

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7031 PCB LFV 17-02 Department of Veterans' Affairs Direct-support Organization
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee, Burgess, Jr.
TIED BILLS: **IDEN./SIM. BILLS:** SB 7008

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N	Renner	Miller
1) Government Accountability Committee	21 Y, 0 N	Renner	Williamson

SUMMARY ANALYSIS

Citizen support (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.

In 2008, the Florida Veterans Foundation, Inc. (FVF) was established as a non-profit corporation to serve as the DSO for the Florida Department of Veterans' Affairs (FDVA). The mission of FVF is to:

- Serve Florida veterans and their families by providing direct and indirect services to veterans;
- Partner with the federal, state, and local governments, the United States Department of Veterans Affairs, veteran 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.

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

The bill removes the scheduled repeal of the law authorizing FDVA to establish a DSO.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Citizen Support Organizations and Direct-support Organizations

Citizen support (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.

Prior to 2014, there was no formal review process in law to determine whether a CSO or DSO was established pursuant to such authorization, or whether the rationale for the authorization remained applicable.

Chapter 2014-96, Laws of Florida,¹ established reporting and transparency requirements for each CSO and DSO created or authorized pursuant to law or executive order and created, approved, or administered by a state agency. The CSO or 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 CSO or 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 DSO;
- 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 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 is required to terminate the contract between the agency and the CSO or DSO.⁶

By August 15 of each year, each 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 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 organization.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 5th year after enactment, unless

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.

reviewed and saved from repeal through reenactment by the Legislature. CSOs or DSOs in existence on July 1, 2014, must be reviewed by the Legislature by July 1, 2019.⁸

CSO and DSO Audit Requirements

CSOs or 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 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 creation, administration, or approval of the CSO or 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 CSO or DSO.¹⁰ The Auditor General is authorized to require and receive any records from the CSO or DSO, or from its independent auditor.¹¹

CSO and DSO Ethics Code Requirements

A CSO or DSO created or authorized pursuant to law must 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 Veterans Foundation, Inc. DSO

In 2008, the Florida Veterans Foundation, Inc. (FVF) was established as a non-profit corporation to serve as the DSO for the Florida Department of Veterans' Affairs (FDVA). FVF's mission is to:¹³

- Serve Florida veterans and their families by providing direct and indirect services to veterans;
- Partner with the federal, state, and local governments, the United States Department of Veterans Affairs, veteran 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.

FVF primarily provides assistance to veterans for emergency shelter, monthly rent or rental deposits, and utility bills. Veterans receive a onetime financial aid grant unless there are compelling reasons to do otherwise. FVF does not pay for car repairs or loans, insurance of any kind, cell phone or cable bills, college loans, property taxes, late fees, home repairs, and bills in the name of anyone other than the veteran.

Additionally, FVF hosts and contributes funding for veterans Stand Down events and Veterans Summits across the state. These events provide supplies and services to homeless veterans and veterans benefits counseling. FVF is statutorily required to administer the Florida Veterans' Walk of Honor and the Florida Veterans' Memorial Garden. It also provides annual funding for the Florida Veterans' Hall of Fame, which is administered by FDVA.

FVF must be determined by FDVA to be operating in a manner consistent with the goals of FDVA and in the best interest of the state¹⁴ and must:¹⁵

- Be organized and operated exclusively to obtain funds;

⁸ Section 20.058(5), F.S.

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.

¹³ 2016 annual FDVA report. On file with staff of the Local, Federal & Veterans Affairs Subcommittee.

¹⁴ Section 292.055(2)(b)3., F.S.

¹⁵ Section 292.055(2)(b)2., F.S.

- 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 FDVA, the veterans of this state, and congressionally chartered veteran service organizations having subdivisions that are incorporated in Florida.

FVF is governed by a board of directors that consists of no fewer than five members appointed by the executive director of FDVA. The board members serve three-year terms and may be reappointed when their term expires. In addition, they must be current residents of Florida and the majority must be veterans.¹⁶

FVF operates under a written contract with FDVA that provides for:¹⁷

- Certification by FDVA that FVF is complying with the terms of the contract and is doing so consistent with the goals and purposes of FDVA and in the best interests of the state. The certification must be made annually and reported in the official minutes of the FVF meeting.
- The reversion of moneys and property held by FVF to FDVA if the foundation is no longer approved to operate, to FDVA if FVF ceases to exist, or to the state if FDVA ceases to exist.
- The disclosure of the material provisions of the contract, and the distinction between FDVA and FVF, to donors of gifts, contributions, or bequests, including disclosure on all promotional and fundraising publications.

Each year FVF must submit to FDVA its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990). Additionally, FVF must provide for an annual financial audit if its annual expenditures exceed \$100,000.¹⁸ Since FY 2011-12, FVF's expenditures have exceeded \$100,000.¹⁹

Staff Review of FVF

Section 292.055, F.S., which provides the statutory authority for the FDVA DSO, is scheduled to repeal on October 1, 2017, unless reviewed and saved from repeal by the Legislature. Staff reviewed the FVR to verify its compliance with Florida Statutes.

Staff reviewed FVF records from fiscal year 2009-2010 to present, and found that FVF is an active DSO that supports FDVA primarily by providing emergency financial assistance and outreach programs to Florida veterans. Staff identified five deficiencies in which FDVA and FVF were not in full compliance with applicable Florida Statutes, including FVF's code of ethics which did not include the standards of conduct and disclosures required by s. 112.3251, F.S. The deficiencies were administrative or procedural. FDVA and FVF have resolved each deficiency and intend to comply with applicable Florida Statutes moving forward.

Effect of Proposed Changes

The bill amends s. 292.055, F.S., to remove the scheduled repeal of FDVA's DSO, which is scheduled to repeal on October 1, 2017.

B. SECTION DIRECTORY:

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| Section 1 | Amends s. 292.055, F.S., saving from repeal the FDVA DSO, which is scheduled to repeal on October 1, 2017. |
| Section 2 | Provides an effective date of July 1, 2017. |

¹⁶ See s. 292.055(3), F.S.

¹⁷ Section 292.055(4), F.S.

¹⁸ Section 292.055(8), F.S.

¹⁹ Data retrieved from FVF's IRS Form 990 for FY 2009-10 through FY 2014-15 and FVF's annual financial audit for FY 2014-16.

The FVF's FY 2015-16 IRS Form 990 is not yet available. On file with staff of the Local, Federal & Veterans Affairs Subcommittee.

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:

By saving the DSO from repeal, veterans have another source for financial and direct assistance.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

Appendix A

Table 1: Florida Veterans Foundation Total Annual Revenues²⁰
FY 2009-10 through FY 2015-16

Fiscal Year	<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>
Total Revenue	\$129,018	\$65,448	\$239,700	\$392,404	\$257,333	\$335,407	\$837,447	\$2,256,757

Table 2: Florida Veterans Foundation Total Annual Expenditures²¹
FY 2009-10 Through FY 2015-16

Fiscal Year	<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>
DSO Service Expenses	\$59,665	\$20,664	\$107,361	\$134,285	\$248,515	\$210,402	\$468,385	\$1,249,277
Administrative Expenses	\$18,066	\$30,061	\$50,929	\$70,490	\$102,903	\$101,358	\$179,659	\$535,616
Fundraising Expenses	\$0	\$0	\$0	\$0	\$31,850	\$8,129	\$1,788	\$41,767
Total Expenditures	\$77,731	\$50,725	\$158,290	\$204,775	\$383,268	\$319,889	\$649,832	\$1,844,510

²⁰ 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.

²¹ 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.