

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 49 Public Libraries
SPONSOR(S): Garcia
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1408, SB 1434

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Tourism</u>	<u>5 Y, 0 N</u>	<u>Judy McDonald</u>	<u>J. Paul Whitfield, Jr.</u>
2) <u>Commerce</u>	<u>16 Y, 0 N</u>	<u>Judy McDonald</u>	<u>J. Paul Whitfield, Jr.</u>
3) <u>Local Affairs (Sub)</u>	<u>8 Y, 0 N</u>	<u>Nelson</u>	<u>Highsmith-Smith</u>
4) <u>Local Government & Veterans' Affairs</u>	<u>17 Y, 0 N</u>	<u>Nelson</u>	<u>Highsmith-Smith</u>
5) <u>Transportation & Econ. Dev. Apps (Sub)</u>	<u>14 Y, 0 N</u>	<u>Birnholz</u>	<u>Hawkins</u>
6) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The State Aid to Libraries Grant Program, established in by law in 1961, is an incentive program designed to encourage local governments to establish and continue development of free library service to residents and to provide funding to support that library service. There are several forms of grants for which libraries may apply: equalization, multicounty library, establishment and operating. Operating grants are capped at a maximum matching fund amount of 25 percent of the funds expended locally for the operation and maintenance of a public library. These funds principally go to county libraries and, currently, the only way municipal libraries can receive funds is by entering into cooperative agreements with county library systems.

The bill implements the statutory proposals recommended in the Department of State, Division of Library and Information Services' status report to the Legislature on improving the State Aid to Libraries Grant Program. To accomplish this, the bill: makes municipalities eligible to participate in the State Aid Program and receive assistance directly; requires service provision to incorporated and unincorporated areas; provides for library hours of operation, types of planning activities and plans, and qualifications for the single administrative head; and eliminates the establishment grant which is no longer needed.

The bill also clarifies the Public Library Construction Grant Program's rate of local match requirement and waiver of match for certain rural areas.

With regard to library records, current law only allows municipal or county law enforcement officials, judicial officials, or any business operating jointly with a library to have access to such patron information for the purpose of collecting fines or recovering overdue books, documents, films, or other items or materials belonging to the library. The bill amends that section to allow the parent or guardian of a public library patron under 16 to have access to that patron's library records for the purpose of collecting fines or recovering overdue books, documents, films, or other items or materials belonging to the library. The bill does not allow access for any other reason.

The bill does not have a fiscal impact on state government. The bill does not have a fiscal impact on the amount of funds local jurisdictions in the aggregate will receive. However, by enabling additional local jurisdictions to receive a share of a finite amount of state grant money, the amount each local jurisdiction will receive could potentially be smaller. See "Fiscal Comments" for more detail.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0049g.ap.doc
DATE: April 17, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

Section 6 of the bill does support the principle of reducing government. Other provisions relating to eligibility for receipt of operating grants for public libraries, however, could hinder privatization or outsourcing of a local government's library day-to-day operation and management if the library wants to receive assistance from the state.

B. EFFECT OF PROPOSED CHANGES:

State Aid to Libraries

The State Aid to Libraries Grant Program, established in 1961, is an incentive program designed to encourage local governments to establish and continue development of free library service to residents and to provide funding to support that library service. Grant formulas are based largely on local funds invested in library service. The more local money spent on library services, the higher the grants earned under the State Aid to Libraries Program. There are several forms of grants for which libraries may apply: equalization, multicounty library, establishment and operating.

Section 257.17, F.S., establishes the matching operating grant that is prorated based on remaining available funds in the annual appropriation by the Legislature. The grant may be applied for by a political subdivision designated by a county as the single library administrative unit. If this designated unit meets certain criteria, it is eligible to receive an annual operating grant of not more than 25 percent of all local funds expended by that unit during the second preceding fiscal year. Grant formulas are based largely on local funds invested in library service. The more local money spent on library services, the higher the grants earned under the program. A library established or maintained by the a political subdivision must be operated under a single administrative head and expend its funds centrally, have an operating budget of at least \$20,000 per year from local sources, and give free library service to all residents of the county or residents of the special district or special tax district.

Chapter 2001-263, Laws of Florida, required the Department of State, Division of Library and Information Services (division), to review the State Aid to Libraries Program and determine any revisions that may be needed to encourage and improve the delivery of free library service to the residents of the state. The division specifically was asked to explore the feasibility of extending the benefits of the State Aid to Libraries Program to municipal libraries.

On December 17, 2001, *Improving The State Aid To Libraries Grant Program*, a report prepared by consultants employed by the division, was issued. The report states that changes by the Legislature in the State Aid Program in 1973, 1983 and 1992 made substantial improvements in the provision of library services statewide. As a result of the changes, all 67 counties now meet the requirements to receive State Aid. However, there are still 26 municipal libraries that do not participate in county or multicounty libraries and, therefore, do not receive State Aid. Statutory changes were recommended to improve the existing system.

Additionally, the Joint Administrative Procedures Committee (JAPC) questioned the statutory basis for certain eligibility requirements in the division's Guidelines for State Aid (e.g., employment and qualifications of the single administrative head). A 2002 study by the Committee on Tourism joined with the JAPC in its questions concerning the single administrative head and also indicated requirements such as library hours of operation and planning requirements which should be considered for statutory inclusion.

House Bill 49 addresses recommendations made in the Division of Library and Information Services' report to the Legislature, as well as some of the other concerns raised above, by doing the following:

- Extending eligibility for operating grants to municipalities;
- Eliminating the requirement that a library have an annual operating budget of at least \$20,000 from local sources;
- Specifying planning requirements, hours of operation, and qualifications of the single administrative head; and
- Eliminating establishment grants which are no longer needed.

Library Construction Grants

Section 257.191, F.S., authorizes the Division of Library and Information Services to accept and administer, on a matching grant basis, library construction funds appropriated by the Legislature. The Public Library Construction Grant Program, established in 1973, provides assistance in the construction of new buildings, site acquisition, and the acquisition, expansion or remodeling of existing buildings to be used for public library services in municipal, county and regional public libraries. The grants are required by law to have a local match of no less than 50 percent of the grant (a dollar-for-dollar match). By rule, the maximum state grant is set at \$500,000 in non-recurring funds, and the minimum is set at \$10,000.

Section 288.06561, F.S., provides for a reduction of waiver of financial match requirements for rural areas meeting the requirements under the Rural Economic Development Initiative in s. 288.0656, F.S.

House Bill 49 clarifies the match requirement for the Public Library Construction Grant Program by amending it to state that it will be a "dollar for dollar" match and by recognizing the waiver for certain rural areas. The bill also provides that the initiation of a library construction project 12 months or less prior to a construction grant award will not affect the eligibility of an applicant to receive a library construction grant.

Library Registration and Circulation Records

In 1978, the Legislature enacted Chapter 78-81, Laws of Florida. This act created a public records exemption for library registration records and circulation records. The only exception to the exemption was for judicial orders. Additionally, the act made any violation a second-degree misdemeanor. In 1996, the Legislature amended the public records exemption to include additional exceptions. Currently, a library (or business operating jointly with a library) may provide a municipal or county law enforcement official or a judicial official with access to such records for the purpose of collecting fines on overdue books, documents, films, or other items or materials owned or otherwise belonging to the library, or to recover these items. Any confidential and exempt information regarding a library patron under the age of 16 may not be released. A public library may only release information relating to the parent or guardian of such patron.

Section 6 of House Bill 49 amends that public records exemption to allow the parent or guardian of a public library patron, under the age of 16, to have access to that patron's library records for the purpose of collecting fines or recovering overdue books, documents, films, or other items or materials belonging to the library. The bill does not allow a parent or guardian of the patron to have access to that patron's library records for any other reason. The bill does not grant a parent or guardian access to his or her child's library records for the purpose of monitoring or discovering what books the child checks out at the library.

C. SECTION DIRECTORY:

Section 1: Amends s. 257.17, F.S., relating to library operating grants, to revise eligibility requirements for receipt of such grants by expanding the ability of municipalities to participate in the grant program and receive funds directly; by eliminating the minimum operating budget requirement; by codifying current rule requirements relating to hours of library operation, planning and budgeting, level of service, and qualifications of the single administrative head of the library. Additionally, the amended language requires the single administrative head to be an employee of the eligible political subdivision, unlike the current rule which provides for designation as well as employment.

Section 2: Amends s. 257.191, F.S., relating to library construction grants, to clarify that the match requirement is a dollar-for-dollar match up to the maximum grant amount. A cross-reference to a statutorily required waiver or reduction of match requirements for rural areas is cited. The section also provides that the initiation of a library construction project 12 months or less prior to a construction grant award will not affect the eligibility of an applicant to receive a library construction grant.

Section 3: Amends s. 257.22, F.S., relating to the allocation of funds administered by the Division of Library and Information Services, to clarify that the Comptroller must issue warrants to all appropriate eligible political subdivisions (e.g., counties, municipalities, special districts, special tax districts) instead of just to boards of county commissioners or chief municipal executive authorities, as provided in current statute.

Section 4: Amends s. 257.23, F.S., relating to application for grants, to clarify that eligible political subdivisions (e.g., counties, municipalities, special districts, special tax districts), instead of just certain counties and municipalities, may apply for grants and, if applying, must sign the grant applications and to align the December 1 library-information submission date with political subdivision budget development timelines.

Section 5: Repeals s. 257.19, F.S., relating to establishment grants, to eliminate grants that were provided to assist newly formed county systems in meeting their non-recurring start-up costs. Because library service is now available in all 67 counties, these grants are no longer needed.

Section 6: Amends s. 257.261, F.S., relating to library registration and circulation records, to revise provisions relating to confidentiality of public library registration and circulation records to authorize disclosure of information to the parent or guardian of a library patron under age 16, for the purpose of collecting fines or recovering overdue books or other materials.

Section 7: Provides an effective date of July 1, 2003.

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:

See, Fiscal Comments.

2. Expenditures:

Possible cost associated with eligibility changes posing privatization or outsourcing option limitations.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Although certain provisions of this bill (*e.g.*, the requirement that library operation must be under a single administrative head who is a library employee) might hinder the privatization of a library's operations, such provisions would not necessarily affect a local government's ability to have a qualified individual oversee the outsourcing of the government's library activities.

D. FISCAL COMMENTS:

Section 257.17, F.S., relating to the State Aid to Libraries grant program (program), makes certain political subdivisions eligible to receive from the state up to 25 percent of local funds expended for library operation and maintenance. The legislative appropriation for the program is divided among eligible local jurisdictions and varies annually. However, the amount appropriated has essentially never been enough to provide the maximum of 25 percent.

According to figures provided in the Department of State's fiscal analysis of this bill, the match in FY 2002-03 is 8.3 cents on the dollar (from an appropriation of \$32.4 million). Under the FY 2003-04 House General Appropriations Bill (HB 1789) (which continues to provide \$32.4 million for the program) and current statute (which makes certain municipalities ineligible to apply), the department estimates that the match would remain 8.3 cents on the dollar.

However, this bill makes all municipalities eligible for operating grants under the State Aid to Libraries grant program. As a result, the department estimates that up to 26 additional municipalities may be eligible to apply for grant dollars (although it is unclear how many would actually do so). Because the state grant money the local jurisdictions can receive, in the aggregate, is finite, by adding (as this bill does) additional local jurisdictions as recipients of the money, the amount of funds each local jurisdiction currently receiving funds will receive will become smaller (since it will be split among a larger number of entities). The department estimates that making additional municipalities eligible for grant dollars could reduce the match to approximately 5.5 cents on the dollar, although the precise impact would depend on the number of municipalities applying for grants, their local appropriations for public library service, and the Legislature's FY 2003-04 appropriation for the program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The legislation does not require expenditure of funds by local governments, does not reduce the authority to raise revenue, nor reduce the percentage of state tax shared with local governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 11, 2003, the Transportation & Economic Development, Subcommittee on Appropriations adopted one amendment by Rep. Llorente:

- Amendment 1 - Provides that a library in the State Aid to Library program must provide reciprocal borrowing to residents of all political subdivisions within the county which receive operating grants from the state instead of giving the same free library service that it provides to its own residents, as stated in the bill.