

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 7008

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee

SUBJECT: Department of Veterans' Affairs Direct-support Organization

DATE: March 15, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Sanders</u>	<u>Ryon</u>		<b>MS Submitted as Committee Bill</b>
1.	<u>Sneed</u>	<u>Williams</u>	<u>AHS</u>	<b>Recommend: Favorable</b>
2.	<u>Sneed</u>	<u>Hansen</u>	<u>AP</u>	<b>Favorable</b>

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**I. Summary:**

SB 7008 removes a repeal date of October 1, 2017, and re-enacts authority for the Florida Department of Veterans' Affairs to establish and contract with a direct-support organization for assistance, fundraising, and support to assist the department in carrying out its mission.

The bill has no fiscal impact on state government.

The effective date of the bill is July 1, 2017.

**II. Present Situation:**

**Citizen Support Organizations and Direct-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 and purpose of a CSO or DSO are prescribed by its enacting statute and also, for most, by a written contract with the agency the CSO or DSO was created to support.

***CSO and DSO Transparency and Reporting Requirements (s. 20.058, F.S.)***

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for CSOs and DSOs.<sup>1</sup> Specifically, the law requires each CSO and DSO to annually submit, by August 1, the following information to the agency it supports:<sup>2</sup>

- The CSO or DSO's name, mailing address, telephone number, and website address;
- The statutory authority or executive order that created the CSO or DSO;

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<sup>1</sup> Chapter 2014-96, Laws of Fla.

<sup>2</sup> Section 20.058(1), F.S.

- A brief description of the mission and results obtained by the CSO or DSO;
- A brief description of the CSO or DSO's plans for the next three fiscal years;
- A copy of the CSO or DSO's code of ethics; and
- A copy of the CSO or DSO's most recent Internal Revenue Service (IRS) Form 990.<sup>3</sup>

Additionally, the information submitted annually by a CSO or DSO must be available on the respective agency's website along with a link to the CSO or DSO's website, if one exists.<sup>4</sup> Any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting the required information to the agency and posting the information on the agency's website.<sup>5</sup> If a CSO or DSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate its contract with the CSO or DSO.<sup>6</sup>

By August 15 of each year, the 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 along with the agency's recommendation to continue, terminate, or modify the agency's association with the CSO or DSO.<sup>7</sup>

Laws creating or authorizing a CSO or DSO repeal on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature. CSOs and DSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019.<sup>8</sup>

***CSO and DSO Audit Requirements (s. 215.981, F.S.)***

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.<sup>9</sup> 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 DSO or CSO. 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, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of a CSO's or DSO's accounts and records.<sup>10</sup>

***CSO and DSO Ethics Code Requirement (s. 112.3251, F.S.)***

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

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<sup>3</sup> 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.

<sup>4</sup> Section 20.058(2), F.S.

<sup>5</sup> Section 20.058(4), F.S.

<sup>6</sup> Id.

<sup>7</sup> Section 20.058(3), F.S.

<sup>8</sup> Section 20.058(5), F.S.

<sup>9</sup> 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.

<sup>10</sup> Section 11.45(3)(d), F.S.

provided in ss. 112.313 and 112.3143(2), F.S.<sup>11</sup> 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.<sup>12</sup>

### **Florida Department of Veterans' Affairs**

The Florida Department of Veterans' Affairs (FDVA) was established in 1988 as a cabinet agency charged with providing advocacy and representation for Florida's veterans and to intercede on their behalf with the U.S. Department of Veterans Affairs (USDVA).<sup>13</sup> The FDVA primarily engages in advocacy activities through its benefits and assistance program to provide professional assistance to Florida veterans and their dependents in obtaining financial benefits and health care treatments from the USDVA.<sup>14</sup> Additionally, the FDVA is responsible for operating State Veterans' Homes. These facilities provide comprehensive and cost-effective health care to include both skilled nursing care and assisted living services.

### ***Direct-support Organization for the Department of Veterans' Affairs***

In 2008, the Legislature created s. 292.055, F.S., authorizing the FDVA to establish a DSO to provide assistance, funding, and support for the FDVA in carrying out its mission. The law requires the FDVA DSO to be a Florida non-profit corporation<sup>15</sup> that operates exclusively to:

- Obtain funds and request and receive grants, gifts, and bequests of moneys;
- Acquire, receive, hold, invest, and administer in its own name securities, funds, or property; and
- Make expenditures to or for the direct or indirect benefit of the FDVA, Florida veterans, and congressionally chartered veteran service organizations.<sup>16</sup>

The FDVA DSO is also tasked in statute to administer the Florida Veterans' Walk of Honor and Memorial Garden without funding from the state.<sup>17</sup> Additionally, s. 265.003, F.S., directs the FDVA to administer the Florida Veterans' Hall of Fame without state appropriations. The FDVA utilizes the FDVA DSO to fund Hall of Fame activities.

The statutory authority for the FDVA DSO is scheduled to repeal on October 1, 2017, unless reviewed and saved from repeal by the Legislature.<sup>18</sup>

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<sup>11</sup> Some of the standards of conduct and disclosures in ss. 112.313 and 112.3143(2), F.S., include misuse of public position, solicitation or acceptance of gifts, unauthorized compensation, and voting conflicts.

<sup>12</sup> Section 112.3251, F.S.

<sup>13</sup> Florida Department of Veterans' Affairs, *About Us*, available at <http://floridavets.org/benefits-services/> (last visited Feb. 1, 2017).

<sup>14</sup> Florida Department of Veterans' Affairs, *Annual Report: Fiscal Year 2014-15*, 6 (Nov. 11, 2015), available at <http://floridavets.org/wp-content/uploads/2012/08/Cabinet-Meeting-Material.pdf> (last visited Feb. 1, 2017).

<sup>15</sup> Section 292.055(2)(b)1., F.S.

<sup>16</sup> Section 292.055(2)(b)2., F.S.

<sup>17</sup> Section 265.0031, F.S.

<sup>18</sup> Section 292.055(10), F.S.

### **Florida Veterans Foundation, Inc.**

Florida Veterans Foundation, Inc., (FVF) was established as a non-profit corporation in June 2008 to serve as the DSO for the FDVA.<sup>19</sup> The mission of the FVF is to:

- Provide direct and indirect services to veterans and their families;
- Partner with the U.S. Department of Veterans Affairs, state and local governments, veterans service organizations, and educational institutions to improve veterans' physical, financial, mental, emotional, and social wellbeing; and
- Support the FDVA's mission of advocacy by educating veterans, the public, and governmental entities, to increase awareness on veteran-related issues.<sup>20</sup>

The FVF is currently governed by an eight-member board of directors each representing a defined geographic area encompassing all areas of the state. The FVF operates pursuant to a written contract with the FDVA<sup>21</sup> and daily FVF operations are staffed by a combination of volunteers and three part-time, paid contract employees.<sup>22</sup> The FVF occupies office space in the FDVA Tallahassee office and utilizes the FDVA computer network, phone access, and limited FDVA office supplies.<sup>23</sup>

The FVF's operations are currently funded by individual and corporate charitable contributions and a two-year grant from the Florida Office of the Attorney General.<sup>24</sup> In November 2015, the FVF received a \$1,250,000 grant from the Attorney General for the purpose of providing emergency services to veterans.<sup>25</sup> The FVF must expend the grant funds by January 2018.<sup>26</sup> Previously, the FVF received a portion of the annual proceeds from the sale of the Florida Salutes Veterans license plate during Fiscal Year 2008-09 through Fiscal Year 2011-12.<sup>27</sup>

Tables 1 and 2 below provide the FVF's total annual revenue and expenditure amounts, respectively, for Fiscal Year 2009-10 through Fiscal Year 2015-16.

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<sup>19</sup> FVF Articles of Incorporation (April 4, 2008) (on file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

<sup>20</sup> 2016 Direct Support Organization Report (Aug. 4, 2016), available at <http://floridavets.org/about-us/florida-veterans-foundation/> (last visited Jan. 24, 2017).

<sup>21</sup> Direct-support Contract between Florida Veterans Foundation, Inc. and Florida Department of Veterans' Affairs (Dec. 12, 2012) (on file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

<sup>22</sup> E-mail correspondence from FVF staff on Oct. 31, 2016 (on file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

<sup>23</sup> Senate Committee on Military and Veterans Affairs, Space, and Domestic Security, *FVF Request for Additional Information* (Sept. 30, 2016), Question 16.

<sup>24</sup> Grant funds available as a result of a 2013 settlement agreement between the State of Florida and Chase Bank. The State of Florida received \$15.3 million to be distributed to 47 non-profit organizations to be used for legal services, financial literacy, and other programs related to assisting Floridians with managing debt. Attorney General press release, available at <http://myfloridalegal.com/pages.nsf/Main/E96978109D350A7385257F02008387F7> (last visited Jan. 24, 2017).

<sup>25</sup> Agreement between the Florida Office of the Attorney General and the FVF (Dec. 18, 2015) (on file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

<sup>26</sup> *Id.*

<sup>27</sup> For FYs 2008-09 and 2009-10, the FVF was entitled to 20 percent of the Florida Salutes Veterans license plate revenue (Ch. 2008-84, L.O.F.). For FYs 2010-11 and 2011-12, the FVF was entitled to 10 percent of the license plate revenue (Ch. 2010-168, L.O.F.).

<b>Table 1: Florida Veterans Foundation Total Annual Revenues<sup>28</sup></b>								
FY 2009-10 through FY 2015-16								
<b>Fiscal Year</b>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>Total</u>
<b>Total Revenue</b>	\$129,018	\$65,448	\$239,700	\$392,404	\$257,333	\$335,407	\$837,447	\$2,256,757

<b>Table 2: Florida Veterans Foundation Total Annual Expenditures<sup>29</sup></b>								
FY 2009-10 through FY 2015-16								
<b>Fiscal Year</b>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>Total</u>
<b>DSO Services Expenses<sup>30</sup></b>	\$59,665	\$20,664	\$107,361	\$134,285	\$248,515	\$210,402	\$468,385	<b>\$1,249,277</b>
<b>Administrative Expenses<sup>31</sup></b>	\$18,066	\$30,061	\$50,929	\$70,490	\$102,903	\$101,358	\$179,659	<b>\$553,466</b>
<b>Fundraising Expenses</b>	\$0	\$0	\$0	\$0	\$31,850	\$8,129	\$1,788	<b>\$41,767</b>
<b>Total Expenditures</b>	<b>\$77,731</b>	<b>\$50,725</b>	<b>\$158,290</b>	<b>\$204,775</b>	<b>\$383,268</b>	<b>\$319,889</b>	<b>\$649,832</b>	<b>\$1,844,510</b>

For Fiscal Year 2015-16, FVF services expenditures were 72 percent of the organization’s total expenditures. Administrative expenses and fundraising expenses were 27.7 percent and 0.3 percent, respectively.

***Florida Veterans Foundation Services***

The FVF’s core function is to provide emergency financial assistance for veterans and their families during times of serious financial need. The FVF awards one-time grants to cover expenses relating to housing, utilities, food, relocation, education, medical, transportation, and other needs that constitute a true emergency. The FVF requires veterans to request assistance from a minimum of three alternative sources prior to receiving approval for FVF financial assistance.<sup>32</sup> From Fiscal Year 2011-12 to present, the FVF distributed approximately \$590,000 in emergency financial assistance grants to 1,010 recipients.<sup>33</sup>

The FVF also hosts and contributes funding for Veterans Stand Down events and Veterans Summits held across the state. Veterans Stand Downs are typically one- to three-day events

<sup>28</sup> Data retrieved from FVF’s IRS Form 990, Part VIII for FY 2009-10 through FY 2014-15 and FVF’s annual financial audit for FY 2015-16. The FVF’s FY 2015-16 IRS Form 990 is not yet available.

<sup>29</sup> Data retrieved from FVF’s IRS Form 990, Part IX for FY 2009-10 through FY 2014-15 and FVF’s annual financial audit for FY 2015-16. The FVF’s FY 2015-16 IRS Form 990 is not yet available.

<sup>30</sup> DSO services expenses include, but are not limited to, emergency financial assistance grants for veterans, Veterans Summits, Veterans Stand Downs, Florida Veterans' Hall of Fame expenses, Florida Veterans Walk of Honor and Memorial Garden expenses, FDVA Benefits Guide printing expenses, and other FVF non-administrative activities.

<sup>31</sup> Administrative expenses include, but are not limited to, personnel support, travel and meetings, advertising, office expenses and supplies, audit and legal fees, facilities expenses, and other miscellaneous expenses.

<sup>32</sup> FVF, *General Eligibility Guidelines*, available at <https://floridaveteransfoundation.org/wp-content/uploads/2016/10/FVF-Eligibility-Requirements.pdf> (last visited Jan. 24, 2017).

<sup>33</sup> E-mail correspondence from FVF staff on Nov. 15, 2016 (on file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

providing supplies and services to homeless veterans such as food, shelter, clothing, health screenings, and veterans' benefits counseling. Veterans can also receive referrals for other assistance such as health care, housing solutions, employment, substance use treatment, and mental health counseling.<sup>34</sup> Veterans Summits are informational sessions for veterans that provide an opportunity for subject matter experts in various areas to educate participants on benefits available to veterans and how to apply for them.

As required by law, the FVF administers the Florida Veterans' Walk of Honor (Walk of Honor) and the Florida Veterans' Memorial Garden (Memorial Garden).<sup>35</sup> In October 2016, the Medal of Honor Node, the first of three phases planned for the Walk of Honor, was completed. Construction of the remainder of the Walk of Honor and the Memorial Garden is on hold due to ongoing Capitol Complex construction projects.

The FVF annually provides funding for the Florida Veterans' Hall of Fame (Hall of Fame), which is administered by the FDVA, pursuant to s. 265.003, F.S. The inaugural class of the Hall of Fame was inducted in 2013, followed by the Hall of Fame classes of 2014, 2015, and 2016. The FVF expended \$8,500 for the 2016 Hall of Fame class induction.<sup>36</sup>

Other FVF services include sponsoring events such as the Florida Women's Veterans Conference and a veterans' spouses event, annually printing the FDVA's Florida Veterans' Benefit Guide, establishing a veterans' outreach program, and providing general referral services to veterans seeking assistance.<sup>37</sup>

### **Senate Professional Staff Review of the FDVA and the FVF**

Section 292.055, F.S., the statutory authority for the FDVA DSO, is scheduled to repeal on October 1, 2017, unless reviewed and saved from repeal by the Legislature. Professional staff of the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security reviewed the FVF to verify its compliance with applicable Florida Statutes.

Senate professional staff reviewed relevant FVF records from Fiscal Year 2009-10 to present, and found that the FVF is an active DSO that supports the FDVA primarily by providing emergency financial assistance and outreach programs to Florida veterans.

Senate professional staff identified five deficiencies in which the FDVA and the FVF were not in full compliance with the applicable Florida Statutes.<sup>38</sup> These deficiencies are largely administrative or procedural. The FDVA and the FVF resolved each deficiency presented by Senate professional staff and intend to comply with the applicable Florida Statutes moving forward.

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<sup>34</sup> Veterans Stand Down events are collaborative events, coordinated between local U.S. Department of Veterans Affairs medical centers, other government agencies, and community-based homeless service providers.

<sup>35</sup> Section 265.0031, F.S.

<sup>36</sup> Supra note 23, Question 11.

<sup>37</sup> Supra note 20.

<sup>38</sup> See Florida Senate Review of the Department of Veterans' Affairs Direct-support Organization, Staff Findings and Recommendations (Feb. 6, 2017) (on file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

**III. Effect of Proposed Changes:**

The bill amends s. 292.055, F.S., to save from repeal the Florida Department of Veterans' Affairs direct-support organization, which is currently scheduled for repeal on October 1, 2017.

The effective date of the bill is July 1, 2017.

**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:**

By saving the DSO from repeal, SB 7008 sustains a source of financial and other direct assistance for veterans.

**C. Government Sector Impact:**

The bill has no fiscal impact on state government. By saving the DSO from repeal, the bill enables the DSO to continue to fund and administer projects and activities such as the Florida Veterans' Walk of Honor, the Florida Veterans' Memorial Garden, and the Florida Veterans' Hall of Fame without an appropriation of state funds. If the DSO is not saved from repeal, the FDVA may need to find another source of funding for these and other veterans' projects and activities.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 292.055, 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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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