

STORAGE NAME: h3979s1z.tu

****FINAL ACTION****

DATE: May 6, 1998

****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TOURISM
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 3979

RELATING TO: Facilities and Properties Under Supervision of Division of Historical Resources of Department of State

SPONSOR(S): Representative Maygarden

COMPANION BILL(S): CS/SB 2132 (S)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TOURISM YEAS 6 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

Committee Substitute for House Bill 3979 became law without the Governor's signature on May 30, 1998, and is now cited as **Chapter 98-337, Laws of Florida**.

II. SUMMARY:

The bill amends three sections of law relating to the rental of or admission fees to facilities and properties under the supervision of the Division of Historical Resources (division) under the Department of State. It also provides direction as to where such moneys received are to be deposited.

The first two sections of the bill amend ss. 266.0015 and 266.0018, F.S., to provide for the deposit of all money received from admissions to and rentals of facilities and properties managed by the Historic Pensacola Preservation Board of Trustees (board) into an account of the board's direct-support organization instead of the Historic Pensacola Preservation Board Operating Trust Fund. This permits these funds to be treated the same as funds generated from other activities of the board and its DSO. By having the funds placed in local banks, the funds will generate interest as of the day of deposit and will increase revenue available to the board and its DSO by \$3,000 to \$5,000 annually. By the changes in the bill, the board will no longer be assessed the service charge to General Revenue that it pays for the state to handle the admissions and rental funds deposited into the Trust Fund. According to the Department of State, the service charge amounts to approximately \$10,500 annually. According to the board, the additional revenues, interest generated by deposit of funds in local banks and removal of need for payment of service charge, will be available for use for the maintenance and repair of the state's 22 historic properties in Pensacola.

In the third section, the bill amends s. 267.17, F.S., to clarify the authority of the Division of Historical Resources of the Department of State and its citizen support organizations to rent facilities and properties under the supervision of the division. It also provides that the moneys received from these rentals may be held in the division's operating trust fund or may be held in a separate depository account in the name of the citizen support organization and subject to the letter of agreement with the division.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Part II of Chapter 266, F.S., creates the Historic Pensacola Preservation Board of Trustees (board) within the Department of State. The purposes and functions of the board include the following:

- restoring, preserving, maintaining, reconstructing, reproducing, and operating for the use, benefit, education, recreation, enjoyment, and general welfare of the people of this state and nation certain ancient or historic landmarks, sites, buildings, etc., and other objects of historical or antiquarian interest of the City of Pensacola and Escambia County; and
- researching, preparing, publishing, and procuring for the use and benefit of the general public books, reports, articles, pamphlets, brochures, documents, maps, photographs, films, sound recordings, etc., in furtherance of the protection and preservation of and the dissemination of information about historic sites and properties, persons, places, events, objects, etc., pertaining to Florida history to be used by the board or made available by the board for others.

The Department of State monitors the effectiveness of all programs of the board and oversees the board to ensure that it complies with state laws and rules.

Section 266.0018, F.S., provides that the board may authorize a direct-support organization (DSO) to assist the board in carrying out its purposes by raising money; submitting requests for and receiving grants from the Federal Government, the state or its political subdivisions, private foundations, and individuals; receiving, holding, investing, and administering property; and making expenditures to or for the benefit of the board. The sole purpose of the DSO is to support the board. Currently, section 266.0018(6), F.S., provides that any moneys may be held in a separate depository account in the name of the DSO and subject to the provisions of the contract with the board. These moneys include such things as membership fees, private donations, income derived from fundraising activities, and grants applied for and received by the DSO. The DSO is required by s. 266.0018(7), F.S., to provide for board review and approval an annual financial and compliance audit of its financial accounts and records prepared by an independent certified public accountant in accordance with board rules. Upon approval, the board certifies the audit to the Auditor General for review.

Moneys received from admissions to and rentals of facilities and properties managed by the board are specifically prohibited from being deposited by the DSO in an account as it does other funds. Moneys received from these sources are required by s. 266.0015, F.S., to be deposited by the board into the Historic Pensacola Preservation Board Operating Trust Fund and are subject to annual appropriation by the Legislature for the "benefit of the board." Interest earned by the trust fund is required to be deposited into the trust fund.

According to the Department of State and the board, funds from admissions and rentals are required to have two transactions each banking day, once for deposit to the holding account and once for the transfer to Tallahassee. The board currently pays a service

charge of approximately \$10,500 annually to General Revenue for the state to handle the funds.

Chapter 267, F.S., generally provides for the duties of the Division of Historical Resources of the Department of State (division). Section 267.072(1)(b), F.S., provides that the division shall:

Support the establishment and operation of a non-profit organization or association to promote and encourage knowledge and appreciation of Florida history and the programs of the Museum of Florida History and to cooperate with historical societies and other organizations to provide funding and promotional support for the programs of the museum. Such organization or association may, with the consent of the division, operate the museum store or conduct special events and programs in the museum. All proceeds must be used to support the programs of the Museum of Florida History.

Section 267.17(1), F.S., authorizes the division to support the establishment of citizen support organizations to provide "assistance, funding, and promotional support for the archaeology, museum, folklife, and historic preservation programs of the division." Such CSOs are organized and operated to do such things as conduct programs and activities, raise funds, request and receive grants and gifts, and make expenditures to or for the direct or indirect benefit of the division or individual program units of the division. This subsection also states that the CSO shall be approved in writing by the division to operate for the direct or indirect benefit of the division, and such approval shall be given in a letter of agreement from the division. Section 267.17(2), F.S., authorizes a citizen support organization (CSO) to use the property and facilities of the division without charge. The use of the facilities must be in keeping with the approved purposes of the CSO and may not interfere with opportunities of the general public to use such facilities for established purposes.

For approximately eleven years, Florida History Associates (FHA), a CSO of the division, received revenues by renting the Old Capitol and the Florida Museum of History for special events and for approximately four years has charged for the use of the 22nd Floor of the Capitol. In December 1997, the Inspector General of the Department of State recommended that further examination be conducted to determine the need for possible clarification in law or in written agreements on the authority to charge for the use of facilities and properties of the division. In the February 20, 1998, "preliminary and tentative review findings" of the Auditor General of the donations to and expenditures by the Florida History Associates, Inc., a CSO for the Department of State, Museum of Florida History, the following concerns were raised:

....we question whether the Department of State has the authority to allow the use of State-owned facilities for other than a public purpose, to allow a fee to be charged for use of the facilities, and to permit the FHA to manage the facilities and deposit rental proceeds into the account of the FHA.

In the absence of statutory or regulatory provisions giving express authority to do so, we question the Department of State's authority to allow the use of the Museum Main Gallery and the 22nd Floor of the New Capitol for nongovernmental purposes that do not clearly demonstrate a primary public purpose and the Old Capitol for other than program and social use as defined in Department of State Rule 1A-

33.005, Florida Administrative Code. While rental fees deposited may have been used by the FHA to fund programs of the Museum of Florida History, we question the Department's authority to rent, or to allow the FHA to rent the facilities to third parties and deposit the proceeds of such rentals into the account of the FHA.

The report recommended that the Secretary of State seek an Attorney General's opinion regarding the appropriate use of State-owned facilities by third parties and the appropriateness of charging rental fees and depositing such fees into the account of the FHA.

On March 10, 1998, the Attorney General responded to the request of the Department of State. The final paragraph of the letter gave the following interpretation and instruction:

While the rules provide for limited use of facilities for governmental purposes, they do not provide specific authority for the rental of facilities by FHA to private parties. Nor do the statutes provide clear authorization for such use. However, government should never lose sight of the fact that it and its infrastructure are owned by the citizens it serves and there may be many types of uses that are both sensible and appropriate. In these instances the funds generated by such use could support museum programs and bring people into historical venues, exposing them to Florida history and culture. In light of the lack of clarity, this office recommends that the department seek clear legislative guidance.

B. EFFECT OF PROPOSED CHANGES:

The bill amends three sections of law relating to the rental of or admission fees to facilities and properties under the supervision of the Division of Historical Resources (division) under the Department of State. It also provides direction as to where such moneys received are to be deposited.

The first two sections of the bill amend ss. 266.0015 and 266.0018, F.S., to provide for the deposit of all money received from admissions to and rentals of facilities and properties managed by the Historic Pensacola Preservation Board of Trustees (board) into an account of the board's direct-support organization instead of the Historic Pensacola Preservation Board Operating Trust Fund. This change permits these funds to be treated the same as funds generated from other activities of the board and its DSO. Additionally, instead of subjecting the funds to two transactions each banking day, once for deposit to the holding account and once for the transfer to Tallahassee, the funds will be placed in accounts in local banks thereby reducing the transactions required. By having the funds placed in local banks, the funds will generate interest as of the day of deposit and will increase revenue available to the board and its DSO by \$3,000 to \$5,000 annually. By the changes proposed in the bill, the board will no longer be assessed the service charge to General Revenue that it pays for the state to handle the admissions and rental funds deposited into the Trust Fund. According to the Department of State, the service charge amounts to approximately \$10,500 annually. According to the board, the additional revenues, interest generated by deposit of funds in local banks and removal of need for payment of service charge, will be available for use for the maintenance and repair of the state's 22 historic properties in Pensacola.

In the third section, the bill amends s. 267.17, F.S., to clarify the authority of the Division of Historical Resources of the Department of State and its citizen support organizations to rent facilities and properties under the supervision of the division. It also provides that the moneys received from these rentals may be held in the division's operating trust fund or may be held in a separate depository account in the name of the citizen support organization and subject to the letter of agreement with the division.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Committee Substitute for House Bill 3979 reduces some workload for the Department of State in the processing of invoices to transfer certain funds from the Historic Pensacola Preservation Board Trust Fund to the board. The bill will reduce the necessity for the board or its DSO to having to perform multiple banking transactions daily on the funds derived from the admissions to the museums as well as lease income from the rental of facilities.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 266.0015, 266.0018, and 267.17, F.S.

E. SECTION-BY-SECTION RESEARCH:

A section-by-section analysis is not required. See "Effect of Proposed Changes."

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

According to the Department of State, the total recurring costs are indeterminate; however, there will be a loss to General Revenue of up to \$10,500 because of a loss in service charge payment for the state handling the funds held in the Historic Pensacola Preservation Board Operating Trust Fund.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

| | | |
|-----------------|------------------------------|------------------------------|
| General Revenue | <u>1998/99</u> (\$10,500) | <u>1999/00</u> (\$10,500) |
|-----------------|------------------------------|------------------------------|

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

According to the Department of State, the total recurring costs are indeterminate; however, there will be a loss to General Revenue of up to \$10,500 because of a loss in service charge payment for the state handling the funds held in the Historic Pensacola Preservation Board Operating Trust Fund. The amount of interest earned on moneys deposited from admissions and rentals, approximately \$3,000 to \$5,000, currently is in the Trust Fund. What effect, if any, this will have on state level revenues is negligible. The Department of State does indicate that there will be some savings to the department by their no longer being required to process invoices for transfer of the funds received from admissions and rentals from the state to the board.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenues.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

VI. **COMMENTS:**

None.

VII. **AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

House Bill 3979 was filed by Representative Maygarden on March 5, 1998 and referred to the Committee on Tourism on May 13, 1998. The Committee adopted two amendments and approved the bill as a Committee Substitute on March 17, 1998. The differences between the original bill and the committee substitute are discussed below.

The **Committee Substitute for House Bill 3979** amends three sections of law relating to the rental of or admission fees to facilities and properties under the supervision of the Division of Historical Resources (division) under the Department of State. The original bill amended two sections in Chapter 266, F.S., relating to the facilities and properties managed by the Historic Pensacola Preservation Board of Trustees. The Committee Substitute amends an additional section of law in Chapter 267, F.S., pertaining to facilities and properties under the supervision of the Division of Historical Resources. The section added to the original bill does the following:

- Clarifies that the Division of Historical Resources of the Department of State may permit the rental of facilities and properties managed by the division and may fix and collect charges for such rental, and
- Provides that the moneys received from these rentals may be held in the division's operating trust fund or may be held in a separate depository account in the name of the citizen support organization and subject to the letter of agreement with the division.

In addition to the changes to Chapter 267, F.S., the bill was also amended to reflect an effective date of becoming a law instead of July 1, 1998.

On April 16, 1998, CS/HB 3979 was placed on the Consent Calendar, read a second and third time, and passed by the House by a vote of 116 YEAS to 0 NAYS.

The Senate referred the bill to the Committees on Governmental Reform and Oversight, Community Affairs, and Ways and Means on April 21, 1998. On May 1, 1998, the bill was withdrawn from those committees, substituted for CS/SB 2132, read a second and third time, passed by the Senate by a vote of 40 YEAS to 0 NAYS, and ordered enrolled by the House. Committee Substitute for House Bill 3979 became law without the Governor's signature on May 30, 1998, and is now cited as **Chapter 98-337, Laws of Florida**.

Senate Bill 2132 was filed on March 3, 1998, by Senator Clary and referred to the Committees on Governmental Reform and Oversight, Community Affairs, and Ways and

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Means on March 18, 1998. On April 2, 1998, the Governmental Reform and Oversight Committee conformed the bill to the House companion measure and voted it out as a committee substitute. On April 15, 1998, the bill was reported favorably by the Committee on Community Affairs and was withdrawn from the Committee on Ways & Means on April 22, 1998. **CS/SB 2132** was placed on the Senate Special Order Calendar on April 28, 1998, where it stayed until May 1, 1998, when it was placed on the Local Bill Calendar. The bill was laid on the table and the companion measure, CS/HB 3979, was passed.

VIII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Legislative Research Director:

Judy C. McDonald

Judy C. McDonald

FINAL RESEARCH PREPARED BY COMMITTEE TOURISM:

Prepared by:

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