

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: SB 1212

INTRODUCER: Senator Gruters

SUBJECT: International Affairs

DATE: January 24, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>IS</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1212 amends s. 15.01, F.S., to provide that the Secretary of State shall serve as the state protocol officer. The bill revises s. 15.182, F.S., such that the Department of State is the only entity that shall receive notice of intent to travel internationally by state-funded musical, cultural, or artistic organizations.

The bill creates s. 288.8165, F.S., providing for the establishment of citizen support organizations to assist the Office of International Affairs within the Department of State by providing assistance, funding and promotional support for intergovernmental programs.

The bill may have a minimal impact on government expenditures in the establishment of citizen support organizations. However, the Department of State will also experience a slightly positive impact as private resources from citizen support organizations augment the purpose and programs of the Office of International Affairs. The private sector will experience an indeterminate fiscal impact in establishing citizen support organizations as well as meeting the audit, transparency and reporting requirements.

The bill takes effect July 1, 2020.

II. Present Situation:

Secretary of State

The Secretary of State (the Secretary) holds a statutorily created office whose duties are “as provided by law.”¹ The Secretary serves as the head of the Department of State.² The Department of State consists of the following six divisions:

¹ FLA. CONST. art. XII, s. 24. The Office of the Secretary of State was created in 1845, under the State Constitution.

² Section 20.10(1), F.S. See FLA. CONST. art. XII, s. 24.

- Division of Elections;
- Division of Historical Resources;
- Division of Corporations;
- Division of Library and Information Services;
- Division of Cultural Affairs; and the
- Division of Administration.³

The Secretary is appointed by the Governor, subject to confirmation by the Senate and performs the functions conferred by the State Constitution upon the custodian of state records.⁴ Pursuant to Chapter 15, F.S., the Secretary of State is the custodian of the constitution, the Great Seal of this state, the original statutes, and of the resolutions of the Legislature, and of all the official correspondence of the Governor.⁵ The Department of State is required to maintain a register and an index of all official letters, orders, communications, messages, documents and other official acts issued or received by the Governor or the Secretary of State, and record these in a book numbered in chronological order.⁶ Before issuing any order or transmission of an official letter, communication or document from the executive office or promulgation of any official act or proceeding, except military orders, the Governor is required to deliver the same or a copy thereof to the Department of State for recordation.⁷

Notice of International Travel

The Department of Economic Opportunity (DEO) “assist[s] the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities to all Floridians.”⁸

In accordance with s. 15.182, F.S., if a musical, cultural or artistic organization that receives state funding is traveling internationally for a presentation, performance, or other significant public viewing, including an organization associated with a college or university, such an organization is required to notify the DEO of its intention to travel as well as the date, time and location of each appearance. DEO, in conjunction with Enterprise Florida, Inc.⁹ (EFI), is required to act as an intermediary between artistic organizations and Florida businesses to encourage and coordinate joint undertakings, such as the sponsoring of cultural events.¹⁰

Section 15.182(3), F.S., requires an organization to provide notice to the Department of State at least 30 days prior to the date international travel is to commence. If the intention to travel internationally is not formed 30 days in advance, notice to the Department of State shall be given

³ Section 20.01(2), F.S.

⁴ Section 20.10(1), F.S.

⁵ Section 15.01, F.S.

⁶ Section 15.01, F.S.

⁷ *Id.*

⁸ Section 20.60, F.S.

⁹ Enterprise Florida, Inc., created by s. 288.901, F.S., serves as the state’s economic development organization, operating under a contract with DEO. Enterprise Florida, Inc., is a nonprofit corporation, governed by a board of directors chaired by the Governor.

¹⁰ Section 15.182(2), F.S.

as soon as feasible.¹¹ Thus, under this section, notice of intent to travel internationally by state-funded organizations must be given to both DEO and the Department of State. Section 15.182(3), F.S., further requires that the Department of State take “an active role in informing such groups of the responsibility to notify the [D]epartment [of State] of travel intentions.”

The State Protocol Officer

The Governor, pursuant to s. 288.012(7), F.S., may designate a state protocol officer (SPO) who shall be housed within the Executive Office of the Governor. The SPO is required to develop, maintain, publish, and distribute the state protocol manual.¹² The SPO is responsible for consular operations and the sister city and sister state program as well as serving as a liaison with foreign, federal and other international organizations and with local governments.¹³ The SPO must maintain consular relations between the state and all foreign governments doing business in Florida and has the duty to ensure all federal treaties regarding foreign privileges and immunities are properly observed by monitoring U.S. Laws and directives.

Additionally, the SPO is required to:

- Establish a viable system of registration for foreign government officials residing or having jurisdiction in the state¹⁴;
- Maintain and systematically update a current and accurate list of all such foreign governmental officials, consuls, or consulates;
- Issue certificates to such foreign governmental officials after verification pursuant to proper investigations through U.S. Department of State sources and the appropriate foreign government;
- Verify entitlement to sales and use tax exemptions pursuant to U.S. Department of State guidelines and identification methods;
- Verify entitlement to issuance of special motor vehicle license plates by the Department of Highway Safety and Motor Vehicles to honorary consuls or such other officials representing foreign governments who are not entitled to issuance of special Consul Corps license plates by the U.S. Government;
- Establish a system of communication to provide all state and local law enforcement agencies with information regarding proper procedures relating to the arrest or incarceration of a foreign citizen;
- Request the Department of Law Enforcement to provide transportation and protection services when necessary pursuant to s. 943.68;
- Coordinate, when necessary, special activities between foreign governments and Florida state and local governments (such as Consular Corps Day, Consular Corps conferences, and various other social, cultural, or educational activities);
- Notify all newly arrived foreign governmental officials of the services offered by the SPO.¹⁵

¹¹ Section 15.182(3), F.S.

¹² Section 288.012(7), F.S.

¹³ Section 288.816(1), F.S.

¹⁴ This provision instructs that an emphasis shall be placed on maintaining active communication between the SPO and the U.S. Department of State in order to be currently informed regarding foreign governmental personnel stationed in, or with official responsibilities for, Florida. Active dialogue shall also be maintained with foreign countries which historically have had dealings with Florida in order to keep them informed of the proper procedure for registering with the state.

¹⁵ Section 288.816(2), F.S.

The duties of the SPO also include the operation of the sister city and sister state program and establishing such new programs as needed to further global understanding through the interchange of people, ideas, and culture between Florida and the world. In order to accomplish this purpose, the SPO has the power and authority to:

- Coordinate and carry out activities designed to encourage the state and its subdivisions to participate in sister city and sister state affiliations with foreign countries and their subdivisions¹⁶;
- Encourage cooperation with and disseminate information pertaining to the Sister Cities International Program and any other program whose object is to promote linkages with foreign countries and their subdivisions;
- Maximize any aid available from all levels of government, public and private agencies, and other entities to facilitate such activities;
- Establish a viable system of registration for sister city and sister state affiliations between the state and foreign countries and their subdivisions. Such system shall include a method to determine that sufficient ties are properly established as well as a method to supervise how these ties are maintained; and
- Maintain a current and accurate listing of all such affiliations.¹⁷

The SPO serves as a contact for the state with the Florida Washington Office, the Florida Congressional Delegation, and United States Government agencies with respect to laws or policies which may affect the interests of the state in the area of international relations.¹⁸ The SPO is directed to direct all inquiries regarding international economic trade development or reverse investment opportunities to Enterprise Florida, Inc.¹⁹ The SPO serves as a liaison with other states regarding international programs of interest to Florida, and investigates and makes suggestions regarding possible areas of joint action or regional cooperation.²⁰ The SPO is granted the power and has the duty to encourage the relocation of consular offices and multilateral and international agencies and organizations to Florida.²¹

Under s. 288.816(6), F.S., the DEO and EFI must help to contribute an international perspective to the state's development efforts.

Citizen Support Organizations

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily created private 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

¹⁶ Such activities may include a State of Florida sister cities conference. Section 288.816(3)(a), F.S.

¹⁷ Sister city affiliations shall not be discouraged between the state and any country specified in s. 620(f)(1) of the federal Foreign Assistance Act of 1961 (22 U.S.C.A. Section 2370(f)(1)), as amended, with whom the United States is currently conducting diplomatic relations unless a mandate from the United States Government expressly prohibits such affiliations.

¹⁸ Section 288.816(4), F.S.

¹⁹ *Id.*

²⁰ *Id.*

²¹ Section 288.816(5), F.S.

and purposes of a CSO or DSO are prescribed by its enabling statute and, for most, by a written contract with the agency the CSO or DSO was created to support.²²

Legislature created s. 20.058, F.S., to establish a comprehensive set of transparency and reporting requirements for CSOs created or authorized pursuant to law or executive order and created, approved, or administered by a state agency.²³ Specifically, the law requires each CSO to annually submit, by August 1, the following information related to its organization, mission, and finances to the agency it supports:²⁴

- 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 (IRS) Return of Organization Exempt from Income Tax form (Form 990).²⁵

Each agency receiving the above information must make the information available to the public through the agency's website. If the CSO maintains a website, the agency's website must provide a link to that website.²⁶ Additionally, any contract between an agency and a CSO must be contingent upon the CSO submitting and posting the information.²⁷ If a CSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the CSO.²⁸ The contract must also include a provision for ending operations and returning state-issued funds to the state if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.²⁹

By August 15 of each year, the 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 the CSO. 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.³⁰

A law creating or authorizing the creation of a CSO must state that the creation or authorization for the CSO is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature. CSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019.³¹

²² Because the bill speaks to the establishment of a CSO, the analysis focuses on CSOs. DSOs are subject to the same transparency and reporting requirements as CSOs.

²³ Chapter 2014-96, Laws of Fla.

²⁴ Section 20.058(1), F.S.

²⁵ 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.

²⁶ Section 20.058(2), F.S.

²⁷ Section 20.058(4), F.S.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Section 20.058(3), F.S.

³¹ Section 20.058(5), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 15.01, F.S., to provide that the Secretary shall serve as the state protocol officer and that the Secretary, in consultation with the Governor and other governmental officials, shall develop, maintain, publish, and distribute the state protocol manual.

Section 2 amends s. 15.182, F.S., to designate the Department of State as the agency to whom state-funded musical, cultural, or artistic organizations must provide notice of intent to travel internationally.

Section 3 amends s. 288.816(2), F.S., to remove from the SPO's responsibilities the requirement of (i) issuing certificates to such foreign governmental officials after verification pursuant to proper investigations through U.S. Department of State sources and the appropriate foreign governments; and (ii) verifying entitlement to sales and use tax exemptions pursuant to U.S. Department of State guidelines and identification methods.

The bill also amends s. 288.816(3), F.S., and makes permissive the SPO's role regarding sister city and sister state programs. The bill eliminates the requirement of a system of registration for sister city and sister state affiliations as well as the duty to maintain an accurate listing of all such affiliations.

Section 4 creates 288.8165, F.S., allowing the Office of International Affairs (OIA) within the Department of State to support the establishment of CSOs to provide assistance, funding and promotional support for intergovernmental programs. A CSO must be:

- A Florida corporation not for profit incorporated under chapter 617 and approved by the Department of State;
- Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the OIA;
- Determined by the OIA to be consistent with the goals of the office and in the best interests of the State; and
- Approved in writing (by a letter of agreement) by the OIA to operate for the direct or indirect benefit of the office.

The bill specifies operational requirements and annual audit requirement for the CSOs.

The bill grants rulemaking authority to the OIA for the adoptions of rules requiring CSOs to meet certain requirements in order to use the office's administrative services, property, or facilities.

The bill provides for the future repeal of this section on October 1, 2025, unless it is reviewed and saved from repeal by the Legislature.

Section 5 amends s. 288.012, F.S., to make conforming changes.

Section 6 provides that the act will take effect on July 1, 2020.

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.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

This bill does not impact state or local taxes or fees.

B. Private Sector Impact:

The bill will have an indeterminate fiscal impact on the private sector in the establishment of CSOs and in meeting the audit, transparency and reporting requirements.

C. Government Sector Impact:

The bill may have a minimal impact on government expenditures in the establishment of CSOs. However, the Department of State will experience an indeterminate positive fiscal impact as private resources from CSOs will augment the purpose and programs of the OIA.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Office of International Affairs (OIA) is not created by statute or other provision of law. Section 20.04(3), F.S., mandates (with some exceptions not relevant here) the internal structure of all departments and provides that the principal unit of the department is the “division,” the principal unit of the division is the “bureau,” and the principal unit of the bureau is the “section.” If further subdivision is required, s. 20.04(3)(d), F.S., instructs that sections may be divided into “subsections.” Thus, the term “office” is not within the proper nomenclature.

Because the bill provides rulemaking authority to the OIA, it is suggested consideration be given to (i) granting rulemaking authority to the Department of State rather than OIA, or (ii) amending s. 20.10, F.S., to define the OIA as an entity within the Department of State.

The stated purpose of the CSOs is to provide assistance, funding and promotional support for *intergovernmental programs*. (emphasis added). The term “intergovernmental programs” is not defined. However, because the CSOs are supported by the OIA, it would suggest that such programs are to be international rather than national in nature. The bill specifies that OIA must make a determination that the CSO is “*consistent with the goals of the office and in the best interests of the state.*” (emphasis added). As stated above, OIA is not created in law and the office cannot be located on the Department of State’s website. Thus, there is little to no guidance as to the “goals of the office.” It is suggested that consideration be given to either defining the term “intergovernmental programs” or providing more specificity as to the stated purpose of the CSOs. Alternatively, if, as suggested above, s. 20.10, F.S., is amended to define the OIA, the goals or purpose of the office could be stated therein.

VIII. Statutes Affected:

This bill substantially amends sections 15.01, 15.182, 288.816, and 288.012 of the Florida Statutes.

This bill creates s. 288.8165, F.S., 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.