

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 Governmental Oversight and Accountability

BILL: SPB 7034

INTRODUCER: For consideration by the Governmental Oversight and Accountability Committee

SUBJECT: Citizen Support and Direct-support Organizations

DATE: February 17, 2014 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>McKay</u>	<u>McVaney</u>	_____	Pre-meeting

I. Summary:

SPB 7034 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 report annually to the agencies to which the organizations are related information relating to organization, mission, and finances. The agencies must make the reported information available on agency websites and must make annual recommendations to the Legislature and Governor on the efficacy of the organizations. Agencies must terminate the contracts of any organization that does not comply with the reporting requirements.

The bill also requires that laws creating CSOs or DSOs must provide for 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.

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. Florida law contains no general statutory definitions of such entities, and though they are often created with similar organizational and reporting requirements, that is not always the case. The Legislature has created or authorized numerous DSOs and CSOs in law; some of those associated with the executive branch are identified below.

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 (DLA) to make a systematic study of the conditions affecting black men and boys.

Pursuant to s. 16.616, F.S., DLA 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 or units of the department to contract with citizen support organizations.

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 direct-support organization 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 servicemembers of the Florida National Guard and eligible members of their families.

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 does not appear to be active.

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

The Florida Tourism Industry Marketing Corporation is a direct-support organization 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 direct-support organization to provide assistance, funding, and support for the department in carrying out its mission.

Section 413.0111, F.S., authorizes the Division of Blind Services to incorporate a direct-support organization to conduct programs and activities, initiate developmental projects, raise funds, and make expenditures to or 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 direct-support organization 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 direct-support organizations 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 the cattle industry's market position. The council may impose an assessment of not more than \$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 under 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 College Savings 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 DSOs and CSOs

Section 215.891, F.S., provides that each DSO and CSO 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, DSOs and CSOs 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 DSOs and CSOs that fall below the \$300,000 threshold.

III. Effect of Proposed Changes:

Section 3 of the bill creates s. 20.058, F.S., to specify operational requirements for citizen support organizations and direct support organizations.

Yearly, 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 by the organization;
 - The amounts and purposes of expenditures or projected expenditures by the organization, 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 of, and compensation for, the organization’s officers, directors, employees, and independent 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. Yearly, 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 yearly 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. A law creating or authorizing the creation of a CSO or DSO that is in existence on July 1, 2014, must be repealed on October 1, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill requires that existing statutory CSOs and DSOs be reviewed and saved from repeal by the Legislature by certain dates. 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
13	292.055	Department of Veterans’ Affairs DSO	2017
14	413.0111	Blind Services DSO	2017
15	413.615	Florida Endowment for Vocational Rehabilitation (DSO of Department of Education)	2017
16	430.82	Department of Elderly Affairs DSO	2017
22	893.055	Prescription drug monitoring program DSO	2017
26	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
20	683.231	Florida Missing Children’s Day CSO	2018
21	744.7082	Statewide Public Guardianship Office DSO	2018

23	944.802	Department of Corrections DSO	2018
24	960.002	DSO to assist victims of crime	2018
25	985.672	Department of State DSO	2018
4	20.2551	Department of Environmental Protection DSO	2019
8	259.10521	Babcock Ranch CSO	2019
9	265.703	Department of State CSO	2019
10	288.1226	Florida Tourism Industry Marketing Corporation (DSO of Enterprise Florida, Inc.)	2019
11	288.809	Florida Intergovernmental Relations Foundation (DSO of the Executive Office of the Governor)	2019
12	288.923	Duties of the Division of Tourism Marketing	2019
17	570.903	Department of Agriculture and Consumer Services DSO	2019
18	570.9135	Florida Beef Council (DSO of the Department of Agriculture and Consumer Services)	2019
19	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:

Indeterminate. Staff time might be required in order to comply with the new reporting requirements for DSOs and CSOs.

C. Government Sector Impact:

Indeterminate. The bill does not directly repeal any DSOs or CSOs, but if the statutory authority for any such organizations is repealed by future action of the Legislature, the agency program supported by the organization could be affected financially.

VI. Technical Deficiencies:

None.

VII. Related Issues:

New section 20.058(5), F.S., provides that a law creating, or authorizing the creation of, a citizen support organization or direct-support organization that is in existence on July 1, 2014, shall be repealed on October 1, 2019, unless reviewed and saved from repeal through reenactment by the Legislature. This provision appears to conflict with many of the remaining provisions in the bill, which provide that specified CSOs and DSOs currently in existence have repeal dates in either 2017 or 2018.

Section 12 of the bill specifies a repeal date for s. 288.1226, 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 10 of this bill provides a repeal date for s. 288.1226, F.S. The repeal date in section 10 of the bill would also repeal substantive provisions unrelated to the DSO, which may not be the intent of the Legislature.

Citizen support organizations that are created or authorized in ss. 258.015, 379.223, 257.43, and 267.17, F.S., are not included in this bill.

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

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, 259.10521, 265.703, 288.1226, 288.809, 288.923, 292.055, 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.
