

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: SPB 7074

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: Support Organizations

DATE: March 11, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Peacock/Ponder</u>	<u>McVaney</u>	_____	GO Submitted as Comm. Bill/Fav

I. Summary:

SPB 7074 removes the scheduled repeal of provisions governing citizen support organizations established under the Department of State and repeals s. 288.809, F.S., which created Florida Intergovernmental Relations Foundation, a direct support organization under the Executive Office of the Governor.

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2019.

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 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.

CSO and DSO Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., to establish a comprehensive set of transparency and reporting requirements for CSOs and DSOs that are created or authorized pursuant to law or executive order and created, approved, or administered by a state agency.¹ Specifically, the law requires each CSO and DSO to annually submit, by August 1, the following information related to its organization, mission, and finances to the agency it supports:²

- The name, mailing address, telephone number, and website address of the organization;

¹ Chapter 2014-96, Laws of Fla.

² Section 20.058(1), F.S.

- 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).³

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 must terminate the contract with the CSO or DSO.⁶ 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.⁷

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 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 CSO or DSO.⁸

Lastly, a law creating or authorizing the creation of a CSO or DSO must state that the creation or authorization for the CSO or DSO is repealed 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, 2019.⁹

CSO and DSO Audit Requirements

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.¹⁰ 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 CSO or DSO. 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.

³ 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.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ Section 20.058(3), F.S.

⁹ Section 20.058(5), F.S.

¹⁰ 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.

Additionally, the Auditor General may conduct audits or other engagements of the accounts and records of the CSO or DSO, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee.¹¹ The Auditor General is authorized to require and receive any records from the CSO or DSO, or its independent auditor.¹²

CSO and DSO Ethics Code Requirement

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 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.¹³

Department of State

The head of the Department of State is the Secretary of State.¹⁴ The Secretary of State is appointed by the Governor, subject to confirmation by the Senate, and serves at the pleasure of the Governor. The Secretary of State performs functions conferred by the State Constitution upon the custodian of records. The Department is composed of the following divisions: Elections, Historical Resources, Corporations, Library and Information Services, Cultural Affairs, and Administration.

The Division of Cultural Affairs

The Division of Cultural Affairs is Florida's designated state arts agency. The Division promotes arts and culture as essential to the quality of life for all Floridians. To promote excellence and encourage access to cultural opportunities, the Division provides funding, programs and resources, including grants for: arts in education, local arts agencies, state service organizations, museums, theater, dance, folk arts, literature, media arts, multidisciplinary, music, sponsor/presenter, and visual arts programs and projects. The Division of Cultural Affairs also administers the Museum of Florida History and has its offices in the historic Brokaw-McDougall House.¹⁵

Division of Historical Resources

The Division of Historical Resources is responsible for preserving and promoting Florida's historical, archaeological, and folk culture resources. The Division Director's Office oversees a Historic Preservation Grants program to help preserve and maintain Florida's historic buildings and archaeological sites, coordinates outreach programs, such as the State Historical Markers program and Florida Folklife program which identifies and promotes the state's traditional

¹¹ Section 11.45(3)(d), F.S.

¹² *Id.*

¹³ Section 112.3251, F.S.

¹⁴ Section 20.10, F.S.

¹⁵ Florida Department of State, Division of Cultural Affairs, About Us, Mission, available at <https://dos.myflorida.com/cultural/about-us/mission/> (last visited on Dec. 18, 2018).

culture. The Division director serves as the State Historic Preservation Officer, acting as the liaison with the national historic preservation program conducted by the National Park Service.¹⁶

The Division of Historical Resources is comprised of the Bureau of Historic Preservation (BHP) and the Bureau of Archaeological Research (BAR). The BHP manages the Florida Main Street Program, and under federal and state laws, oversees the National Register of Historic Places program for Florida, maintains an inventory of the state's historical resources in the Florida Master Site File, assists applicants in federal tax benefit and local government ad valorem tax relief programs for historic buildings, and reviews the impact that development projects may have on significant historic resources. The BAR is responsible for the state's archaeological programs, including surveys and excavations throughout the state, maintenance of records on historical resources that have been recorded, and assistance to consultants and planners in protecting sites.¹⁷

Division of Library and Information Services

The Division of Library and Information Services manages the State Library and Archives, supports public libraries, directs record management services, and is the designated information resource provider for the state of Florida.¹⁸

The Division may receive gifts of money, books, or other property and may purchase books, periodicals, furniture, and equipment it deems necessary to carry out its mission. The Division may also give aid and assistance to all school, state, academic, free, and public libraries, and to all communities in the state which may establish libraries. The Division is required to maintain a library for state officials and employees and provide research and informational services for all state agencies. The Division must also provide library services to blind and physically handicapped persons within the state.¹⁹

CSO Authority for the Department of State

The Department of State is authorized to create CSOs for its Divisions of Cultural Affairs, Historical Resources, and Library and Information Services.

Division of Cultural Affairs

Section 265.703(1), F.S., authorizes the Department of State to create CSOs to provide assistance, funding, and promotional support for the cultural, arts, historical, and museum programs of the Division of Cultural Affairs. The CSOs must be:

- A Florida corporation, not for profit, incorporated under the provisions of Chapter 617, F.S., 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

¹⁶ Florida Department of State, Division of Historical Resources, About, Program Areas, available at <https://dos.myflorida.com/historical/about/program-areas/> (last visited on Dec. 18, 2018).

¹⁷ *Id.*

¹⁸ Florida Department of State, Division of Library and Information Services, available at <https://dos.myflorida.com/library-archives/> (last visited on Dec. 18, 2018).

¹⁹ Section 257.04, F.S.

name, securities, funds, objects of value, or other property, real and personal; and make expenditures to or for the direct or indirect benefit of the division or individual program units of the division;

- Determined by the division to be consistent with the goals of the division and in the best interests of the state; and
- Approved in writing by the division to operate for the direct or indirect benefit of the division. This approval must be provided in a letter of agreement from the division.²⁰

The statutory authority for the Department of State's Division of Cultural Affairs CSOs is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.²¹

Division of Historical Resources

Section 267.17(1), F.S., authorizes the Department of State to create CSOs to provide assistance, funding, and promotional support for the archaeology, museum, folklife, and historic preservation programs of the Division of Historical Resources. The CSOs must be:

- A Florida corporation, not for profit, incorporated under the provisions of Chapter 617, F.S., 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 and personal; and make expenditures to or for the direct or indirect benefit of the division or individual program units of the division;
- Determined by the division to be consistent with the goals of the division and in the best interests of the state; and
- Approved in writing by the division to operate for the direct or indirect benefit of the division. This approval must be provided in a letter of agreement from the division.²²

The statutory authority for the Department of State's Division of Historical Resources CSOs is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.²³

Division of Library and Information Services

Section 257.43(1), F.S., authorizes the Department of State to create a CSO to provide assistance, funding, and promotional support for the library, archives, and records management programs of the Division of Library and Information Services. The CSO must be:

- A Florida corporation, not for profit, incorporated under the provisions of Chapter 617, F.S., 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 and personal; and make

²⁰ Section 265.703(1)(a) – (d), F.S.

²¹ Section 265.703(4), F.S.

²² Section 267.17(1)(a) – (d), F.S.

²³ Section 267.17(4), F.S.

expenditures to or for the direct or indirect benefit of the division or individual program units of the division;

- Determined by the division to be consistent with the goals of the division and in the best interests of the state; and
- Approved in writing by the division to operate for the direct or indirect benefit of the division. This approval must be provided in a letter of agreement from the division.²⁴

The statutory authority for the Department of State's Division of Library and Information Services CSO is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.²⁵

CSOs for the Department of State

The Department of State has four CSOs: Citizens for Florida Arts, Inc., Friends of Florida History, Inc., Friends of the Museums of Florida History, Inc., and Friends of the State Library and Archives of Florida, Inc.

Citizens for Florida Arts, Inc.²⁶

Citizens for Florida Arts, Inc., is a CSO created to partner with and enhance efforts of the Florida Division of Cultural Affairs, while helping sustain and foster recognition of the arts in Florida. The organization provides critical support for the Division of Cultural Affairs' activities and programs, such as the Florida Artists Hall of Fame, Poetry Out Loud, Art in State Buildings, and Diversity and Inclusion Awards.²⁷

Friends of Florida History, Inc.²⁸

The Friends of Florida History, Inc., is a CSO established to promote and enhance the archaeology, historic sites, museums, folklife, and historic preservation programs of the Division of Historical Resources for the people of Florida. This CSO is the result of the consolidation of the following CSOs: Friends of Florida History and Archaeology, Inc., Friends of Florida Main Street, Inc., and Friends of Mission San Luis, Inc. The Friends of Florida History, Inc. serves as support to the Division of Historical Resources in its efforts to implement and manage programs designed to create statewide impact and position Florida as a national leader in historic preservation.

Friends of the Museums of Florida, Inc.²⁹

The Friends of the Museums of Florida, Inc., is a CSO created to enhance and perpetuate programs of the Museum of Florida History and the Knott House Museum both located in Tallahassee, FL. This CSO provides instrumental support attracting Florida's citizens and visitors to these museum sites and promoting museum events, programs, and services.

²⁴ Section 257.43(1)(a) – (d), F.S.

²⁵ Section 257.43(4), F.S.

²⁶ Section 265.703, F.S., provides statutory authority for the organization.

²⁷ Florida Department of State, Division of Cultural Affairs, Programs, available at <https://www.dos.myflorida.com/cultural/programs/> (last visited on Dec. 18, 2018).

²⁸ Section 267.17, F.S., provides statutory authority for the organization.

²⁹ Section 265.703, F.S., provides statutory support for the organization.

Friends of the State Library and Archives of Florida, Inc.³⁰

The Friends of the State Library and Archives of Florida, Inc., is a CSO established to promote and enhance the programs and services of the Division of Library and Information Services for the benefit of Florida's residents. This CSO supports expanding public access to knowledge, cultural heritage and information so that Floridians achieve their personal, educational and professional goals.

Senate Professional Staff Review of the Department of State's CSOs

Sections 257.43, 265.703, and 267.17, F.S., the statutory authority for the Department of State's CSOs, are scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature. Professional staff of the Senate Committee on Governmental Oversight and Accountability reviewed the agency's CSOs to verify their compliance with applicable Florida Statutes.

Professional staff of the Senate Committee on Governmental Oversight and Accountability requested information from the Department of State to verify the compliance of the four CSOs (Citizens for Florida Arts, Inc., Friends of Florida History, Inc., Friends of the Museums of Florida History, Inc., and Friends of the State Library and Archives of Florida, Inc.) with applicable Florida Statutes. The Department of State provided staff with information and documentation regarding these CSOs.

Senate professional staff reviewed relevant records from these CSOs for Fiscal Years 2014-2015, 2015-2016, 2016-2017, and 2017 -2018 and found that these organizations were active CSOs that support the Department of State's Divisions of Cultural Affairs, Historical Resources, and Library and Information Services.

Additionally, professional staff of the Senate Committee on Governmental Oversight and Accountability requested information from the Department of State on the CSOs (Friends of Florida History and Archaeology, Inc., Friends of Florida Main Street, Inc., and Friends of Mission San Luis, Inc.) that were consolidated into the Friends of Florida History, Inc. CSO to verify their compliance with applicable Florida Statutes while those CSOs were active.

Transparency and Reporting Requirements

The Citizens for Florida Arts, Inc., Friends of Florida History, Inc., Friends of the Museums of Florida History, Inc., and Friends of the State Library and Archives of Florida, Inc. complied with the following CSO transparency and reporting requirements of s. 20.058, F.S.:

- Annual submission, by August 1, of required information related to the CSOs' organization, mission and finances to the Department of State;
- Posting of required information relating to the CSOs' organization, mission, and finances on the Department of State's website;³¹

³⁰ Section 257.43, F.S., provides statutory authority for the organization.

³¹ See the Florida Fiscal Portal, Department of State, Fiscal Year 2018-19 Citizen-Support and Direct-Support Organization Report, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=18051&DocType=PDF> (last visited Feb. 28, 2019).

- A brief description of the CSOs' plans for the next three fiscal years;
- A copy of the CSOs' code of ethics;
- A copy of the CSOs' most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax Form (Form 990); and
- Annual report, by August 15, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the OPPAGA, including recommendations by the Department of State to continue its association with the Citizens for Florida Arts, Inc., Friends of Florida History, Inc., Friends of the Museums of Florida History, Inc., and Friends of the State Library and Archives of Florida, Inc..

Audit Requirement

The expenditures for three of the Department of State's CSOs (The Citizens for Florida Arts, Inc., Friends of Florida History, Inc., and Friends of the Museums of Florida History, Inc.) were in excess of \$100,000 and an audit pursuant to s. 215.981, F.S., was completed for each of the reviewed fiscal years.

The annual expenditures of the Friends of the State Library and Archives of Florida, Inc. CSO were less than \$100,000, and an audit pursuant to s. 215.981, F.S., was not required for each of the reviewed fiscal years.

Ethics Code Requirement

The Citizens for Florida Arts, Inc., Friends of Florida History, Inc., and Friends of the Museums of Florida History, Inc., adopted an ethics code pursuant to s. 112.3251, F.S.

Adoption of an ethics code was listed as pending in all annual reports filed pursuant to s. 20.058, F.S., by Friends of the State Library and Archives of Florida, Inc., except for the FY 2017 – 2018 report. The CSO's board had adopted an ethics code in July 2014; however, this ethics code had not been updated since that time. The Department of State indicated that an updated ethics code would be adopted by the CSO's board.

CSO Review Findings – Friends of the State Library and Archives, Inc.

It appears that Friends of the State Library and Archives, Inc. was inactive for several years as its board did not hold any meetings in FY 2015-2016, FY 2016-2017, and FY 2017-2018. The Department of State informed the Senate Committee on Governmental Oversight and Accountability that the CSO's board would begin holding meetings in December 2018.

Also, the Friends of the State Library and Archives of Florida, Inc. did not have a letter of agreement with the Department of State for 2018 – 2019 fiscal year in accordance with s. 257.43(1)(d), F.S. Its most recent annual letter of agreement was dated July 29, 2017, for the 2017 – 2018 fiscal year. The Department of State indicated that a new letter of agreement between this CSO and the Department of State will be executed.

Recommendation

The Department of State has recommended that the agency's four CSOs (Citizens for Florida Arts, Inc., Friends of Florida History, Inc., Friends of the Museums of Florida History, Inc., and

Friends of the State Library and Archives of Florida, Inc.) be continued as these CSOs promote and enhance the programs and services of the agency's Divisions of Cultural Affairs, Historical Resources, and Library and Information Services.³²

Executive Office of the Governor

The Executive Office of the Governor was established by Chapter 79-190, Laws of Florida.³³ The Governor is the supreme executive power in the state. Article IV, Section 1(a) of the Florida Constitution provides, in part, that he "shall take care that the laws be faithfully executed, commission all officers of the state and counties, and transact all necessary business with the officers of the government." The Governor is also the chief administrative officer of the state responsible for the planning and budgeting for the state.³⁴ Additionally, the Governor informs the Legislature on the conditions of the state,³⁵ directs executive programs, and participates with the Cabinet.³⁶

Intergovernmental Relations and the State Protocol Officer

The Department of Economic Opportunity³⁷ is authorized to establish and operate offices in other countries for the purpose of promoting trade and economic development opportunities of the state, and promoting the gathering of trade data information and research on trade opportunities in specific countries.³⁸

The Governor may designate a state protocol officer. The state protocol officer is housed within the Executive Office of the Governor. In consultation with the Governor and other governmental officials, the state protocol officer must develop, maintain, publish, and distribute the state protocol manual.³⁹ The state protocol officer is responsible for all consular relations between the state and all foreign governments doing business in Florida.⁴⁰ The state protocol officer also serves as contact for the state with the Florida Washington Office, the Florida Congressional Delegation, and U.S. government agencies with respect to laws or policies which may affect the interests of the state in the area of international relations.⁴¹ From 2014 through 2018, the Executive Office of the Governor under Governor Rick Scott designated a state protocol officer.

The Florida Intergovernmental Relations Foundation

The Florida Intergovernmental Relations Foundation (FIRF) is located within the Executive Office of the Governor and created pursuant to s. 288.809, F.S. The FIRF is organized and operated exclusively to solicit, receive, hold, invest, and administer property and to make

³² *Id.*

³³ Section 14.201, F.S. The head of the Executive Office of the Governor is the Governor.

³⁴ Fla. Const. art. IV, s. 1(a). *See also* s. 216.151, F.S.

³⁵ Fla. Const. art. IV, s. 1(e).

³⁶ Section 20.03(1), F.S., provides that "cabinet" means the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, as specified in s. 4, Art. IV of the State Constitution.

³⁷ Section 20.60, F.S.

³⁸ Section 288.012(1)(a), F.S.

³⁹ Section 288.012(7), F.S.

⁴⁰ Section 288.816(2), F.S.

⁴¹ Section 288.816(4), F.S.

expenditures to or for the promotion of intergovernmental relations programs. The FIRF facilitates and strengthens Florida's economic relationships with international partners.

The FIRF is a DSO that must be:

- A Florida corporation, not for profit, incorporated under the provisions of Chapter 617, F.S., and approved by the Department of State;
- Organized and operated to solicit, receive, hold, invest and administer property and, subject to the approval of the state protocol officer, to make expenditures to or for the promotion of intergovernmental relations programs; and
- Certified by the state protocol officer, after review, to be operating in a manner consistent with the policies and goals of the state protocol officer.⁴²

For use of property of the FIRF, the state protocol officer:

- May permit the use of property, facilities, and personal services of the Executive Office of the Governor by the FIRF, subject to this section;
- Must prescribe conditions with which the FIRF must comply in order to use property, facilities, or personal services of the Executive Office of the Governor. Such conditions shall provide for budget and audit review and for oversight by the state protocol officer; and
- Must not permit the use of property, facilities, or personal services of the FIRF if the FIRF does not provide equal employment opportunities to all persons, regardless of race, color, national origin, sex, age, or religion.⁴³

The FIRF must have a board of directors. The board is composed of seven members appointed by the Governor, of whom no more than three shall be employees or elected officials of the state.⁴⁴

Additionally, the FIRF must comply with the audit requirements for DSOs contained in s. 215.981, F.S.⁴⁵ The identity of a donor or prospective donor to the FIRF who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. 119.701(1), F.S., and s. 24(a), Art. I of the State Constitution. Such anonymity must be maintained in the auditor's report.⁴⁶

The statutory authority for the FIRF is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.⁴⁷

Senate Professional Staff Review of the Florida Intergovernmental Relations Foundation

Section 288.809, F.S., the statutory authority for the FIRF, is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.

⁴² Section 288.809(1), F.S.

⁴³ Section 288.809(2), F.S.

⁴⁴ Section 288.809(3), F.S.

⁴⁵ Section 288.809(4), F.S.

⁴⁶ *Id.*

⁴⁷ Section 288.809(5), F.S.

Professional staff of the Senate Committee on Governmental Oversight and Accountability requested information from the Executive Office of the Governor to verify the FIRF's compliance with applicable Florida Statutes. The Executive Office of the Governor provided staff with information and documentation regarding the FIRF.

The FIRF has been inactive from fiscal year 2015 through fiscal year 2018. The original source of funds for this organization was from private donations and interest accrued from a money market account that was closed in December 2014. No donations have been received from 2015 through 2018. The current bank account balance for the FIRF's funds is approximately \$8,709.99. The expenditures for the FIRF from July 2014 through June 2018 were approximately \$558.16.

Transparency and Reporting Requirements

The FIRF complied with the following DSO transparency and reporting requirements of s. 20.058, F.S.:

- Annual submission, by August 1, of required information related to FIRF's organization, mission and finances to the Executive Office of the Governor;
- Posting of required information relating to FIRF's organization, mission, and finances on the Executive Office of the Governor's website;⁴⁸
- Annual report, by August 15, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the OPPAGA, including recommendation by the Executive Office of the Governor to continue its association with the FIRF; and
- Annual submission of copy of FIRF most recent federal IRS Return of Organization Form 990.

The FIRF did not, however, include a brief description of the organization's plans for the next three fiscal years in its annual submission as required by s. 20.058(1)(d), F.S.

Although the FIRF had developed policies and procedures to address some of the requirements contained in s. 288.809, F.S., the organization did not have a contract with the Executive Office of the Governor in accordance with s. 20.058(4), F.S. Such contract must include a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the organization within 30 days after its authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁴⁹ The contract must also be contingent upon the FIRF submitting and posting the required information related to its organization, mission, and finances.⁵⁰

Audit Requirement

The FIRF expenditures were less than \$100,000, and an audit pursuant to s. 215.981, F.S., was not required.

⁴⁸ See the Florida Fiscal Portal, Governor, Executive Office of the, Fiscal Year 2018-19 Citizen-Support and Direct-Support Organization Report, available at <http://floridafiscalportal.state.fl.us/Publications.aspx?AgyID=3100>.

⁴⁹ Section 20.058(4), F.S.

⁵⁰ *Id.*

Ethics Code Requirement

It is unclear whether the FIRF adopted an ethics code pursuant to s. 112.3251, F.S. A copy of the ethics code for the Executive Office of the Governor is posted with the FIRF information on the Executive Office of the Governor's website for CSO and DSO Reports for Fiscal Year 2018 - 19.⁵¹ The policy statement of the Governor's ethics code states that this code "applies to the secretaries, deputy secretaries, and chiefs of staff of all executive agencies under the purview of the Governor."

Section 288.809, F.S. Requirements

The FIRF was in partial compliance with the following s. 288.809, F.S., requirements:

- The FIRF is incorporated as a Florida not for profit corporation; however, the articles of incorporation for the FIRF, dated June 21, 1996, state that the board of directors must be appointed by the Secretary of State. The articles of incorporation need to be updated as current law requires the Governor to appoint the board of directors for the FIRF;⁵² and
- The FIRF only has 4 board of directors members. Three of these members are employees of the Executive Office of the Governor office. Seven board members are required.⁵³

Although the FIRF had no significant activity from the 2015 fiscal year through the 2018 fiscal year, the required certification by the state protocol officer for the FIRF's operation was not completed pursuant to s. 288.809(1)(a)3., F.S.

Because no audit was required for the FIRF and the organization had minimal expenses, it appears that the budget and audit review of the FIRF, along with oversight review of the organization by the state protocol officer, as required by s. 288.809(2)(b), F.S., was sufficient.

The FIRF is in compliance with the equal employment opportunities requirement contained in s. 288.809(2)(c), F.S., as the FIRF does not employ any personnel. The Executive Office of the Governor provided a copy of its affirmative action plan and state guidelines that all employees are required to follow.

Additional Finding

The state protocol manual had not been developed, maintained, published, and distributed as required by s. 288.012(7), F.S.

Recommendation

The Executive Office of the Governor did not make a recommendation as to whether the FIRF support organization should continue operating.

⁵¹ See *supra* note 29.

⁵² In 2004, the FIFR was transferred from the Department of State to the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor. See Ch. 2004-242, ss. 1 and 8, Laws of Fla.

⁵³ The FIFR board of directors did not meet during the 2015 through 2018 fiscal years.

III. Effect of Proposed Changes:

Sections 1, 2, 3 amend ss. 257.43, 265.703, and 267.17, F.S., respectively, to delete the scheduled repeal of provisions governing the Department of State's CSOs, which are currently scheduled for repeal on October 1, 2019, allowing the support organizations to continue operating.

Section 4 provides that s. 288.809, F.S., which created the FIRF, a direct support organization, is repealed effective October 1, 2019.

Section 5 requires the Executive Office of the Governor and the FIRF to ensure any funds of the foundation remaining following satisfaction of any liabilities be transferred to the Florida International Trade and Promotion Trust Fund within the Department of Economic Opportunity by September 15, 2019.

Section 6 provides an effective date of July 1, 2019.

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:**

None.

B. Private Sector Impact:

By saving the CSOs under the Department of State from repeal, the bill sustains sources of financial assistance to, and supports the functions of Citizens for Florida Arts, Inc., Friends of Florida History, Inc., Friends of the Museums of Florida History, Inc., and Friends of the State Library and Archives of Florida, Inc.

By repealing FIRF, the DSO will experience an impact as it satisfies its liabilities, if any, and prepares to end its operations.

C. Government Sector Impact:

By saving the statute governing the Department of State's CSOs from repeal, the bill allows these CSOs to continue to benefit the department providing valuable support to assist the department in meeting its goals.

As the entity designated to receive any funds remaining following FIRF's satisfaction of liabilities, the Florida International Trade and Promotion Trust Fund within the Department of Economic Opportunity may experience a beneficial fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 257.43, 265.703, 267.17, and 288.809 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.