

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 Infrastructure and Security

BILL: CS/SB 1212

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Gruters

SUBJECT: International Affairs

DATE: February 7, 2020

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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

The bill creates s. 288.8165, F.S., allowing the Department to authorize the establishment of citizen support organizations (CSOs) to provide assistance, funding and promotional support for the intergovernmental programs of the Department.

The bill may have a minimal impact on government expenditures in the establishment of CSOs. However, the Department may also experience a slightly positive impact as private resources from CSOs may augment its intergovernmental programs. The private sector may experience an indeterminate fiscal impact in establishing CSOs as well as meeting the audit, transparency and reporting requirements.

The bill takes effect July 1, 2020.

II. Present Situation:

The Department of State and 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 consists of the following six divisions:

- Division of Elections;
- Division of Historical Resources;
- Division of Corporations;
- Division of Library and Information Services;
- Division of Cultural Affairs; and
- 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 is the custodian of the constitution, the Great Seal of this state, the original statutes, the resolutions of the Legislature, and of all the official correspondence of the Governor.⁵ The Department 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, 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 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

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.

³ Section 20.01(2), F.S.

⁴ Section 20.10(1), F.S.

⁵ Section 15.01, F.S.

⁶ *Id.*

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.

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 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 shall be given 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. Section 15.182(3), F.S., further requires that the Department 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 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 state;¹⁴
- 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;

¹⁰ Section 15.182(2), F.S.

¹¹ Section 15.182(3), F.S.

¹² Section 288.012(7), F.S.

¹³ Section 288.816(1), F.S.

¹⁴ This provisions 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.

- Request the Department of Law Enforcement to provide transportation and protection services when necessary pursuant to s. 943.68, F.S.;
- 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); and
- Notify all newly arrived foreign governmental officials of the services offered by the SPO.¹⁵

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 subdivisions;¹⁶
- 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 EFI.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.

¹⁵ Section 288.816(2), F.S.

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.

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 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

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.

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

III. Effect of Proposed Changes:

Section 1 amends s. 15.01, F.S., to provide that the Secretary shall serve as the SPO 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 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 Department to authorize the establishment of CSOs to provide assistance, funding and promotional support for intergovernmental programs of the Department. A CSO must be:

- A Florida corporation not for profit incorporated under chapter 617 and approved by the Department;
- 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, or real or personal property; and make expenditures for the benefit of the intergovernmental programs of the Department; except that such organization may not receive funds from the Department by grant or gift unless specifically authorized by the Legislature. If the CSO by contract provides fiscal and administrative services to the department for a grant or program that benefits the intergovernmental programs of the department, the organization may be reimbursed or compensated for such services by the Department if the services are a direct benefit to the intergovernmental programs of the Department;
- Determined by the Department to be consistent with the goals of the intergovernmental programs of the Department and in the best interests of the State; and
- Approved in writing (by a letter of agreement from the Secretary) by the Department to operate for the benefit of the intergovernmental programs of the Department.

³¹ Section 20.058(5), F.S

The Department may allow a CSO to use Department property, facilities, and personnel free of charge if such use is consistent with the approved purpose of that CSO and such use does not unreasonably interfere with the general public's use of Department property. The Department is allowed to prescribe conditions upon a CSO's use of any property, facilities, or personnel and may not permit such use if the CSO does not provide equal membership and employment opportunities to all persons, regardless of race, color, national origin, religion, sex, or age.

The bill specifies that each CSO must provide for an annual audit in accordance with s. 215.981, F.S.

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:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may 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 may experience an indeterminate positive fiscal impact as private resources from CSOs may augment the intergovernmental programs of the Department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

This bill creates the following sections of the Florida Statutes: 288.8165

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

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

CS by Governmental Oversight and Accountability on January 27, 2020:

The committee substitute removes reference to the Office of International Affairs throughout the bill and replaces it with the Department of State and consolidates duplicative notice provisions regarding intent to travel internationally into one provision. It also conforms the provisions authorizing the Department to establish CSOs to the requirements for such organizations under s. 20.2551, F.S.

B. Amendments:

None.