

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 Appropriations

BILL: CS/SB 7062

INTRODUCER: Appropriations Committee; Agriculture Committee

SUBJECT: Citizen Support Organizations and Direct-support Organizations

DATE: April 22, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Akhavein</u>	<u>Becker</u>		AG Submitted as Committee Bill
1.	<u>Blizzard</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Favorable
2.	<u>Blizzard</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7062 removes the scheduled repeal date of the laws authorizing the Florida Department of Agriculture and Consumer Services (DACCS) and the Department of Education (DOE) to establish direct-support organizations (DSOs) to provide assistance, funding, and support to assist the departments in furthering their goals. These DSOs include:

- Friends of the Florida State Forests;
- Forestry Arson Alert Association, Inc.;
- Florida Agricultural Museum;
- Florida Agriculture in the Classroom, Inc.;
- Florida Agriculture Center and Horse Park Authority;
- Living Healthy in Florida, Inc.; and
- Florida Endowment for Vocational Rehabilitation.

The bill also extends the repeal date for the Friends of the Babcock Ranch Preserve, Inc., which serves as a citizen support organization (CSO) within the DACCS, and the Florida Beef Council, Inc., an established DSO of the DACCS, from October 1, 2019, to October 1, 2024.

Additionally, the bill removes the scheduled repeal of the Florida Endowment for Vocational Rehabilitation (Foundation or The Able Trust), which is a direct-support organization for the Division of Vocational Rehabilitation within the Department of Education.

Professional staff of the Senate Committee on Agriculture and the Senate Education Committee viewed documents related to the DSOs and the CSO for compliance with the authorizing and accountability statutes and finds that they are in compliance with statutory requirements.

The bill has no impact on state funds.

The bill takes effect July 1, 2019.

II. Present Situation:

Citizen Support Organizations and Direct-Support Organizations

DSOs and CSOs are statutorily created non-profit organizations¹ authorized to assist or support governmental entities in carrying out their duties. The function and purpose of a DSO or CSO is prescribed by an enacting statute and a written contract with the agency the DSO or CSO supports.²

Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for DSOs and CSOs.³ Specifically, the law requires each DSO or CSO to annually submit the following information to the appropriate agency by August 1:⁴

- 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 ethics code; and
- A copy of the organization's most recent Internal Revenue Service (IRS) Form 990.⁵

Each agency receiving information from a DSO or CSO pursuant to law must make such information available to the public through the agency's website.⁶ If the organization maintains a website, the agency's website must provide a link to the organization's website.⁷ Any contract between an agency and a DSO or CSO must be contingent upon the DSO or CSO submitting and posting the required information to the agency as specified in law.⁸ If a DSO or CSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate any contract between the agency and the DSO or CSO.⁹

¹ Chapter 617, F.S.

² See ss. 14.29(9)(a), 16.616(1), and 258.015(1), F.S. See also Rules of the Florida Auditor General, *Audits of Certain Nonprofit Organizations* (effective June 30, 2016), Rule 10.720(1)(b) and (d), available at http://www.myflorida.com/audgen/pages/pdf_files/10_700.pdf (Last visited February 28, 2019).

³ Section 3, ch. 2014-96, L.O.F.

⁴ Section 20.058(1), F.S.

⁵ 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 C.F.R. 1.6033-2.

⁶ Section 20.058(2), F.S.

⁷ *Id.*

⁸ Section 20.058(4), F.S.

⁹ *Id.*

By August 15 of each year, the agency must report to the Governor, President of the Senate, Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability (OPPAGA) the information submitted by each DSO and CSO along with the agency's recommendation and supporting rationale to continue, terminate, or modify the agency's association with the DSO or CSO.¹⁰

Any law creating, or authorizing the creation of a DSO or CSO must state that the authorization for the organization repeals on October 1 of the 5th year after enactment unless reviewed and reenacted by the Legislature. All DSOs and CSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019.¹¹

Audit Requirements

Section 215.981, F.S., requires each DSO or CSO with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.¹² An independent certified public accountant in accordance with rules adopted by the Auditor General must conduct the audit. 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 DSO or CSO supports.¹³ 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 reviews of a DSO's or CSO's accounts and records.¹⁴

Ethics Code Requirement

Section 112.3251, F.S., requires DSOs and CSOs to adopt a code of ethics. The code of ethics must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S.¹⁵ A DSO or CSO may adopt additional or more stringent standards of conduct and disclosure requirements and must post its code of ethics on its website.¹⁶

Department of Agriculture and Consumer Services (DACS)

The DACS supports and promotes Florida agriculture, protects the environment, safeguards consumers, and ensures the safety and wholesomeness of food.¹⁷ The following DSOs assist or support the DACS in carrying out its duties:

- **Friends of the Florida State Forests** – Through community support, it assists the Florida Forest Service to expand opportunities for recreation (hunting, horseback riding, hiking, Off

¹⁰ Section 20.058(3), F.S.

¹¹ Section 20.058(5), F.S.

¹² The independent audit requirement does not apply to a 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 DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

¹³ Section 215.981(1), F.S.

¹⁴ Section 11.45(3), F.S.

¹⁵ 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.

¹⁶ Section 112.3251, F.S.

¹⁷ <https://www.freshfromflorida.com/About/>

Highway Vehicle, etc.), environmental education, and forest management within Florida's state forests.

- **Forestry Arson Alert Association, Inc.** – Through internal and external support, it helps reduce the incidence of wildland arson by making it possible to offer rewards for information leading to arrests of arsonists. It also increases public awareness about wildland arson and the destruction it can cause.
- **Florida Agricultural Museum** - With the assistance of volunteers, it preserves Florida's agricultural past, interprets agricultural issues of yesterday, today, and tomorrow, and educates the public about those issues through enjoyable experiences such as guided horseback trail rides, farmers markets, and learning about Florida's rare heritage Cracker cattle, horses, and sheep.
- **Florida Agriculture in the Classroom, Inc. (FAITC)** – The agriculture specialty license plate funds FAITC's ability to reach out to teachers and students in kindergarten through 12th grade. FAITC maintains a website of more than 100 agriculture-related lessons and activities, teacher school garden workshops and related farm tours on how to use agriculture lessons to teach core subjects, school garden curricula and grants programs, and the elementary school reading program, Florida Agriculture Literacy Day.
- **Florida Agriculture Center and Horse Park Authority** – Through internal and external support, it is a recreational and sporting organization dedicated to developing an international facility with opportunities for equine, agriculture, livestock, recreation, and educational events.
- **Living Healthy in Florida, Inc.** – Seventeen private sector partners work with numerous state agencies, individuals, organizations, and communities to share ideas and best practices to optimize health and wellness.
- **Florida Beef Council, Inc.** – The federal Beef Promotion and Research Act was passed as part of the 1985 Farm Bill and provides the mission and the base for development of a producer-funded beef promotion and research program, the national Beef Checkoff Program, aimed at building demand for beef and beef products, both domestically and internationally.¹⁸ The act required cattle producers to pay a fee, or “checkoff” on all sales of cattle to fund advertisements for the cattle industry. This act was challenged by cattle producers who disagreed with the content of those advertisements and brought action against the United States Department of Agriculture alleging that the government-required fee for advertising violated their First Amendment right to free speech. In response to this challenge, the Florida cattle industry worked with the Legislature to create the Beef Market Development Act in the event that they decided to hold a referendum to start a state “checkoff” program. The act included the Florida Beef Council, Inc., which was created to operate as a DSO within the DACS. Since the original federal challenge was not successful, there has not been a need for the DACS to utilize the council. There is currently another challenge before the United States Court of Appeals for the Ninth Circuit, and therefore the Florida producers have requested that the DSO remain in statute in the event that they decide to move forward with a state program.¹⁹

The following CSO assists or supports the DACS in carrying out its duties:

¹⁸ https://www.beefboard.org/library/beefact_order.asp (Last visited February 28, 2019).

¹⁹ Information provided by the Department of Agriculture and Consumer Services on file in the Senate Agriculture office.

- Friends of the Babcock Ranch Preserve, Inc.** – The Babcock Ranch acquisition was one of the largest preservation purchases in the history of Florida and was made possible through the Babcock Ranch Preserve Act that was passed by the Legislature in 2006. The Act authorized the Babcock Ranch Preserve (Preserve) as a working ranch and to protect regionally important water resources, diverse natural habitats, scenic landscapes and historic and cultural resources in southwest Florida. Public recreational opportunities include hunting, hiking, wildlife viewing, bicycling, fishing, camping and horseback riding.²⁰ Section 259.10521, F.S., authorizes the creation of a CSO to 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. It may also make expenditures to or for the direct or indirect benefit of the Preserve. The Friends of the Babcock Ranch Preserve, Inc., will be established when the sale agreement for the Preserve is completed. The DACS anticipates the CSO will be in place before the end of the year.²¹

Department of Education - Division of Vocational Rehabilitation

Vocational Rehabilitation (VR) is a federal-state program that helps people who have physical or mental disabilities get or keep a job. VR is committed to helping people with disabilities find meaningful careers.²²

The Division of Vocational Rehabilitation (DVR) is one of several divisions within the Department of Education (DOE).²³ The DVR is the administrative unit designated at the state level to ensure compliance with the Vocational Rehabilitation Act of 1973, as amended.²⁴ The DVR's mission is "to help people with disabilities find and maintain employment and enhance their independence."²⁵

Florida Endowment Foundation for Vocational Rehabilitation

In 1990, the Legislature created the Foundation²⁶ as a direct-support organization of the DVR within the DOE, for the purpose of encouraging public and private support to enhance vocational rehabilitation and employment of citizens who are disabled.²⁷ The Able Trust endowment fund was created as a long-term, stable, and growing source of revenue to be administered by the Foundation as a direct-support organization of the DVR.²⁸

The Foundation operates under contract with the DVR to exclusively raise funds; submit requests and receive grants from the Federal Government, the state, private foundations, and individuals; and to receive, hold, and administer property.

²⁰ April 4, 2013, analysis of CS/CS/SB 1628.

²¹ Information provided by the Department of Agriculture and Consumer Services on file in the Senate Agriculture office.

²² Florida Division of Vocational Rehabilitation, *Frequently Asked Questions*, <http://www.rehabworks.org/faq.shtml> (last visited Feb. 26, 2019).

²³ Section 20.15(3)(d), F.S.

²⁴ Section 413.202, F.S.

²⁵ Florida Division of Vocational Rehabilitation, <http://www.rehabworks.org/> (last visited Feb. 26, 2019).

²⁶ The Foundation conducts business as The Able Trust. The Able Trust, <http://www.abletrust.org/> (last visited Feb. 26, 2019).

²⁷ Section 9, ch. 90-330, L.O.F., codified as s. 413.615(5), F.S.

²⁸ Section 413.615(4), F.S.

The authorizing statute for the Foundation is scheduled for repeal October 1, 2019, unless reviewed and reenacted by the Legislature.²⁹

III. Effect of Proposed Changes:

Section 1 amends s. 259.10521, F.S., to extend the repeal date for the Friends of the Babcock Ranch Preserve, Inc., which serves as the citizen support organization within the DACS from October 1, 2019 to October 1, 2024.

Section 2 amends s. 413.615, F.S., to remove the scheduled repeal date for the Florida Endowment for Vocational Rehabilitation (The Able Trust) which serves as a DSO for the Division of Vocational Rehabilitation within the DOE.

Section 3 amends s. 570.83, F.S., to extend the scheduled repeal date for the law governing the Florida Beef Council, Inc., which serves as the direct-support organization within the DACS from October 1, 2019, to October 1, 2024.

Section 4 amends s. 570.691, F.S., to remove the scheduled repeal date for the law governing the following direct-support organizations within the DACS:

- Friends of the Florida State Forests;
- Forestry Arson Alert Association, Inc.;
- Florida Agricultural Museum;
- Florida Agriculture in the Classroom, Inc.;
- Florida Agriculture Center and Horse Park Authority; and
- Living Healthy in Florida, Inc.

Section 5 provides that this act shall take effect July 1, 2019.

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.

²⁹ Section 413.615(14), F.S.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By saving the statute governing the DSOs within the DACS from repeal, the bill provides citizens with public recreational and educational opportunities relating to agriculture.

Additionally, by saving the statute governing the Foundation within the DOE, the bill sustains a source of financial and other direct assistance for individuals who are disabled.

C. Government Sector Impact:

The bill has no fiscal impact on state funds. By saving the statutes governing the department's DSOs and the CSO from repeal, the bill provides support and assistance to the DACS in forest and land management and provides instructional agricultural activities for teachers and students. Additionally, these statutes provide for the development of a beef promotion and research program and help to reduce the incidence of wildland arson by incentivizing the public to provide information leading to arrests of arsonists.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 259.10521, 413.615, 570.83, and 570.691.

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 Appropriations on April 18, 2019:

The committee substitute extends the scheduled repeal date for the law governing the Florida Beef Council, Inc., which serves as a DSO within the DACS, from October 1,

2019, to October 1, 2024, and saves from repeal, the Florida Endowment for Vocational Rehabilitation (The Able Trust), which serves as a DSO in the DOE.

B. Amendments:

None.

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