

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 Rules

BILL: SB 1500

INTRODUCER: Senator Baxley

SUBJECT: Direct-support Organization of the Florida Commission on Community Service

DATE: February 23, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peacock</u>	<u>Caldwell</u>	<u>GO</u>	Favorable
2.	<u>Shettle</u>	<u>Hansen</u>	<u>AP</u>	Favorable
3.	<u>Peacock</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 1500 removes the scheduled repeal date of October 1, 2018, for the Florida Commission on Community Service’s direct support organization, the Volunteer Florida Foundation.

The bill has no impact on state revenues or expenditures.

The effective date of the bill is July 1, 2018.

II. Present Situation:

Citizen Support Organizations and Direct-support Organizations

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

CSO and DSO Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for CSOs and DSOs created or authorized pursuant to law or executive order and created, approved, or administered by a state agency.¹ Specifically, the law requires each CSO and DSO to annually submit, by August 1, the following information related to its organization, mission, and finances to the agency it supports:²

- The name, mailing address, telephone number, and website address of the organization;

¹ Chapter 2014-96, Laws of Fla.

² Section 20.058(1), F.S.

- The statutory authority or executive order that created the organization;
- 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).³

Each agency receiving the above information must make the information available to the public through the agency's website. If the CSO or DSO maintains a website, the agency's website must provide a link to the website of the CSO or DSO.⁴ Additionally, any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting the information.⁵ If a CSO or DSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the CSO or DSO.⁶

By August 15 of each year, each agency must report to the Governor, President of the Senate, Speaker of the House of Representatives, and Office of Program Policy Analysis and Government Accountability the information provided by the CSO or DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each CSO or DSO.⁷

Lastly, a law creating or authorizing the creation of a CSO or DSO must state that the creation of or authorization for the CSO or DSO is repealed on October 1 of the fifth 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 by the Legislature by July 1, 2019.⁸

CSO and DSO Audit Requirements

Section 215.981, F.S., requires each CSO and DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.⁹ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the CSO or DSO. 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.

Additionally, the Auditor General may conduct audits or other engagements of the accounts and records of the CSO or DSO, pursuant to his or her own authority, or at the direction of the

³ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ Section 20.058(3), F.S.

⁸ Section 20.058(5), F.S.

⁹ The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

Legislative Auditing Committee.¹⁰ The Auditor General is authorized to require and receive any records from the CSO or DSO, or its independent auditor.¹¹

CSO and DSO Ethics Code Requirements

Section 112.3251, F.S., requires a CSO or DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S. 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.¹²

Florida Volunteer and Community Service Act of 2001

The Legislature passed HB 47 (2001), the Florida Volunteer and Community Service Act of 2001 (Act) “to promote the development of better communities by fostering greater civic responsibility through volunteerism and service to the community.”¹³ The Act directed the Executive Office of the Governor to “establish policies and procedures which provide for the expenditure of funds to develop and facilitate initiatives by public agencies, scholastic institutions, private institutions, and individuals that establish and implement programs that encourage and reward volunteerism.”¹⁴ The programs and initiatives developed pursuant to the Act must have the following purposes and objectives:

- To place increased priority on citizen participation and volunteerism as a means of addressing the increasingly complex problems facing Florida’s communities.
- To encourage local community leaders to implement strategies that expand civic participation.
- To promote the concept and practice of corporate citizenship.
- To build the enthusiasm, dedication, and combined expertise of individual citizens and public and private systems to find new and creative ways to effectively use volunteerism and community service.
- To foster the alignment of community volunteer resources with the goals of the state.
- To implement policy and administrative changes that encourage and enable individuals to participate in volunteer and community service activities.
- To encourage nonprofit agencies to interweave volunteers into the fabric of their service delivery as a means of increasing the effectiveness and efficiency of their services.
- To support and promote volunteer service to all citizens as an effective means to address community needs and foster a collective commitment to lifelong community service.
- To recognize National Volunteer Week as a time to encourage all citizens of Florida to participate in local service projects.
- To recognize the value of individual volunteers and volunteer and service organizations and programs and to honor and celebrate the success of volunteers.

¹⁰ Section 11.45(3)(d), F.S.

¹¹ *Id.*

¹² Section 112.3251, F.S.

¹³ Chapter 2001-84, L.O.F. and s. 14.295(2), F.S.

¹⁴ *Id.*

- To encourage volunteer and service efforts to point children in the right direction and to endow them with the character and competence they need to achieve success in life.¹⁵

The Florida Commission on Community Service

The Florida Commission on Community Service (Commission),¹⁶ administratively housed within the Executive Office of the Governor, serves as an advisory board to the Governor, the Cabinet,¹⁷ the Legislature, and appropriate state agencies and entities on matters relating to volunteerism and community service.¹⁸ The Commission is required to consist of no less than 15 and no more than 25 voting members,¹⁹ which are appointed on a bipartisan basis by the Governor and confirmed by the Senate.²⁰ Voting members may represent one, or any combination of the following categories, so long as each of the respective categories is represented:

- A representative of a community-based agency or organization.
- The Commissioner of Education or designee thereof.
- A representative of local labor organizations.
- A representative of local government.
- A representative of business.
- An individual between the ages of 16 and 25, inclusive, who is a participant in or a supervisor of a service program for school-age youth, or of a campus-based or national service program.
- A representative of a national service program.
- An individual with expertise in the educational, training, and developmental needs of youth, particularly disadvantaged youth.
- An individual with experience in promoting service and volunteerism among older adults.²¹

Members of the Commission serve without compensation²² for terms of 3 years²³ and meet at the call of its chair or at the request of a majority of its total voting membership, but shall meet at least biannually.²⁴ A majority of the total voting membership shall constitute a quorum, and the affirmative vote of a majority of a quorum is necessary to take official action.²⁵ The Commission is required to:

¹⁵ Section 14.295(3), F.S.

¹⁶ The Commission is also known as Volunteer Florida. *See* About Us and History, VOLUNTEER FLORIDA, <https://www.volunteerflorida.org/about/> (last visited on Jan. 24, 2018).

¹⁷ Section 20.03(1), F.S., defines the term “Cabinet” to mean collectively the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, as specified in the s. 4, Art. IV of the State Constitution.

¹⁸ Section 14.29(2), F.S. Any number of nonvoting members may be appointed by the Governor.

¹⁹ Section 14.29(3)(a), F.S. Also, no more than 50 percent plus one of the voting members of the Commission may be aligned with the same political party. *See* Section 14.29(3)(b), F.S.

²⁰ Section 14.29(3)(a), F.S.

²¹ *Id.* Other members may include educators, experts in the delivery of human educational, environmental, or public safety services, representatives of Indian tribes, out-of-school or at-risk youth, and representatives of programs that are administered by or receive assistance from the Domestic Volunteer Service Act of 1973, as amended.

²² Section 14.29(6), F.S. Voting members may must be reimbursed for per diem and travel expenses in accordance with s. 112.061, F.S.

²³ Section 14.29(4), F.S.

²⁴ Section 14.29(5), F.S.

²⁵ *Id.*

- Annually elect a chair and a vice chair. To be eligible to serve as chair, an individual must be a voting member of the Commission.
- Employ an executive director, who shall be initially designated by the Governor, to carry out the provisions of this section. The executive director shall report directly to the Commission. The executive director shall be the chief administrative officer of the Commission.
- Prepare an annual report detailing its activities during the preceding year and, to the extent possible, compile and synthesize any reports that it accepted on behalf of the Governor. The Commission's report shall be presented to the Governor no later than January 15, with copies to the President of the Senate and the Speaker of the House of Representatives. The report shall also include specific recommendations for any necessary legislation, administrative, or regulatory reform, and the Commission's assessment of the state of volunteerism in Florida.²⁶

The Commission is permitted, but not required, to perform the following actions:²⁷

- Secure assistance from all state departments and agencies in order for the Commission to avail itself of expertise at minimal cost.
- Procure information and assistance from the state or any political subdivision, municipal corporation, public officer, or governmental department or agency thereof.
- Apply for and accept funds, grants, gifts, and services from local, state, or federal government, or from any of their agencies, or any other public or private source and is authorized to use funds derived from these sources to defray administrative costs, implement programs as may be necessary to carry out the Commission's charge, and assist agencies, institutions, and individuals in the implementation of programs pursuant to the Act. The Commission may also authorize Volunteer Florida Foundation, Inc., the Commission's nonprofit DSO, to assist in securing training, technical assistance, and other support needed to accomplish the intent and purposes of the Act.
- Contract for necessary goods and services.

The Commission administers \$31.7 million in federal, state and local funding for national service and volunteer programs across the state.”²⁸ The Commission administers national service programs like AmeriCorps, which offers Floridians the opportunity to engage in intensive service to their communities while increasing capacity for nonprofits and other service organizations. The Commission's grantees include schools, educational foundations, nonprofits, faith-based organizations, and other community organizations. The Commission is also the lead agency for coordinating volunteers and donations for the Florida Division of Emergency Management.²⁹

DSO for the Florida Commission on Community Service

The Commission is authorized to create a DSO that is:

- A Florida corporation, not for profit, incorporated under the provisions of Chapter 617, F.S., and approved by the Secretary of State;
- Organized and operated exclusively to receive, hold, invest, and administer property and funds and to make expenditures to or for the benefit of the program; and

²⁶ Section 14.29(7), F.S.

²⁷ Section 14.29(8), F.S.

²⁸ See About Us, VOLUNTEER FLORIDA, <https://www.volunteerflorida.org/about/> (last visited on Jan. 24, 2018).

²⁹ *Id.* See History, VOLUNTEER FLORIDA.

- An organization that the Commission, after review, has certified to be operating in a manner consistent with the goals of the program and in the best interests of the state.³⁰

The DSO is required to operate under a written contract with the Commission. The contract must provide for:

- Approval of the articles of incorporation and bylaws of the DSO by the Commission.
- Submission of an annual budget for the approval of the Commission.
- Annual certification by the Commission that the DSO is complying with the terms of the contract and in a manner consistent with the goals and purposes of the Commission and in the best interest of the state.³¹
- The reversion to the Commission, or the state if the Commission ceases to exist, of moneys and property held in trust by the DSO if the DSO is no longer approved to operate.
- The fiscal year of the DSO, to begin July 1 of each year and end June 30 of the following year.
- The disclosure of material provisions of the contract and the distinction between the board of directors and the DSO to donors of gifts, contributions, or bequests, as well as on all promotional and fundraising publications.³²

The members of the DSO's board of directors must include members of the Commission.³³ The Commission may authorize the DSO to use its personal services, facilities, and property, except money.³⁴ Additionally, the Commission is required to adopt rules prescribing the procedures by which the DSO is governed and any conditions with which it must comply to use property, facilities, or personal services of the Commission.³⁵

Funds held by the DSO may be held in a separate depository account and subject to the provisions of the contract with the commission.³⁶ Such funds may include membership fees, private donations, income derived from fundraising activities, and grants applied for and received by the DSO. The DSO must provide for an annual financial audit in accordance with s. 215.981, F.S.³⁷

The statutory authority for the Commission's DSO is scheduled to repeal on October 1, 2018, unless reviewed and saved from repeal by the Legislature.³⁸

Volunteer Florida Foundation, Inc.

The Commission established a not-for-profit corporation, the Volunteer Florida Foundation, Inc. (VFF), in May 2010, to serve as its DSO. The VFF provides the mechanism for the state to secure private funding and to properly review organizations requesting funding. The VFF is

³⁰ Section 14.29(9)(a), F.S.

³¹ The certification must be reported in the official minutes of a Commission meeting. *See* s. 14.29(9)(b)3., F.S.

³² Section 14.29(9)(b), F.S.

³³ Section 14.29(9)(c), F.S.

³⁴ Section 14.29(9)(d), F.S.

³⁵ Section 14.29(9)(e), F.S.

³⁶ Section 14.29(9)(f), F.S.

³⁷ Section 14.29(9)(g), F.S.

³⁸ Section 14.29(9)(h), F.S.

governed by a board of directors subject to approval by the Commission.³⁹ The board must consist of not less than nine members and not more than fifteen members, each serving a term of 3 years.⁴⁰ The VFF board is responsible for raising funds, approving distribution of funds, and providing oversight of the funding used to support the Commission's programs.⁴¹

Additionally, the VFF administers the Florida Disaster Fund, the State of Florida's official private fund to assist communities in times of disaster.⁴² In 2017, the Florida Disaster Fund provided \$1,250,000 in grants to 59 non-profit partners to support four separate disaster events, including response following Hurricane Irma.

Senate Professional Staff Review of the Volunteer Florida Foundation

Section 14.29(9), F.S., the statutory authority for the Commission's DSO, is scheduled to repeal on October 1, 2018, unless reviewed and saved from repeal by the Legislature. Professional staff of the Senate Committee on Governmental Oversight and Accountability reviewed the VFF to verify its compliance with applicable Florida Statutes.

Staff found that VFF is a DSO that supports the Commission in its mission to "deliver high-impact national service and volunteer programs across the state."⁴³ During the 2017 interim, staff met with representatives of VFF and the Commission to discuss the DSO's operations and structure and to receive documents to assist with the review. After reviewing the submitted documents and reviewing the other requirements to which VFF is subject, staff concluded that it appears VFF is in compliance with its enabling legislation, s. 14.29, F.S., as well as the DSO requirements in s. 20.058, F.S.

Senate professional staff reviewed relevant VFF records from Fiscal Years 2013-2014, 2014-2015, 2015-2016, and 2016-2017, and found that the VFF is an active DSO that supports the Commission.

Senate professional staff identified minor technical deficiencies in which the VFF was not in full compliance with the applicable Florida Statutes.⁴⁴ These deficiencies are largely administrative or procedural. The VFF will resolve each deficiency presented by Senate professional staff and intend to comply with the applicable Florida Statutes moving forward.

III. Effect of Proposed Changes:

Section 1 amends s. 14.29, F.S., to save from repeal the Commission's DSO, which is currently scheduled for repeal on October 1, 2018.

³⁹ See About Us, Transparency, Governance, VOLUNTEER FLORIDA, <https://www.volunteerflorida.org/volunteer-florida-foundation/> (last visited on Jan. 24, 2018).

⁴⁰ Rule 27O-1.001(2)(c), F.A.C. See also VFF Bylaws (copy on file with the Senate Governmental and Accountability Committee).

⁴¹ Email from Bonnie Hazleton, Chief Operating Officer, Volunteer Florida (Dec. 18, 2017) (copy on file with the Senate Governmental Oversight and Accountability Committee).

⁴² Volunteer Florida Foundation Fact Sheet (copy on file with the Senate Governmental and Accountability Committee).

⁴³ *Id.*

⁴⁴ See Florida Senate Review of the Florida Commission on Community Service Direct-support Organization, Staff Findings and Recommendations (Jan. 26, 2018) (on file with the Senate Governmental Oversight and Accountability Committee).

Section 2 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

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:

By saving the DSO from repeal, this bill sustains a source of financial and other assistance to Floridians affected by natural disasters and supports Governor's initiatives such as Florida's Black History Month and Hispanic Heritage Month celebrations.

C. Government Sector Impact:

The bill has no fiscal impact on state government. However, if the DSO is not saved from repeal, the Commission may need to find another source of funding for the Florida Disaster Fund and initiatives for the Governor's office.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 14.29 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.
