoring program.

Section 944.802, F.S., specifies the organizational requirements and duties for a DSO to support the Department of Corrections.

Section 960.002, F.S., permits the Governor to authorize a DSO to assist in addressing the needs of victims of adult and juvenile crime. The DSO must be authorized to operate under a contract with the Executive Office of the Governor. This DSO does not appear to be active.

Section 985.672, F.S., specifies the organizational requirements and duties for a DSO to support the Department of Juvenile Justice.

Section 1009.983, F.S., allows the Florida Prepaid College Board, which administers the Florida Prepaid College Program, to establish a DSO to administer the Florida Prepaid Tuition Scholarship Program, which provides economically disadvantaged youth with prepaid postsecondary tuition scholarships.

Audits of state agency CSOs and DSOs

Section 215.981, F.S., provides that each CSO and DSO with annual expenditures in excess of \$100,000, created or authorized pursuant to law, and created, approved, or administered by a state agency, other than universities, community colleges, or district school boards, must provide for an annual financial audit of its accounts and records to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General. The audit report must be submitted within 9 months after the end of the fiscal year to the Auditor General and to the state agency responsible for creation, administration, or approval of the direct-support organization or citizen support organization.

Notwithstanding the above, CSOs and DSOs for the Department of Environmental Protection or the Department of Agriculture and Consumer Services that are not for profit and that have annual expenditures of less than \$300,000 are not required to have an independent audit. Those departments establish accounting and financial management guidelines for those organizations

under its jurisdiction, and conduct operational and financial reviews of a selected number of CSOs and DSOs that fall below the \$300,000 threshold.

III. Effect of Proposed Changes:

The bill creates s. 20.058, F.S., to specify operational requirements for citizen support organizations and direct support organizations.

By August 1 of each year, a CSO or DSO created or authorized pursuant to law or executive order and created, approved, or administered by an agency, must submit the following to the appropriate agency:

- The name, mailing address, telephone number, and website address of the organization.
- The statutory authority or executive order pursuant to which the organization was created.
- A brief description of the mission and results obtained by the organization.
- A brief description of the plans of the organization for the next 3 fiscal years.
- A copy of the organization's code of ethics.
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).
- For the prior, current, and the next fiscal year:
 - The amount and source of revenue generated or projected to be generated;
 - The amounts and purposes of expenditures or projected expenditures, including specific amounts, if any, spent or projected to be incurred to lobby the executive or legislative branch of state government and specific amounts, if any, spent or projected to be incurred for travel or entertainment expenses for state or local public officers and employees;
 - The value of capital improvements made, if any, to state property which has been funded or projected to be funded by the organization;
 - The amount, if any, of any state or federal funds provided to the organization; and
 - The names and compensation of any officers, directors, employees, or contractors.

Each agency receiving the above information from a CSO or DSO must make the information available to the public through the agency's website. If the organization maintains a website, the agency's website must provide a link to the organization's website. By August 15 of each year, each agency must report the above required information 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 report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each organization. Any contract between an agency and a CSO or DSO must be contingent upon the organization's submitting and posting the required information. If an organization fails to submit the required information for 2 consecutive years, the agency head must terminate any contract between the agency and the organization.

A law creating or authorizing the creation of a CSO or DSO must be repealed on October 1 of the 5th year after enactment, unless reviewed and saved from repeal through reenactment by the Legislature. CSOs and DSOs in existence on July 1, 2014, must be reviewed and saved from repeal through reenactment by the Legislature.

The bill repeals existing statutory authority for specified CSOs and DSOs on October 1, 2017, October 1, 2018, and October 1, 2019, unless reviewed and saved from repeal by the Legislature. If the Legislature does not act to review and save existing CSOs and DSOs from repeal, the organizations would be repealed as follows:

Bill Section	Statutory Cite	Organization	Repealed October 1 of:
5	39.0011	Office of Adoption and Child Protection DSO (Executive Office of Governor)	2017
7	250.115	Department of Military Affairs DSO	2017
16	292.055	Department of Veterans' Affairs DSO	2017
18	413.0111	Blind Services DSO	2017
19	413.615	Florida Endowment for Vocational Rehabilitation (DSO of Department of Education)	2017
20	430.82	Department of Elderly Affairs DSO	2017
26	893.055	Prescription drug monitoring program DSO	2017
30	1009.983	Florida Prepaid College Board DSO	2017
1	14.29	Florida Commission on Community Service DSO	2018
2	16.616	Council on Social Status of Black Men and Boys DSO	2018
6	39.8298	Guardian Ad Litem DSO	2018
24	683.231	Florida Missing Children's Day CSO	2018
25	744.7082	Statewide Public Guardianship Office DSO	2018
27	944.802	Department of Corrections DSO	2018
28	960.002	DSO to assist victims of crime	2018
29	985.672	Department of Juvenile Justice DSO	2018
4	20.2551	Department of Environmental Protection DSO	2019
8	257.43	Division of Library and Information Services of the Department of State CSO	2019
9	258.015	Division of Recreation and Parks of the Department of Environmental Protection CSOs	2019
10	259.10521	Babcock Ranch CSO	2019
11	265.703	Department of State CSO	2019
12	267.17	Division of Historical Resources of the Department of State CSOs	2019
13	288.1226	Florida Tourism Industry Marketing Corporation (DSO of Enterprise Florida, Inc.)	2019
14	288.809	Florida Intergovernmental Relations Foundation (DSO of the Executive Office of the Governor)	2019
15	288.923	Duties of the Division of Tourism Marketing	2019
17	379.223	Fish and Wildlife Conservation Commission CSOs	2019
21	570.903	Department of Agriculture and Consumer Services DSO	2019

22	570.9135	Florida Beef Council (DSO of the Department of Agriculture and Consumer Services)	2019
23	626.9895	Motor vehicle insurance fraud DSO	2019

The bill takes effect upon becoming law.

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:

The impact of SB 1194 on the private sector is indeterminate. Staff time might be required in order to comply with the new reporting requirements for CSOs and DSOs.

C. Government Sector Impact:

The fiscal impact of this bill indeterminate. The bill does not immediately repeal any CSO or DSO; however, if the statutory authority for any CSO or DSO is ultimately repealed, the agency program supported by the organization could be affected financially.

VI. Technical Deficiencies:

Section 3 of the bill creates s. 20.058, F.S., which requires that each CSO or DSO created or authorized by law be subject to legislative review and repeal.

The word “reenactment” is used on line 256 of the bill to indicate that any CSO or DSO created in the future will be subject to review and repeal five years after it is created in law. The word “reenactment” should be replaced with “enactment”, to implement the stated intent of the bill.

VII. Related Issues:

Section 15 of the bill specifies a repeal date for s. 288.923, F.S., which creates a Division of Tourism Marketing within Enterprise Florida, Inc., and provides duties for the division and duties related to the DSO established in s. 288.1226, F.S., the Florida Tourism Industry Marketing Corporation. Section 13 of this bill provides a repeal date for s. 288.1226, F.S. The repeal date in section 15 of the bill would also repeal substantive provisions unrelated to the DSO, which may not be the intent of the Legislature.

The bill does not address how funds or property of a CSO or DSO would be distributed upon the repeal of the statutory authority creating a CSO or DSO.

Section 10 of CS/CS/CS/SB 846 (2014) requires CSOs and DSOs to adopt a code of ethics and specifies that the code of ethics adopted must contain the standards of conduct in s. 112.313, F.S.³ Those organizations are authorized to adopt additional or more stringent standards of conduct and disclosure requirements than are contained in the state's Code of Ethics for Public Officers and Employees.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 14.29, 16.616, 20.2551, 39.0011, 39.8298, 250.115, 257.43, 258.015, 259.10521, 265.703, 267.17, 288.1226, 288.809, 288.923, 292.055, 379.223, 413.0111, 413.615, 430.82, 570.903, 570.9135, 626.9895, 683.231, 744.7082, 893.055, 944.802, 960.002, 985.672, and 1009.983.

This bill creates section 20.058 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

³ Section 112.313, F.S., contains the major standards of conduct including, but not limited to: Solicitation and acceptance of anything of value under certain circumstances; doing business with one's own agency; misuse of public position, certain employment or contractual relationships; disclosure of certain information learned by virtue of one's public position in order to benefit oneself or others; and several other provisions.