

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 Rules

BILL: CS/SB 7074

INTRODUCER: Rules Committee and Governmental Oversight and Accountability Committee

SUBJECT: Support Organizations

DATE: April 24, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Peacock/Ponder</u>	<u>McVaney</u>	<u>RC</u>	GO Submitted as Committee Bill
1. <u>Peacock/Ponder</u>	<u>Phelps</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7074 removes the scheduled repeal of provisions governing citizen support organizations (CSOs) established under the Department of State, Department of Environmental Protection, and the Fish and Wildlife Conservation Commission, allowing the CSOs to continue operating and providing benefits to the respective departments.

The bill repeals s. 288.809, F.S., which created Florida Intergovernmental Relations Foundation, a direct support organization (DSO) under the Executive Office of the Governor.

The bill saves from repeal the Florida Endowment for Vocational Rehabilitation, a DSO for the Division of Vocational Rehabilitation in the Department of Education.

The bill removes the scheduled repeal date of the law authorizing the Florida Department of Agriculture and Consumer Services to establish DSOs to provide assistance, funding, and support to assist the department in furthering its 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; and
- Living Healthy in Florida, Inc.

The bill requires Department of Environmental Protection to submit a report to the President of the Senate and the Speaker of the House of Representatives that examines the financial transparency, accountability, and ethics of those CSOs with annual expenditures of more than \$300,000 and those CSOs under the Florida Coastal Office, as of November 1, 2018. The report must identify any of the department's CSOs included in the report that are not in compliance with statutory requirements and describe whether the department has terminated its contracts with those organizations.

The bill extends the repeal date for the Friends of the Babcock Ranch Preserve, Inc., a CSO, and the Florida Beef Council, a DSO, within the Department of Agriculture and Consumer Services, from October 1, 2019, to October 1, 2024.

The bill authorizes courts to order a person convicted of a violation of Commission rules or orders to pay an assessment to Wildlife Alert Reward Association, Inc., allowing courts to continue an existing practice that provides a significant portion of Wildlife Alert Reward Association, Inc.'s funding. The bill authorizes Wildlife Alert Reward Association, Inc., to pay rewards from assessments collected by court order to persons who provide information leading to the arrest of a person for a violation of the Fish and Wildlife Conservation Commission rules or orders.

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

CSOs and 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;
- 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;

¹ Chapter 2014-96, Laws of Fla.

² Section 20.058(1), F.S.

- 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.

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

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.

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 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

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 April 23, 2019).

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 April 23, 2019).

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 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

¹⁷ *Id.*

¹⁸ Florida Department of State, Division of Library and Information Services, available at <https://dos.myflorida.com/library-archives/> (last visited on April 23, 2019).

¹⁹ Section 257.04, F.S.

- 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 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

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.

- 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, Florida. 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 April 23, 2019).

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
- A brief description of the CSOs' plans for the next three fiscal years;

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 April 23, 2019).

- 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., CSOs 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 four 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.

Department of Environmental Protection

The Department of Environmental Protection (DEP) is the state's lead agency for environmental management and stewardship, protecting air, water, and land in the state. The DEP's Land and Recreation programs, including the Division of Recreation and Parks, acquire and protect lands for preservation and recreation. The DEP's Ecosystem Restoration programs protect and improve water quality and aquatic resources, including Florida's coastal resources, which are coordinated through its Florida Coastal Office.

Department of Environmental Protection CSOs

A DEP CSO must be a Florida corporation not for profit, incorporated under ch. 617, F.S.⁵⁴ The DEP or the Division of Recreation and Parks must determine that the CSO is consistent with the DEP or the state park system's goals and the best interests of the state and provide in a letter of agreement its written approval of the CSO to operate for the direct or indirect benefit of the DEP or the state park system or its individual units.⁵⁵

The CSOs are organized and operated to conduct programs and activities; raise funds; collect and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer in its own name securities, funds, or real personal property; and make expenditures for the benefit of the DEP or the state park system or its individual units.⁵⁶ However, CSOs must not receive funds from the DEP by grant, gift, or contract unless specifically authorized by the Legislature.⁵⁷ Statutory requirements and Auditor General rules require an annual audit be conducted in accordance with Government Auditing Standards for the DEP's CSOs with annual expenditures above \$300,000.⁵⁸

The DEP may permit its CSOs to use the DEP property, facilities, and personnel free of charge, as long as such use is in keeping with the approved purposes of the CSO and does not unreasonably interfere with normal operations.⁵⁹ The CSO's use of state property must provide for equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.⁶⁰

The DEP holds agreements with 96 CSOs. Eighty-three CSOs support the Division of Recreation and Parks and 13 CSOs support the Florida Coastal Office.⁶¹ The statutes that authorize the CSOs for the DEP generally and for the DEP's Division of Recreation and Parks are repealed October 1, 2019, unless reviewed and saved from repeal beforehand by the Legislature.⁶²

⁵⁴ Sections 20.2551(1)(a) and 258.015(1)(a), F.S.

⁵⁵ Sections 20.2551(1)(c) and (d) and 258.015(1)(c) and (d), F.S.

⁵⁶ Sections 20.2551(1)(b) and 258.015(1)(b), F.S.

⁵⁷ Section 20.2551(1)(b), F.S.

⁵⁸ Sections 20.2551 and 215.981(2), F.S.

⁵⁹ Sections 20.2551(2) and 258.015(2), F.S.

⁶⁰ *Id.*

⁶¹ Department of Environmental Protection, *Citizen Support Organization Reports*, <https://floridadep.gov/comm/comm/content/citizen-support-organizations-reports> (last visited April 23, 2019) [hereinafter *DEP CSO Reports*].

⁶² Sections 20.2551(6) and 258.015(4), F.S.

The Division of Recreation and Parks

The Division of Recreation and Parks, or the Florida Park Service, is one of the largest park systems in the country with 175 state parks, trails, and historic sites.⁶³ The park system includes nearly 800,000 acres of land and 100 miles of beaches. Florida's state park system offers year-round outdoor activities to citizens and visitors of all ages and provides education about the state and its natural diversity.

CSOs provide numerous benefits to the DEP including fundraising, programs, activities, services, and volunteer time to assist in park operations. CSOs provide important financial support that is used by parks to purchase equipment, improve facilities, develop exhibits, and provide other enhancements to the parks. CSOs provide community outreach and educational activities to children and adults. CSOs also often provide staff assistance and volunteers when needed by state parks.⁶⁴

The Florida State Parks Foundation is a CSO that benefits the park system statewide through preservation and protection of parks, children's education, community engagement, and financial support.⁶⁵ Other CSOs benefit individual state parks by generating additional resources and support for the park. Many of these CSOs sponsor and organize events and activities, such as guided walks, kayak tours, and cultural festivals that bring visitors to the parks.

Examples of the important benefits CSOs have provided to state parks are completing significant upgrades to river boats in Wakulla Springs State Park,⁶⁶ maintaining campground laundry facilities at Florida Caverns State Park,⁶⁷ and providing trail interpretive booths at Paynes Prairie State Park.⁶⁸ Other CSOs host large events, such as the Florida Springs Fest at Silver Springs State Park, which brings music, entertainment, guest speakers, scientists, artists, and activists to the park for a two-day festival that educates visitors about Florida's springs.⁶⁹

The Florida Coastal Office

The DEP's Florida Coastal Office coordinates the protection of the state's coastal resources, including more than four million acres of submerged lands and coastal uplands, aquatic preserves and national estuarine research reserves, and coral reef resources.⁷⁰

⁶³ Florida Department of Environmental Protection, *Division of Recreation and Parks*, <https://floridadep.gov/parks> (last visited April 23, 2019).

⁶⁴ Florida State Parks, *Friend Groups*, <https://www.floridastateparks.org/friend-groups> (last visited April 23 2019).

⁶⁵ Florida Department of Environmental Protection, *Florida State Parks Foundation*, <https://www.floridastateparks.org/parks-and-trails/florida-state-parks-foundation> (last visited April 23, 2019).

⁶⁶ Florida State Parks, *Friends of Wakulla Springs State Park*, <https://www.floridastateparks.org/parks-and-trails/edward-ball-wakulla-springs-state-park/friends-wakulla-springs-state-park> (last visited April 23, 2019).

⁶⁷ Florida State Parks, *Friends of the Florida Caverns State Park*, <https://www.floridastateparks.org/parks-and-trails/friends-florida-caverns-state-park> (last visited April 23, 2019).

⁶⁸ Florida State Parks, *Friends of Paynes Prairie*, <https://www.floridastateparks.org/parks-and-trails/paynes-prairie-preserve-state-park/friends-paynes-prairie> (last visited April 23, 2019).

⁶⁹ The Friends of Silver Springs State Park, *Springs Festival*, <https://www.thefriendsofsilversprings.org/springs-festival> (last visited April 23, 2019).

⁷⁰ Florida Department of Environmental Protection, *Florida Coastal Office*, <https://floridadep.gov/fco> (last visited April 23, 2019).

The Florida Coastal Office's CSOs support and aid aquatic preserves and other managed areas through operational support provided by volunteers and financial support provided by fundraising. CSO members and volunteers work to secure grants and donations, plan and staff special events and programs, conduct research as citizen scientists, and increase outreach to benefit Florida's coastal and aquatic resources.⁷¹

Examples of the important benefits CSOs provide to coastal areas and their communities are Friends of the Reserve providing scholarships to high school students in the Apalachicola area⁷² and Friends of Charlotte Harbor Aquatic Preserves removing nonnative species and monitoring water quality.⁷³

Senate Professional Staff Review of the DEP's CSOs

The statutory authority for the DEP's Division of Recreation and Parks' CSOs is scheduled for repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.⁷⁴ Professional staff of the Senate Committee on Environment and Natural Resources reviewed the 83 Division of Recreation and Parks CSOs to verify their compliance with applicable Florida Statutes. After reviewing the submitted documents and other requirements to which the CSOs are subject, staff found that these organizations are active CSOs that support Florida's state parks and provide valuable benefits to the state and its visitors. Staff concluded that it appears the 83 CSOs are in substantial compliance with their governing legislation⁷⁵ as well as the general CSO requirements.⁷⁶

Staff identified a few deficiencies where individual CSOs are not in full compliance with the applicable Florida Statutes. A contract between an agency and a CSO must contain 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."⁷⁷ However, the DEP's contracts with its CSOs expressly authorize a CSO that is dissolved to transfer its funds to another CSO. Because transferring funds to another CSO that supports the same agency is consistent with the legislative intent of the provision, staff recommends adding a statutory provision to specifically authorize a CSO to transfer funds to another CSO that supports the DEP upon dissolution.

The DEP has substantially complied with the general statutory requirements and has posted its CSOs' documents, IRS forms, and annual audits, where available, on its website.⁷⁸ The DEP has posted each CSO's code of ethics on its website.⁷⁹ Each CSO with annual expenditures in excess

⁷¹ Florida Coastal Office, *Citizen Support Organization Handbook*, on file with Senate Environment and Natural Resources Committee.

⁷² Apalachicola National Estuarine Research Reserve, *Friends of the Reserve*, <https://apalachicolareserve.com/for.php> (last visited April 23, 2019).

⁷³ Friends of Charlotte Harbor Aquatic Preserves, *Projects*, <https://fchap.org/projects> (last visited April 23, 2019).

⁷⁴ Sections 20.2551(6) and 258.015(4), F.S.

⁷⁵ Sections 20.2551 and 258.015, F.S.

⁷⁶ Section 20.058, F.S.

⁷⁷ Section 20.058, F.S.

⁷⁸ *DEP CSO Reports*, available at <https://floridadep.gov/comm/comm/content/citizen-support-organizations-reports> (last visited April 23, 2019).

⁷⁹ *Id.*

of \$300,000 must provide for an annual financial audit of its accounts and records.⁸⁰ Five CSOs were identified as requiring audits and one audit is still outstanding as of the date of this analysis. Additionally, several audits were not conducted in accordance with the Government Auditing Standards required by Auditor General rules.⁸¹ These standards provide more information about whether the CSO is complying with the law than a general audit provides.

Staff finds that while many of the DEP's CSOs have substantially complied with the statutory requirements, more oversight is required for those CSOs with annual expenditures in excess of \$300,000. Staff recommends requiring the CSOs that meet the audit threshold to provide audits for the last three fiscal years and ensure that audits are conducted in accordance with Government Auditing Standards, which explicitly reinforces the existing requirement that audits be conducted in accordance with rules adopted by the Auditor General.

Other deficiencies are technical and administrative in nature and can be resolved by the DEP and its CSOs. The DEP has committed to updating its CSO agreements, tracking CSO compliance, and establishing consistent and streamlined reporting.⁸²

Staff recommends repealing the sunset date for future legislative review of the DEP CSOs to allow for their continued operation, while requiring the DEP to report to the Legislature by December 1, 2019, on the CSOs requiring audits. If any of the CSOs are not in compliance with statutory requirements, the DEP must identify the CSOs in its report and describe whether it has terminated its contracts with the CSOs as required by law.⁸³

The statutory authority for the DEP's CSOs is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.⁸⁴ Professional staff of the Senate Committee on Environment and Natural Resources reviewed the 13 Florida Coastal Office CSOs to verify their compliance with applicable Florida Statutes. After reviewing the submitted documents and other requirements to which the CSOs are subject, staff found that these organizations are active CSOs that support Florida's aquatic preserves and provide valuable benefits to the state and its visitors.

Staff concluded that several of the 13 CSOs are not in full compliance with the applicable Florida Statutes. Some contracts need to be updated and missing information should be submitted. A contract between an agency and a CSO must contain 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."⁸⁵ Contracts between the CSOs and the DEP generally do not provide for the return of state funds to the state if the statutory authorization is repealed, the contract is

⁸⁰ Section 215.981, F.S.

⁸¹ Rule 10.651(4), Rules of the Auditor General.

⁸² Department of Environmental Preservation, *Presentation on Citizen Support Organizations to the Florida Senate Committee on Environment and Natural Resources* (Jan. 22, 2019), available at http://www.flsenate.gov/PublishedContent/Committees/2018-2020/EN/MeetingRecords/MeetingPacket_4355.22.19.pdf (last visited April 23, 2019) [hereinafter *DEP Presentation*].

⁸³ Section 20.058(4), F.S.

⁸⁴ Section 20.2551, F.S.

⁸⁵ Section 20.058, F.S.

terminated, or the organization is dissolved. Because transferring funds to another CSO that supports the same agency is consistent with the legislative intent of the provision, staff recommends adding a statutory provision to specifically authorize a CSO to transfer funds to another CSO that supports the DEP upon dissolution.

The DEP has substantially complied with general statutory requirements and has posted its CSOs' documents, IRS forms, and annual audits, where available, on its website.⁸⁶ The DEP has posted each CSO's code of ethics on its website.⁸⁷ However, the Florida Coastal Office has not had the same level of organization in oversight of its CSOs that is evident for the CSOs that are overseen by the Division of Recreation and Parks.

Staff finds that while the DEP and its CSOs have substantially complied with many of the statutory requirements, more oversight is needed. Staff recommends that the DEP be required to report to the Legislature on what it is doing to facilitate full compliance for the Florida Coastal Office's CSOs, including updating agreements and authorizations if needed. Other deficiencies are technical and administrative in nature and can be resolved by the DEP and its CSOs. The DEP has committed to updating its CSO agreements, tracking CSO compliance, and establishing consistent and streamlined reporting.⁸⁸

Staff recommends repealing the sunset date for future legislative review of the DEP CSOs to allow for their continued operation, while requiring the DEP to report to the Legislature by December 1, 2019, on the Florida Coastal Office CSOs' compliance with statutory requirements. If any of the CSOs are not in compliance, the DEP must identify the CSOs in its report and describe whether it has terminated its contracts with the CSOs.

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.⁸⁹ The FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida Senate to five-year terms.⁹⁰ Under Article IV, Section 9 of the Florida Constitution, the FWC is granted the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life. The Legislature may enact laws that aid the FWC in its exercise of regulatory functions and executive powers in the areas of planning, budgeting, personnel management, and purchasing.⁹¹

Fish and Wildlife Conservation Commission CSOs

The FWC is authorized to establish CSOs to provide assistance, funding, and promotional support for commission programs.⁹² The CSOs are organized and operated to conduct programs

⁸⁶ *DEP CSO Reports*, available at <https://floridadep.gov/comm/comm/content/citizen-support-organizations-reports> (last visited April 23, 2019).

⁸⁷ *Id.*

⁸⁸ *DEP Presentation*, (Jan. 22, 2019), available at http://www.flsenate.gov/PublishedContent/Committees/2018-2020/EN/MeetingRecords/MeetingPacket_4355.22.19.pdf (last visited April 23, 2019).

⁸⁹ FLA. CONST. art. IV, s. 9.

⁹⁰ *Id.*; see also section 379.102(1), F.S.

⁹¹ FLA. CONST. art. IV, s. 9.

⁹² Section 379.223, F.S.

and activities; raise funds; request and receive grants, gifts, and bequests of money; and make expenditures for the benefit of the FWC. However, CSOs may not receive funds from the FWC or the Fish and Wildlife Research Institute by grant or gift unless specifically authorized by the Legislature.⁹³ The FWC may permit its CSOs to use the FWC property, facilities, and personnel free of charge, as long as such use does not unreasonably interfere with normal the FWC operations.⁹⁴

The FWC holds agreements with two CSOs: Fish & Wildlife Foundation of Florida, Inc. and Wildlife Alert Reward Association, Inc. The statute that authorizes the CSOs for the FWC is repealed October 1, 2019, unless reviewed and saved from repeal beforehand by the Legislature.⁹⁵

Fish & Wildlife Foundation of Florida, Inc.

Fish & Wildlife Foundation of Florida, Inc. (Foundation) was formed in 1994 to support the health and well-being of Florida's fish and wildlife resources and their habitats. According to its website, the Foundation has raised and donated more than \$30 million in grant funds for conservation and outdoor recreation since its founding in 1994.⁹⁶ The Foundation focuses its projects on providing outdoor education and recreational opportunities for youth, wildlife conservation, reefs, and hunting and shooting sports.⁹⁷

The Foundation is involved with several programs related to conservation, including launching a rare plant conservation endowment, funding captive breeding of wildlife species, providing funds for communities and homeowners to purchase bear-proof garbage cans to reduce bear-human interactions, helping expand panther rehabilitation facilities and identifying ways of reducing panther-car collisions, and underwriting research on freshwater springs restoration and management.⁹⁸

As stated on its website, the Foundation is the largest private funder of youth outdoor education and works with the Florida Youth Conservation Centers Network to provide outdoor experiences to more than 200,000 children and teens annually through summer camp scholarships, school field trip funds, outdoor gear, and educational materials.⁹⁹ The Foundation recently completed funding for a wheelchair-accessible boardwalk and fishing pier at the Suncoast Youth Conservation Center. The Foundation is working with the FWC to fund renovation of the historic

⁹³ Section 379.223(1)(b), F.S.

⁹⁴ Section 379.223(2)(a), F.S.

⁹⁵ Section 379.223(4), F.S.

⁹⁶ Fish and Wildlife Foundation of Florida, Inc., *About Us*, <https://wildlifeflorida.org/our-mission/> (last visited April 23, 2019).

⁹⁷ Fish and Wildlife Foundation of Florida, Inc., *Presentation on Citizen Support Organizations to the Florida Senate Committee on Environment and Natural Resources* (Jan. 22, 2019), available at http://www.flsenate.gov/PublishedContent/Committees/2018-2020/EN/MeetingRecords/MeetingPacket_4355.22.19.pdf (last visited April 23, 2019) [hereinafter *Foundation Presentation*].

⁹⁸ Fish and Wildlife Foundation of Florida, Inc., *Conserving Wildlife*, <https://wildlifeflorida.org/wildlife/> (last visited April 23, 2019).

⁹⁹ Fish and Wildlife Foundation of Florida, Inc., *Getting Kids Back to Nature*, <https://wildlifeflorida.org/youth-programs/> (last visited April 23, 2019).

Everglades Youth Conservation Camp, which has hosted more than 25,000 children and teens since the early 1960s.¹⁰⁰

The Foundation successfully manages its initiatives with support from various sources. The Foundation raises funds for its conservation projects through the sale of Florida's conservation license plates.¹⁰¹ The Foundation also generates funds through one-on-one major gift fundraising, direct mail and electronic solicitations, and an annual dinner and auction.¹⁰²

Senate Professional Staff Review of the FWC and the Foundation

The statutory authority for the FWC's CSOs is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.¹⁰³ Professional staff of the Senate Committee on Environment and Natural Resources reviewed the Foundation to verify its compliance with applicable Florida Statutes. After reviewing the submitted documents and other requirements to which the Foundation is subject, staff found that the Foundation is an active CSO that supports Florida's fish and wildlife and provides educational opportunities to youth. Staff concluded that it appears the Foundation is in substantial compliance with its enabling legislation, s. 379.223, F.S., as well as the CSO requirements in s. 20.058, F.S.

The Foundation and the FWC have a letter of agreement and memorandum of understanding which serve as a written approval of the CSO by the commission.¹⁰⁴ However, the authorization lacks specific parameters. The agreements do not provide guidance on the general operation or management of funds. Statutory provisions require that any contract between an agency and a CSO contain a provision stating that if the statutory authorization is repealed, the contract is terminated, or the organization is dissolved, the CSO must cease operations and return funds to the state within 30 days.¹⁰⁵ The written authorization does not provide guidance on the CSO's use of state property or the provision of equal membership as required by statute. There is no guidance on the use of funds for proper purposes. However, the FWC has indicated that it is drafting an agreement with the Foundation that includes the statutorily required provisions.¹⁰⁶ The Foundation has committed to revising its existing contracts to include the statutorily required provisions.¹⁰⁷

¹⁰⁰ *Foundation Presentation*, (Jan. 22, 2019), available at http://www.flsenate.gov/PublishedContent/Committees/2018-2020/EN/MeetingRecords/MeetingPacket_4355.22.19.pdf (last visited April 23, 2019).

¹⁰¹ Fish and Wildlife Foundation of Florida, Inc., *Buy A Plate*, <https://wildlifeflorida.org/buy-a-plate/> (last visited April 23, 2019).

¹⁰² *Foundation Presentation*, (Jan. 22, 2019), available at http://www.flsenate.gov/PublishedContent/Committees/2018-2020/EN/MeetingRecords/MeetingPacket_4355.22.19.pdf (last visited April 23, 2019).

¹⁰³ Section 379.223, F.S.

¹⁰⁴ Letter of Agreement between FWC and Wildlife Foundation of Florida (Apr. 3, 2003) (on file with Senate Committee on Environment and Natural Resources).

¹⁰⁵ Section 20.058, F.S.

¹⁰⁶ Email from Jennifer Fitzwater, Chief of Staff, FWC, to Senate Committee on Environment and Natural Resources professional staff (Jan. 22, 2019) (on file with the Senate Committee on Environment and Natural Resources).

¹⁰⁷ Email from Andrew Walker, President and CEO, Foundation, to Senate Committee on Environment and Natural Resources professional staff (Dec. 28, 2018) (on file with the Senate Committee on Environment and Natural Resources).

The Foundation has substantially complied with specific statutory requirements and has posted its organization documents, IRS forms, and annual audit on its website.¹⁰⁸ The Foundation has complied with statutory ethics requirements and has posted its code of ethics on its website.¹⁰⁹ Each CSO with annual expenditures in excess of \$100,000 must provide for an annual financial audit of its accounts and records pursuant to statutory requirements. The Foundation's annual expenses for 2017 totaled \$4,686,730, an amount that exceeds the annual audit requirement.¹¹⁰ The Foundation conducts annual audits and the operating expenses described in the audit are presented in the chart below.¹¹¹

FISH & WILDLIFE FOUNDATION OF FLORIDA, INC.
STATEMENTS OF OPERATING EXPENSES
FOR THE YEAR ENDED JUNE 30, 2017
WITH COMPARATIVE TOTALS FOR THE YEAR ENDED JUNE 30, 2016

	Program	Administrative and Office	Fundraising	2017 Total	2016 Total
Expenses					
Accounting and Legal Expense	\$ 6,165	\$ 30,288	\$ -	\$ 36,452	\$ 33,022
Advertising Expenses	41,777	7,889	-	49,667	162,734
Business Registration Fees	-	488	-	488	1,551
Cash Awards and Grants	4,034,075	-	-	4,034,075	7,581,507
Employee Benefits	34,190	41,787	-	75,977	37,080
Fundraising	-	-	11,889	11,889	121,818
Fundraising - Donated	-	-	-	-	16,285
Insurance	-	8,223	-	8,223	5,715
Investment Account Charges	97,779	1,424	-	99,204	92,767
Meeting Expense	18,549	4,722	-	23,270	16,601
Merchant Account Fees	29,085	1,341	-	30,426	12,672
Miscellaneous Expenses	5,666	45,911	-	51,576	4,267
Occupancy	300	1,078	-	1,378	459
Occupancy - Donated	10,583	12,935	-	23,518	16,001
Outside Contract Services	73,479	975	-	74,454	83,704
Outside Contract Services- Donated	-	82,544	-	82,544	21,797
Payments in Accordance with Trust & Fund Agreements	105,089	-	-	105,089	295,693
Payroll Taxes	16,136	19,722	-	35,857	22,684
Payroll Taxes - Donated	-	-	-	-	803
Postage	-	1,540	-	1,540	488
Printing and Copying	-	2,201	-	2,201	432
Salaries and Wages	193,463	236,455	-	429,919	296,519
Salaries and Wages - Donated	-	-	-	-	10,500
Supplies	-	3,813	-	3,813	1,088
Telephone and Telecommunications	1,466	700	-	2,166	2,595
Transfer of Assets Held for Others	(6,042)	-	-	(6,042)	(6,773)
Travel	11,776	13,512	-	25,288	24,648
Web Site Fees	12,212	2,844	-	15,056	21,240
Total Expenses Before Depreciation	4,685,747	520,390	11,889	5,218,026	8,877,897
Depreciation Expense	983	-	-	983	525
TOTAL EXPENSES	\$ 4,686,730	\$ 520,390	\$ 11,889	\$ 5,219,009	\$ 8,878,422

¹⁰⁸ Fish and Wildlife Foundation of Florida, Inc., *Organizational Documents*, <https://wildlifeflorida.org/organizational-documents/> (last visited April 23, 2019).

¹⁰⁹ *Id.*

¹¹⁰ Fish and Wildlife Foundation of Florida, Inc., *Financial Statements and Supplementary Information*, June 30, 2017 and 2016, available at <https://wildlifeflorida.org/wp-content/uploads/2018/05/Audited-Financial-Statements-2017-1.pdf> (last visited April 23, 2019).

¹¹¹ *Id.* at 8.

Staff finds that while the Foundation has substantially complied with many of its statutory requirements, the lack of contractual guidance on the operations and management of the Foundation funds should be addressed. The FWC and the Foundation have indicated that they are drafting an agreement with more detailed guidance that includes the statutorily required provisions and will amend existing contracts to resolve the contractual deficiencies. Staff recommends repealing the sunset date for future legislative review of the FWC CSOs to allow for the organizations' continued operation.

The Wildlife Alert Reward Association, Inc.

The Wildlife Alert Reward Association, Inc. (Wildlife Alert) is a non-profit program, created in 1979, which offers rewards to members of the public in exchange for information leading to the arrest of poachers or other violators of the state's fish, wildlife, environmental, and boating laws.¹¹² Wildlife Alert's goal is to provide incentives for concerned citizens to report witnessed violations.¹¹³ The reward categories range from \$100 to \$600 for reporting violations such as illegal hunting, taking saltwater game fish out of season, taking protected wildlife species, boating under the influence, and illegal tire dumping.¹¹⁴

Most of Wildlife Alert's funding comes from judges requiring violators to make donations to Wildlife Alert in addition to any penalty assessed for a violation of the law.¹¹⁵ When a violator is arrested and convicted in court, judges often order that a donation be made to the Wildlife Alert Reward Fund separate from any fines ordered.¹¹⁶ Funds from such donations are used to pay rewards for reporting violations and for promotion of the Wildlife Alert program. In 2017, Wildlife Alert paid a total of \$16,700 for 64 rewards and collected \$77,579.88 in fines.¹¹⁷

Senate Professional Staff Review of the FWC and Wildlife Alert

The statutory authority for the FWC CSOs is scheduled to repeal on October 1, 2019, unless reviewed and saved from repeal by the Legislature.¹¹⁸ Professional staff of the Senate Committee on Environment and Natural Resources reviewed Wildlife Alert to verify its compliance with applicable Florida Statutes. After reviewing the submitted documents and other requirements to which Wildlife Alert is subject, staff found that Wildlife Alert is an active CSO that supports Florida's fish and wildlife species and provides rewards to incentivize members of the public to report violators. Staff concluded that it appears Wildlife Alert is in compliance with its enabling legislation, s. 379.223, F.S., as well as the general CSO requirements in s. 20.058, F.S.

¹¹² Florida Fish and Wildlife Conservation Commission, *Wildlife Alert brochure* (Sept. 2018) (on file with the Senate Committee on Environment and Natural Resources).

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ Email from Jessica Crawford, Legislative Affairs Director, Fish and Wildlife Conservation Commission, to Senate Committee on Environment and Natural Resources professional staff (Nov. 16, 2018) (on file with the Senate Committee on Environment and Natural Resources).

¹¹⁶ *Id.*

¹¹⁷ FWC, *Citizen Support Organization Direct-Support Organization 2018 Annual Report* (Aug. 15, 2018), available at <https://myfwc.com/media/19043/cso-annualreport2017-18.pdf> (last visited April 23, 2019).

¹¹⁸ Section 379.223(1), F.S.

Staff identified a few deficiencies where the FWC and Wildlife Alert are not in full compliance with the applicable Florida Statutes. Wildlife Alert and the FWC have a letter of agreement and memorandum of understanding which serve as a written approval of the CSO by the commission.¹¹⁹ However, the authorization lacks specific parameters. The agreement does not provide guidance on the general operation or management of funds. The statutory provisions require that any contract between an agency and a CSO contain a provision stating that if the statutory authorization is repealed, the contract is terminated, or the organization is dissolved, the CSO must cease operations and return funds to the state within 30 days.¹²⁰ The written authorization does not provide guidance on the CSO's use of state property or the provision of equal membership as required by statute. There is no guidance on the use of funds for proper purposes. However, the FWC has indicated that it is drafting an agreement with Wildlife Alert that includes the statutorily required provisions.¹²¹

Wildlife Alert has substantially complied with specific statutory requirements. Wildlife Alert has an ethics code pursuant to statutory requirements, which is posted on the FWC's website in the CSO annual report.¹²² Wildlife Alert did not submit an annual audit because its annual expenditures were below the statutory threshold limits.¹²³

Although most of Wildlife Alert's funding comes from judges requiring violators to make donations to Wildlife Alert, this practice is not supported by case law, which indicates that courts must have statutory authority to order a defendant to make a charitable contribution.¹²⁴ Staff recommends that this practice be clearly authorized in statute to continue providing funding to the CSO.

Staff finds that while Wildlife Alert has substantially complied with many of its statutory requirements, the lack of contractual guidance on the operations and management of Wildlife Alert funds should be addressed. The FWC and Wildlife Alert have indicated that they are drafting an agreement that includes the statutorily required provisions, which would resolve the contractual deficiencies. Staff recommends repealing the sunset date for future legislative review of the FWC CSOs to allow for the organizations' continued operation.

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.¹²⁵

¹¹⁹ Letter of Agreement between FWC and Wildlife Alert Reward Association, Inc. (Sept. 25, 2014) (on file with Senate Committee on Environment and Natural Resources).

¹²⁰ Section 20.058, F.S.

¹²¹ Email from Jennifer Fitzwater, Chief of Staff, FWC, to Senate Committee on Environment and Natural Resources professional staff (Jan. 22, 2019) (on file with the Senate Committee on Environment and Natural Resources).

¹²² FWC, *Citizen Support Organization Direct-Support Organization 2018 Annual Report* (Aug. 15, 2018), available at <https://myfwc.com/media/3887/csoannualreport.pdf> (last visited April 23, 2019).

¹²³ Section 215.981, F.S.

¹²⁴ See *Bell v. State*, 216 So. 3d 751 (Fla. 5th DCA 2017); see also *Antosh v. State*, 510 So. 2d 1158 (Fla. 3d DCA 1987); see also *Cumberland v. State*, 225 So. 3d 952 (Fla. 5th DCA 2017).

¹²⁵ Florida Division of Vocational Rehabilitation, *Frequently Asked Questions*, <http://www.rehabworks.org/faq.shtml> (last visited April 23, 2019).

The Division of Vocational Rehabilitation (DVR) is one of several divisions within the Department of Education (DOE).¹²⁶ The DVR is the administrative unit designated at the state level to ensure compliance with the Vocational Rehabilitation Act of 1973, as amended.¹²⁷ The DVR's mission is "to help people with disabilities find and maintain employment and enhance their independence."¹²⁸

Florida Endowment Foundation for Vocational Rehabilitation

In 1990, the Legislature created the Florida Endowment Foundation for Vocational Rehabilitation (Foundation or The Able Trust¹²⁹) as a direct-support organization of the DVR for the purpose of encouraging public and private support to enhance vocational rehabilitation and employment of citizens who are disabled.¹³⁰ 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.¹³¹

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.

The authorizing statute for the Foundation is scheduled for repeal October 1, 2019, unless reviewed and reenacted by the Legislature.¹³²

Youth Program

The Able Trust High School High Tech (HSHT) program is designed to provide high school students with all types of disabilities the opportunity to explore jobs or postsecondary education leading to technology-related careers. HSHT links youth to a broad range of academic, career development, and experiential resources and experiences that will enable them to meet the demands of the 21st century workforce.

During the 2017-2018 school year, HSHT served 1,336 students with disabilities in 40 Florida counties. 533 students participated in work experiences paid through a stipend by the employer, the HSHT program site, the local Career Source, Vocational Rehabilitation, or community grant provider. 307 HSHT students graduated in 2018. The HSHT program achieved a graduation rate of greater than 99 percent of all participating seniors.¹³³ The current cost to the state for the

¹²⁶ Section 20.15(3)(d), F.S.

¹²⁷ Section 413.202, F.S.

¹²⁸ Florida Division of Vocational Rehabilitation, <http://www.rehabworks.org/> (last visited April 23, 2019).

¹²⁹ The Foundation conducts business as The Able Trust. The Able Trust, <http://www.abletrust.org/> (last visited April 23, 2019).

¹³⁰ Section 9, ch. 90-330, L.O.F., codified as s. 413.615(5), F.S.

¹³¹ Section 413.615(4), F.S.

¹³² Section 413.615(14), F.S.

¹³³ The Able Trust, *2018 Annual Report to Florida*, available at

http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf, at 10.

HSHT program is \$275 per student, which covers approximately one-third of the total program costs.¹³⁴

Grant Program

The Able Trust awarded 78 grants in 2018, totaling \$2,072,119.¹³⁵ The Able Trust works with community organizations throughout the state to help Floridians with disabilities gain employment. During any annual period, there are 60 – 70 grant contracts in effect. Several of the current grants are long-term, strategic grants designed to assist organizations and institutions of higher learning to develop education and placement programs for Floridians with disabilities who pursue postsecondary education. No annual legislative appropriations are used in these strategic grant initiatives.¹³⁶

Work Experiences and Relationships with the Business Community

Over the past nine years, The Able Trust has worked to develop relationships with businesses around the state. The Able Trust works with the Florida Chamber of Commerce Foundation, and maintains communication regarding the value of providing work experiences such as internships, job shadowing and mentoring partnerships with the business community. In addition, the Disability Employment Awareness (DEAM) program, for which The Able Trust serves as the lead agency, connects approximately 3,000 businesses and young job seekers together annually, in job shadowing and mentoring experiences. The DEAM program is totally funded by private donations, through the fundraising efforts of The Able Trust.¹³⁷

Independent Research

The Able Trust uses private sources to fund independent research. Research is conducted to obtain information on program outcomes, to update data on the perceptions of the business community on the inclusion of people with disabilities in its workforce, to learn ways to address barriers and to inform the general public on the employability of such workers. Continuing to collect data and update such information is integral to improving the employment rate for people with disabilities, as it is the basis for effective communications on the recruiting, hiring, training and retaining of those workers.¹³⁸

Communication

The Able Trust sponsors a communication campaign every year to address misperceptions of the skills and talents of people with disabilities. Communications include targeting businesses, community leaders, and policy makers using print, electronic, and in-person presentations.¹³⁹

¹³⁴ Florida Department of Education, *2019 Agency Bill Analysis, Senate Bill 172* (Jan. 8, 2019), at 2.

¹³⁵ The Able Trust, *2018 Annual Report to Florida*, available at http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf, at 12.

¹³⁶ Florida Department of Education, *2019 Agency Bill Analysis, Senate Bill 172* (Jan. 8, 2019), at 3.

¹³⁷ *Id.* at 3.

¹³⁸ Florida Department of Education, *2019 Agency Bill Analysis, Senate Bill 172* (Jan. 8, 2019), at 3.

¹³⁹ *Id.*

Direct Support to the Division of Vocational Rehabilitation

The Able Trust currently provides direct support (approximately \$48,000 per year) on behalf of the DVR through:

- Seven full-day annual training events designed to enhance staff skills and increase employment for VR customers.
- Promotional and outreach materials for VR distributed throughout the year at community outreach events that advance VR's mission.

Legislative Findings and Recommendations

Senate professional staff reviewed documents related to the Foundation for compliance with accountability and authorizing statutes. The Foundation appears to be substantially in compliance with such statutes. Findings and recommendations are summarized below.

Foundation Compliance with Accountability Requirements

- The Foundation must submit specified information to the DOE by August 1.¹⁴⁰
Finding: The Foundation submitted the information by the specified deadline.¹⁴¹
- The DOE must make the information received from the Foundation available to the public through the agency's website. If the Foundation maintains a website, the DOE's website must provide a link to the Foundation's website.¹⁴²
Finding: The DOE includes a link to The Able Trust on the DVR webpage, but the required report is only available through the Florida Fiscal Portal.¹⁴³
Recommendation: Provide a link to the required report¹⁴⁴ directly on the DOE website.
- The DOE must report, by August 15 of each year, to the Governor, Legislature, and OPPAGA the information provided by the Foundation. The report must also include a recommendation by the DOE, with supporting rationale, to continue, terminate, or modify the DOE's association with the Foundation.¹⁴⁵
Finding: The DOE has complied with the requirement to report this information and include specified information.¹⁴⁶
- The contract between the Foundation and the DVR 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.¹⁴⁷

¹⁴⁰ Section 20.058(1), F.S.

¹⁴¹ Florida Fiscal Portal, Education, *Required Report Pursuant to Chapter 2014-096 Citizen Support and Direct Support Organizations* (Aug. 1, 2017) available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=18029&DocType=PDF>.

¹⁴² Section 20.058(2), F.S.

¹⁴³ The Florida Fiscal Portal is maintained by the Executive Office of the Governor to house a collection of documents that detail the fiscal status of the State of Florida. Florida Fiscal Portal, <http://floridafiscalportal.state.fl.us/Home.aspx> (last visited April 23, 2019).

¹⁴⁴ Florida Fiscal Portal, Education, *Required Report Pursuant to Chapter 2014-096 Citizen Support and Direct Support Organizations* (Aug. 1, 2017) available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=18029&DocType=PDF>.

¹⁴⁵ Section 20.058(3), F.S.

¹⁴⁶ Florida Fiscal Portal, Education, *Required Report Pursuant to Chapter 2014-096 Citizen Support and Direct Support Organizations* (Aug. 1, 2017) available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=18029&DocType=PDF>, at 5.

¹⁴⁷ Section 20.058(4), F.S.

Finding: The current contract includes a provision regarding the orderly cessation of operations, but does not include the provision regarding reversion of state funds within 30 days.¹⁴⁸ However, a proposed amendment to the contract includes a provision to pay the entire balance of the operating account to the State of Florida within 45 days, unless extended by agreement of both parties.¹⁴⁹

Recommendation: The contract amendment should be approved and should include a provision specifying 30 days, rather than 45 days, for the reversion of state funds.

- The Foundation's Code of Ethics must be conspicuously posted on the Foundation's website,¹⁵⁰ and must address specified standards of conduct.¹⁵¹

Finding: The Able Trust Code of Ethics is posted and includes required provisions.¹⁵²

- The Foundation must provide for an annual financial audit of its accounts and records to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the DOE. The audit report must be submitted within 9 months after the end of the fiscal year to the Auditor General and to the DOE.¹⁵³

Finding: The Able Trust has provided for an audit for the 2017-2018 fiscal year within the specified timeframe.¹⁵⁴

Foundation Compliance with Authorizing Requirements

- The Foundation must separately account for funds received from state sources¹⁵⁵ from bequests, gifts, grants, and donations. Earnings on funds received from state sources and funds received from public or private sources must also be accounted for separately.¹⁵⁶

Finding: The Able Trust has separately accounted for revenues¹⁵⁷ and earnings on funds¹⁵⁸ between state and private sources.

- The Foundation must have a contract with the DVR, and must:¹⁵⁹
 - Be a Florida corporation not for profit
 - Be organized and operated exclusively to raise funds; to submit requests and receive grants from the Federal Government, the state, private foundations, and individuals; to

¹⁴⁸ The Able Trust, *Memorandum of Understanding for The Able Trust, IA-865*, available at <http://www.abletrust.org/sites/default/files/media/docs/Memorandum%20Of%20Understanding%20IA-865%20thru%209-30-2020.pdf>, at 3.

¹⁴⁹ *Email*, The Able Trust (Mar. 8, 2019).

¹⁵⁰ Section 112.3251, F.S.

¹⁵¹ Section 112.313, F.S.

¹⁵² The Able Trust, *Ethics Policy* (Dec. 12, 2014), available at <http://www.abletrust.org/sites/default/files/media/docs/Ethics-Policy-12-2014.pdf>; also The Able Trust, *Conflict of Interest Policy* (Sept. 25, 2009), available at <http://www.abletrust.org/sites/default/files/media/docs/Conflict%20of%20Interest%20as%20revised%206-15-2012.pdf>.

¹⁵³ Section 215.981(1), F.S.

¹⁵⁴ Law, Redd, Crona & Munroe, P.A., *The Florida Endowment Foundation for Vocational Rehabilitation, Inc. d/b/a The Able Trust, Financial Statements and Additional Information, Years ended June 30, 2018 and 2017* (Oct. 26, 2018), available at <http://www.abletrust.org/sites/default/files/media/docs/FINAL%20-%202018%20Audited%20Financial%20Statements.pdf>.

¹⁵⁵ The ABLE Trust receives state funds only from general revenue for the DOE/DVR High School/High Tech Program. Specific Appropriation 34, ch. 2018-9, L.O.F., appropriates \$549,823 in recurring funds for 2018-2019.

¹⁵⁶ Section 413.615(4)(e), F.S.

¹⁵⁷ The Able Trust, *2018 Annual Report to Florida*, available at

http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf, at 18.

¹⁵⁸ *Email*, The Able Trust (Mar. 8, 2019). Earnings on public funds and investments from July 1, 2017 through June 30, 2018 were \$1,252,285.57.

¹⁵⁹ Section 413.615(5), F.S.

receive, hold, and administer property; and to make expenditures to or for the benefit of the VR programs approved by the Foundation board of directors.

Finding: The Able Trust contract with the DVR meets this requirement.¹⁶⁰

- The Able Trust contract with the DVR must provide information relating to the articles of incorporation, governance, conditions for expenditures of state revenues, and a reversion of state funds following a cessation of operations.¹⁶¹ In addition, as a part of the contract, the Foundation must submit an annual budget for approval to the DVR, which may not approve such annual budget that does not comply with requirements relating to administrative costs.¹⁶²

Finding: The Able Trust contact with the DVR complies with this requirement.¹⁶³

Additionally, the annual budget for 2017-2018 was approved by the DVR and complies with the requirement that administrative costs be limited to 15 percent of total expenditures.¹⁶⁴

- The Foundation must comply with requirements relating to confidential and exempt donor records and client information and exemptions from public meetings at which donor or client information is discussed.¹⁶⁵

Finding: The Able Trust has ensured that donor confidentiality is respected, and private donations that are confidential and exempt are not included on an agenda for a public meeting.¹⁶⁶

- The Foundation is administered by a 9-member board of directors (board) qualified for membership on the board and appointed by the Governor to a 3-year term.¹⁶⁷

Finding: The composition of the Able Trust board meets this requirement.¹⁶⁸

- The Foundation board must monitor, review, and annually evaluate funded programs to determine whether funding should be continued, terminated, reduced, or increased.¹⁶⁹

Finding: The Able Trust board has enacted mechanisms to evaluate funded programs, which include outcome measurement requirements in each grant award contract.¹⁷⁰

¹⁶⁰ The Able Trust, *Memorandum of Understanding for The Able Trust, IA-865*, available at <http://www.abletrust.org/sites/default/files/media/docs/Memorandum%20Of%20Understanding%20IA-865%20thru%209-30-2020.pdf>, at 1.

¹⁶¹ Section 413.615(6), F.S.

¹⁶² Section 413.615(9)(j), F.S.

¹⁶³ The Able Trust, *Memorandum of Understanding for The Able Trust, IA-865*, available at <http://www.abletrust.org/sites/default/files/media/docs/Memorandum%20Of%20Understanding%20IA-865%20thru%209-30-2020.pdf>.

¹⁶⁴ *Email*, The Able Trust (Mar. 8, 2019). Administrative costs were \$427,742, which was 12% of total expenses.

¹⁶⁵ Section 413.615(7), F.S.

¹⁶⁶ The Able Trust, *2018 Annual Report to Florida*, available at

http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf, at 15. See also, *Email*, The Able Trust (Mar. 8, 2019).

¹⁶⁷ Section 413.615(8), F.S.

¹⁶⁸ The Able Trust, *By-Laws* (Adopted Feb. 21, 1991, last amended Sept. 21, 2017), available at http://www.abletrust.org/sites/default/files/media/docs/BY-LAWS-REVISED%2010_6_2017.doc. See also, The Able Trust, *Board of Directors, Officers, & Ambassadors*, <http://www.abletrust.org/about-us/board-directors-officers-and-ambassadors> (last visited April 23, 2019).

¹⁶⁹ Section 413.615(9)(g), F.S.

¹⁷⁰ The Able Charitable Foundation, *Grant Policy—Process for Grant Requests from The Able Trust* (Nov. 30, 2018), available at <http://www.abletrust.org/sites/default/files/media/images/documents/Able%20Trust-Able%20Charitable%20Grant%20Policy%20-%20final%2011-30-2018.pdf>. The application requires that proposals outline how employment outcomes will be measured up to three years after the grant period has ended. The Able Trust, *Instructions for Application for General Support of Employment Programs Grant* (Dec. 2016), available at <http://www.abletrust.org/sites/default/files/media/docs/GeneralEmploymentPlacementGrantInstructions2017.pdf>, at 2.

- The board is required to limit administrative costs to the minimum amount necessary for the efficient and effective administration of the foundation; such costs are limited to 15 percent of total estimated expenditures in any calendar year. For the 2017-2018 fiscal year, administrative costs may be paid from interest and earnings on the endowment principal.¹⁷¹ Finding: Administrative costs in 2017-2018 were \$427,742, or 12 percent of expenses.¹⁷² Additionally, for 2017-2018, The Able Trust used interest and dividends to cover operating expenses.¹⁷³
- The Foundation is required to publish on its website:¹⁷⁴
 - The required annual audit and annual report.
 - For each position filled by an officer or employee, the position's compensation level.
 - A copy of each contract into which the foundation enters.
 - Information on each program, gift, or grant funded by the foundation, including specified information.
 - The foundation's contract with the DVR.

Finding: The Foundation has posted its annual audit,¹⁷⁵ the annual report,¹⁷⁶ compensation policy¹⁷⁷ and officer compensation,¹⁷⁸ contracts,¹⁷⁹ grant information,¹⁸⁰ and the Foundation's contract.¹⁸¹
- The Foundation board must establish an operating account,¹⁸² which must provide for purposes specified in law.¹⁸³

Finding: The Foundation board has established an operating account. For 2017-2018, The Able Trust used interest and dividends to cover operating expenses.¹⁸⁴

¹⁷¹ Section 413.615(9)(j), F.S. In subsequent years administrative costs may be paid from a specified combination of interest and earnings and private fund sources, until 2020-2021 and thereafter when costs may be paid from private sources only. *Id.*

¹⁷² The Able Trust, *2018 Annual Report to Florida*, available at

http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf, at 20. Total expenses were \$3,686,905.

¹⁷³ Law, Redd, Crona & Munroe, P.A., *The Florida Endowment Foundation for Vocational Rehabilitation, Inc. d/b/a The Able Trust, Financial Statements and Additional Information, Years ended June 30, 2018 and 2017* (Oct. 26, 2018), available at <http://www.abletrust.org/sites/default/files/media/docs/FINAL%20-%202018%20Audited%20Financial%20Statements.pdf>, at 5.

¹⁷⁴ Section 413.615(9)(k), F.S.

¹⁷⁵ Law, Redd, Crona & Munroe, P.A., *The Florida Endowment Foundation for Vocational Rehabilitation, Inc. d/b/a The Able Trust, Financial Statements and Additional Information, Years ended June 30, 2018 and 2017* (Oct. 26, 2018), available at <http://www.abletrust.org/sites/default/files/media/docs/FINAL%20-%202018%20Audited%20Financial%20Statements.pdf>.

¹⁷⁶ The Able Trust, *2018 Annual Report to Florida*, available at

http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf.

¹⁷⁷ The Able Trust, *Compensation Policy: Officers and Directors* (June 15, 2012), available at

<http://www.abletrust.org/sites/default/files/media/docs/Compensation-Policy-Revisions-6-15-2012-Current-7-29-14.pdf>.

¹⁷⁸ The Able Trust, *Salary Posting*, <http://www.abletrust.org/node/212> (last visited April 23, 2019).

¹⁷⁹ The Able Trust, *Other Contracts*, <http://www.abletrust.org/about-us/other-contracts> (last visited April 23, 2019).

¹⁸⁰ The Able Trust, *Grant Award Contracts*, <http://www.abletrust.org/about-us/grant-award-contracts> (last visited April 23, 2019).

¹⁸¹ The Able Trust, *Memorandum of Understanding for The Able Trust, IA-865*, available at

<http://www.abletrust.org/sites/default/files/media/docs/Memorandum%20Of%20Understanding%20IA-865%20thru%209-30-2020.pdf>.

¹⁸² The Able Trust board of directors is required to establish an operating account to deposit non-principal funds from investment and reinvestment transmitted from the State Board of Administration. Section 413.615(4)(d), F.S.

¹⁸³ Section 413.615(10), F.S.

¹⁸⁴ *Email*, The Able Trust (Mar. 8, 2019). *See also* Law, Redd, Crona & Munroe, P.A., *The Florida Endowment Foundation for Vocational Rehabilitation, Inc. d/b/a The Able Trust, Financial Statements and Additional Information, Years ended June*

- Any allocation of funds for research, advertising, or consulting is subject to a competitive solicitation process.¹⁸⁵
Finding: The Able Trust policy regarding competitive bidding is to require that purchases over \$2,500 must be subject to competitive bidding. Amounts under \$2,500 may also be subject to competitive bidding.¹⁸⁶
- State funds may not be used to fund events for private sector donors or potential donors or to honor supporters.¹⁸⁷
Finding: The Able Trust does not use state funds to fund events for private donors or potential donors. Donor recognition may occur at events for other programs, but private funds cover those expenses.¹⁸⁸
- The Foundation board must provide for an annual financial audit of the foundation in accordance with Florida law.¹⁸⁹ The auditor's report must maintain the anonymity of donors and prospective donors who desire to remain anonymous.¹⁹⁰
Finding: The Foundation board provided for an audit for the 2017-2018 fiscal year, which does not contain specific donor information.¹⁹¹
- The Foundation board must issue a report by December 30 each year summarizing the performance of the endowment fund for the previous fiscal year. The report must summarize the Foundation's fundraising activities, and detail those activities and programs supported by the endowment principal or earnings on the endowment principal and those activities and programs supported by private sources, bequests, gifts, grants, donations, and other valued goods and services received. The report must also include:¹⁹²
 - Financial data, by service type, including expenditures for administration and the provision of services.
 - The amount of funds spent on administrative expenses and fundraising and the amount of funds raised from private sources.
 - Outcome data, including the number of individuals served and employment outcomes.
Finding: The Foundation issued its annual report in the required timeframe.¹⁹³ The annual report includes financial data related to administration and expenditures,¹⁹⁴ fundraising,¹⁹⁵ program outcomes, and¹⁹⁶ programs supported by endowment principal or earnings and those supported by private sources.¹⁹⁷

30, 2018 and 2017 (Oct. 26, 2018), available at <http://www.abletrust.org/sites/default/files/media/docs/FINAL%20-%202018%20Audited%20Financial%20Statements.pdf>, at 5.

¹⁸⁵ Section 413.615(10), F.S.

¹⁸⁶ Email, The Able Trust (Mar. 8, 2019).

¹⁸⁷ Section 413.615(10), F.S.

¹⁸⁸ Email, The Able Trust (Mar. 8, 2019).

¹⁸⁹ Section 215.981, F.S.

¹⁹⁰ Section 413.615(11), F.S.

¹⁹¹ Law, Redd, Crona & Munroe, P.A., *The Florida Endowment Foundation for Vocational Rehabilitation, Inc. d/b/a The Able Trust, Financial Statements and Additional Information, Years ended June 30, 2018 and 2017* (Oct. 26, 2018), available at <http://www.abletrust.org/sites/default/files/media/docs/FINAL%20-%202018%20Audited%20Financial%20Statements.pdf>.

¹⁹² Section 413.615(12), F.S.

¹⁹³ The Able Trust, *2018 Annual Report to Florida*, available at

http://www.abletrust.org/sites/default/files/media/docs/2018%20ANNUAL%20REPORT-web_0.pdf.

¹⁹⁴ *Id.* at 20.

¹⁹⁵ *Id.* at 14.

¹⁹⁶ *Id.* at 3, 10, and 11.

¹⁹⁷ *Id.* at 20. See also Email, The Able Trust (Mar. 8, 2019).

Florida Department of Agriculture and Consumer Services

The Florida Department of Agriculture and Consumer Services (DACS) supports and promotes Florida agriculture, protects the environment, safeguards consumers, and ensures the safety and wholesomeness of food.¹⁹⁸

DSOs for the Florida Department of Agriculture and Consumer Services

Friends of the Florida State Forests

The Friends of the State Forests, through community support, assists the Florida Forest Service to expand opportunities for recreation (hunting, horseback riding, hiking, Off Highway Vehicle, etc.), environmental education, and forest management within Florida's state forests.

Forestry Arson Alert Association, Inc.

The Forestry Arson Alert Association, Inc., through internal and external support, 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

The Florida Agricultural Museum, with the assistance of volunteers, 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

The Florida Agriculture Center and Horse Park Authority, through internal and external support, 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.

¹⁹⁸ <https://www.freshfromflorida.com/About/>

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.¹⁹⁹ 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, the council was never set up as a DSO of the DACS. 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.²⁰⁰

CSO for the Florida Department of Agriculture and Consumer Services***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.²⁰¹ 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.²⁰²

III. Effect of Proposed Changes:

Section 1 amends s. 20.2551, F.S., to require the DEP to submit a report to the President of the Senate and the Speaker of the House of Representatives that examines the financial transparency, accountability, and ethics of those CSOs with annual expenditures of more than \$300,000 and those CSOs under the Florida Coastal Office, as of November 1, 2018.

¹⁹⁹ https://www.beefboard.org/library/beefact_order.asp (Last visited April 23, 2019).

²⁰⁰ Information provided by the Department of Agriculture and Consumer Services on file in the Senate Agriculture office.

²⁰¹ April 4, 2013, analysis of CS/CS/SB 1628.

²⁰² Information provided by the Department of Agriculture and Consumer Services on file in the Senate Agriculture office.

The bill provides that the report must include audits for the last three fiscal years for any CSO that is subject to the statutory requirement for an audit. Of the DEP's 96 CSOs, this requirement only includes those with annual expenditures of \$300,000 or more. Audits conducted after March 1, 2019, must be conducted in accordance with Government Auditing Standards, which explicitly reinforces the existing requirement that audits be conducted in accordance with rules adopted by the Auditor General. The Auditor General rules specify Government Auditing Standards as the standards for audits of nonprofit and for-profit organizations. The bill provides that the report must demonstrate that the CSOs within the Florida Coastal Office, as of November 1, 2018, are in compliance with statutory provisions.

The bill provides that the report must identify any of the DEP's CSOs included in the report that are not in compliance with statutory requirements and describe whether the DEP has terminated its contracts with those CSOs. The report must also demonstrate how the contracts between the DEP and its CSOs have been revised to comply with all relevant provisions of law.

Sections 2 amends s. 257.43, F.S., to delete the scheduled repeal of the Friends of the State Library and Archives of Florida, Inc., currently scheduled for repeal on October 1, 2019, allowing this CSO under the Department of State to continue operating.

Section 3 amends s. 258.015, F.S., to delete the scheduled repeal of provisions governing CSOs established under the DEP, allowing the existing CSOs to continue operating and providing benefits to the DEP.

Section 4 amends s. 259.10521, F.S., to extend the repeal date for the Friends of the Babcock Ranch Preserve, Inc., which serves as a CSO within the DACS, from October 1, 2019, to October 1, 2024.

Section 5 amends s. 265.703, F.S., to delete the scheduled repeal of the Citizens for Florida Arts, Inc. and the Friends of the Museums of Florida, Inc., CSOs within the Department of State, allowing these support organizations to continue operating.

Section 6 amends s. 267.17, F.S., to delete the scheduled repeal of the Friends of Florida History, Inc., allowing this CSO within the Department of State to continue operating.

Section 7 amends s. 288.772(1), F.S., to conform the definition of "account" to the changes made in section 4, which provide for the discontinuance of the FIRF effective October 1, 2019. Specifically, in light of the forthcoming termination, the reference to the FIRF is removed from the definition.

Section 8 provides that s. 288.809, F.S., which created the FIRF, a DSO, is repealed effective October 1, 2019.

Section 9 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 10 deletes the scheduled repeal of provisions governing CSOs established under the FWC, allowing the organizations to continue operating.

Section 11 provides statutory authorization to courts to continue an existing practice of ordering a person convicted of a violation of the FWC rules or orders to pay an assessment to Wildlife Alert Association, Inc. The bill authorizes Wildlife Alert to pay a reward from the assessments collected by court order to persons who provide information leading to an arrest of a person for a violation of the FWC rules or orders.

Section 12 amends s. 413.615, F.S., to remove the schedule repeal of the Florida Endowment for Vocational Rehabilitation, allowing for the continuation of this DSO established to support the DVR within the DOE.

Section 13 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 14 amends s. 570.83, F.S., to extend 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.

Section 15 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 various CSOs and DSOs from repeal, the bill sustains sources of financial assistance to, and supports the functions of the various departments and benefits Florida citizens.

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:**

The bill has no fiscal impact on state funds, however, by saving the statutes governing the various CSOs and DSOs from repeal, the bill allows these support organizations to continue benefitting the respective departments and supporting the departments in reaching 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 20.2551, 257.43, 258.015, 259.10521, 265.703, 267.17, 288.772, 288.809, 379.223, 379.2231, 413.615, 570.691 and 570.83, of the Florida Statutes.

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 Rules on April 23, 2019:

The committee substitute deletes the scheduled repeal dates of the laws authorizing:

- Two current citizen support organizations associated with the Florida Fish and Wildlife Commission;
- Six current direct support organizations associated with the Department of Agriculture and Consumer Services;
- 96 current citizen support organizations associated with the Department of Environmental Protection; and
- The Florida Endowment for Vocational rehabilitation Fund, a direct support organization under the Department of Education, Division of Vocational Rehabilitation.

The committee substitute also:

- Extends the repeal date for the Florida Beef Council and the Friends of the Babcock Ranch Preserve, Inc., to October 1, 2024.
- Requires the Department of Environmental Protection to report to the Legislature by December 1, 2019, on financial transparency, accountability, and ethics of certain CSO.
- Authorizes courts to order a person convicted of a violation of commission rules or orders to pay an assessment to Wildlife Alert Reward Association, Inc., allowing courts to continue an existing practice that provides a significant portion of Wildlife Alert Reward Association, Inc.'s funding. These funds will be used to pay rewards to persons who provide information leading to an arrest.

- B. **Amendments:**

None.