

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6033 Volunteer Florida, Inc.

SPONSOR(S): Ponder

TIED BILLS: IDEN./SIM. BILLS: SB 1110, SB 1500

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	12 Y, 0 N	Toliver	Harrington
2) Government Accountability Committee	21 Y, 0 N	Toliver	Williamson

SUMMARY ANALYSIS

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 DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the DSO was created to support.

The Legislature created 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." The Florida Commission on Community Service (commission) helps administer the Act. Current law authorizes the commission to establish a DSO to aid in fundraising efforts and to assist in carrying out the commission's goal of increasing volunteerism across the state. The commission established a DSO known as the Volunteer Florida Foundation (VFF). The members of VFF's board of directors must include members of the commission. VFF is a Florida not for profit corporation, organized and operated exclusively to receive, hold, invest, and administer property and funds and to make expenditures to or for the benefit of the programs overseen by the commission. VFF is required to operate under a written contract with the commission. The statutory authority for VFF is scheduled to repeal on October 1, 2018, unless reviewed and reenacted by the Legislature.

The bill removes the scheduled repeal of the law authorizing the commission to create a DSO.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Direct-support Organizations (DSOs)

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 DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the DSO was created to support.

Prior to 2014, there was no formal, statutory review process for DSOs. Chapter 2014-96, L.O.F.,¹ established reporting and transparency requirements for each DSO created or authorized pursuant to law or executive order and created, approved, or administered by a state agency. The 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.² Specifically, a DSO must provide:³

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

Each agency receiving the above information must make the information available to the public through the agency's website. If the DSO maintains a website, the agency's website must provide a link to the website of the DSO.⁴ Additionally, any contract between an agency and a DSO must be contingent upon the DSO submitting and posting the information.⁵ If a DSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the 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 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 organization.⁷

Lastly, a law creating or authorizing the creation of a DSO must state that the creation of or authorization for the DSO is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal through reenactment by the Legislature. DSOs in existence on July 1, 2014, must be reviewed by the Legislature by July 1, 2019.⁸

DSO Audit Requirements

DSOs with annual expenditures in excess of \$100,000 and that are administered by a state agency are statutorily-required to provide for an annual financial audit of accounts and records to be conducted by

¹ Section 20.058, F.S.

² Section 20.058(1), F.S.

³ Section 20.058(1)(a)-(f), F.S.

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.

an independent certified public accountant, with certain exceptions. 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 responsible for its creation, administration, or approval of the DSO.⁹

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

DSO Ethics Code Requirements

A DSO created or authorized pursuant to law must adopt its own ethics code.¹² The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S. A DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.¹³

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.”¹⁴ 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.”¹⁵ The programs and initiatives developed pursuant to the Act must meet 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.
- 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.¹⁶

⁹ Section 215.981(1), F.S.

¹⁰ Section 11.45(3), F.S.

¹¹ Section 11.45(3)(d), F.S.

¹² Section 112.3251, F.S.; *see also* s. 20.058(1)(e), F.S.

¹³ Section 112.3251, F.S.

¹⁴ Chapter 2001-84, L.O.F. and s. 14.295(2), F.S.

¹⁵ Section 14.295(2), F.S.

¹⁶ Section 14.295(3), F.S.

The Florida Commission on Community Service

The Florida Commission on Community Service (commission) is a commission, administratively housed within the Executive Office of the Governor, that serves as an advisory board to the Governor, the Cabinet, the Legislature, and appropriate state agencies and entities on matters relating to volunteerism and community service.¹⁷ The commission is required to consist of no less than 15 and no more than 25 voting members¹⁸ appointed on a bipartisan basis by the Governor and confirmed by the Senate.¹⁹ 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.²⁰

Members of the commission serve without compensation²¹ for terms of three years²² and meet at the call of its chair or at the request of a majority of its total voting membership, but must meet at least biannually.²³ A majority of the total voting membership constitutes a quorum, and the affirmative vote of a majority of a quorum is necessary to take official action.²⁴

The commission is required by law to:

- 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, initially designated by the Governor, who reports directly to, and serves as 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 must be presented to the Governor no later than January 15, with copies provided to the President of the Senate and the Speaker of the House of Representatives.²⁵

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

- 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

¹⁷ Section 14.29(2), F.S.

¹⁸ No more than 50 percent plus one of the voting members of Volunteer Florida may be aligned with the same political party. Section 14.29(3)(b), F.S.

¹⁹ Section 14.29(3)(a), F.S.

²⁰ *Id.*

²¹ Section 14.29(6), F.S.

²² Section 14.29(4), F.S.

²³ Section 14.29(5), F.S.

²⁴ *Id.*

²⁵ Section 14.29(7), F.S.

individuals in the implementation of programs pursuant to the Act. The commission may also authorize Volunteer Florida, Inc., the commission's 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 "more than \$31.7 million in federal, state and local funding for national service and volunteer programs across the state ...[and] leads initiatives throughout Florida that use volunteerism as a strategy to meet needs."²⁶ In 2016 and 2017, the commission administered 32 AmeriCorps programs providing 1.67 million hours of service while serving 54,000 students.²⁷

Volunteer Florida Foundation

The commission is authorized to create a DSO "to receive, hold, invest, and administer property and funds and to make expenditures" to or for the benefit of the programs overseen by the commission.²⁸ The commission has created a DSO, known as the Volunteer Florida Foundation (VFF). The members of VFF's board of directors must include members of the commission. The commission may authorize VFF to use its personal services, facilities, and property. Additionally, the commission is required to adopt rules prescribing the procedures by which VFF is governed and any conditions with which it must comply to use property, facilities, or personal services of the commission.

VFF must be:

- 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
- An organization which 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.²⁹

VFF 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 VFF 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.
- The reversion to the commission, or the state if the commission ceases to exist, of moneys and property held in trust by VFF if VFF is no longer approved to operate.
- The fiscal year of VFF 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 VFF to donors of gifts, contributions, or bequests, as well as on all promotional and fundraising publications.³⁰

Funds held by VFF may be held in a separate depository account and subject to the provisions of the contract with the commission.³¹ Such funds may include membership fees, private donations, income derived from fundraising activities, and grants applied for and received by the DSO.³² VFF must provide for an annual financial audit in accordance with law.³³

²⁶ About Us, VOLUNTEER FLORIDA, <https://www.volunteerflorida.org/about/> (last visited 1/11/18).

²⁷ Volunteer Florida Fact Sheet, on file with the Oversight, Transparency & Administration Subcommittee.

²⁸ Section 14.29(9), F.S.

²⁹ Section 14.29(9)(a), F.S.

³⁰ Section 14.29(9)(b), F.S.

³¹ Section 14.29(9)(f), F.S.

³² *Id.*

³³ Section 14.29(9)(g), F.S.

Lastly, the commission may authorize VFF “to assist in securing training, technical assistance, and other support needed to accomplish the intent and purposes of the [Act]”³⁴

Staff Review of Volunteer Florida

Section 14.29(9), F.S., which provides the statutory authority for VFF, is scheduled to repeal on October 1, 2018, unless reviewed and reenacted by the Legislature. Staff reviewed VFF to verify its compliance with 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.”³⁵ During the 2017 interim, staff met with a representative 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 as well as the DSO requirements laid out in s. 20.058, F.S.

Effect of the Bill

The bill removes the scheduled repeal of the law authorizing the commission to create a DSO, thus allowing VFF to continue to exist.

B. SECTION DIRECTORY:

Section 1 amends s. 14.29, F.S., to save VFF from repeal.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

³⁴ Section 14.29(8)(c), F.S.

³⁵ Volunteer Florida Foundation Fact Sheet, on file with House Oversight, Transparency & Administration Subcommittee.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.