

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 925 District School Board Direct-support Organizations

SPONSOR(S): McClain and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1040

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Education Quality Subcommittee	17 Y, 0 N	McDaniel	Sanchez
2) Ethics, Elections & Open Government Subcommittee		Poreda	Toliver
3) Education & Employment Committee			

SUMMARY ANALYSIS

Direct-support organizations (DSOs) are statutorily created private entities that are generally required to be non-profit corporations, and are authorized to carry out specific tasks in support of public entities or public causes. A district school board DSO is an organization that is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of public kindergarten through grade twelve education and adult career and community education programs for the school district that they support.

The bill authorizes district school boards to contract with a DSO for personal services or operations. The bill also raises the threshold of expenditures and expenses that requires a district school board DSO to undergo a financial audit from \$100,000 to \$250,000. Additionally, the bill authorizes district school boards to contract with a vendor for an annual financial audit of a DSO.

The bill has no impact on state revenues or expenditures.

The bill is effective July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Citizen Support Organizations and Direct-Support Organizations

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily created private entities that are generally required to be non-profit corporations, and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and, 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., establishing 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;
- 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 (OPPAGA) 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

¹ Section 3, ch. 2014-96, L.O.F, codified ass. 20.058, F.S.

² Section 20.058(1), F.S.

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.

Finally, 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.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.¹¹ 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.¹²

This audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board¹³ because there are separate requirements in law for those specific entities. Additionally, the threshold for an audit of a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services is \$300,000.¹⁴

The Auditor General may conduct audits or other engagements of the accounts and records of a CSO or DSO, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee.¹⁵ The Auditor General is authorized to require and receive any records from the CSO or DSO, or its independent auditor.¹⁶

District School Board Direct-Support Organizations

A district school board DSO is an organization that:¹⁷

- is approved by the district school board;
- is a Florida not-for-profit corporation; and
- is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of public kindergarten through grade 12 education and adult career and community education programs in this state.

The board of directors of the DSO must be approved by the district school board.¹⁸

Use of Property by the District School Board DSO

Section 1001.453, F.S., sets forth limitations on the use of district property by the DSO. DSOs are authorized to use the property, facilities, and personal services¹⁹ of the district. The district school board must adopt rules in coordination with the Florida Department of Education (DOE) that govern the DSO's use of the district property, facilities, or personal services, and provide for budget and audit review and oversight by the district school board and the DOE.

However, the DSO is not permitted to use the property, facilities, or personal services if the DSO does not provide equal employment opportunities to all persons, regardless of race, color, religion, sex, age, or national origin.

⁹ Section 20.058(5), F.S.

¹⁰ Section 215.981(1), F.S.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Section 215.981(2), F.S.

¹⁵ Section 11.45(3)(d), F.S.

¹⁶ *Id.*

¹⁷ Section 1001.453, F.S.

¹⁸ Section 1001.453(3), F.S.

¹⁹ Section 1001.453(1)(b), F.S. Personal services includes full-time or part-time personnel, as well as payroll processing. *Id.*

District School Board DSO Audit Requirements

Similar to other DSOs, each district school board DSO with more than \$100,000 in expenditures or expenses is required to provide for an annual financial audit of its accounts and records.²⁰ The audit must be conducted by an independent certified public accountant in accordance with the rules adopted by the Auditor General²¹ and the Commissioner of Education.²² The annual audit report must be submitted within nine months after the fiscal year's end to the district school board and the Auditor General. The Commissioner of Education, the Auditor General, and the Office of Program Policy Analysis and Government Accountability have the authority to require and receive from the organization or the district auditor any records relative to the operation of the organization.²³

Effect of Proposed Changes

The bill authorizes district school boards to contract with a DSO for personal services or operations. To reduce the burden of costs associated with annual audits for smaller DSO's,²⁴ the bill increases from \$100,000 to \$250,000 the threshold of expenditures and expenses to require a DSO provide for a financial audit. Additionally, the bill authorizes district school boards to contract with a vendor for an annual financial audit of a DSO.

B. SECTION DIRECTORY:

Section 1. Amending s. 1001.453, F.S., authorizing district school boards to contract with direct-support organizations for personal services or operations; revising the amount of expenditures and expenses a direct-support organization must have to be required to provide for an annual financial audit; authorizing district school boards to contract with a vendor for such audits.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

²⁰ Section 1001.453(4), F.S.

²¹ Section 11.45(8), F.S.

²² Section 1001.453(4), F.S.

²³ Section 1001.453(4), F.S.

²⁴ National Council of Nonprofits, *What is an independent audit?* <https://www.councilofnonprofits.org/running-nonprofit/nonprofit-audit-guide/what-independent-audit> (last visited Mar. 13, 2023); 501(c) Services, *Does your nonprofit really need an annual audit? Here are the alternatives*, <https://www.501c.com/does-your-nonprofit-really-need-an-annual-audit-here-are-the-alternatives/#:~:text=Audits%20are%20time%20consuming%20and,the%20National%20Council%20of%20Nonprofits> (last visited Mar. 13, 2023).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.