

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1127 Quincentennial Commemoration Comm.
SPONSOR(S): Harrington
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2246 (S)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Tourism (Sub)	5 Y, 0 N	McDonald	Billmeier
2) Commerce		McDonald	Billmeier
3) Appropriations			
4)			
5)			

SUMMARY ANALYSIS

The bill creates the Discovery of Florida Quincentennial Commemoration Commission (Commission) for the purpose of developing and implementing a statewide master plan for commemorating the 500 year anniversary of Juan Ponce de Leon's discovery of Florida. The bill provides for the appointment of a specified Commission membership and authorizes specific powers and duties relative to the development and implementation of the statewide master plan.

The Commission must hold its initial meeting no later than January 2005 to organize and begin its work. By January 2006 an initial draft of the master plan must be submitted to the Governor, President of the Senate, and Speaker of the House of Representatives. The master plan must be completed by January 2007.

Members of the Commission serve without compensation, except for per diem and travel expenses incurred in the performance of their duties. Any non-Commission members who are appointed by the Commission to subcommittees are not entitled to compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

The Commission may employ and fix the salaries and duties of an executive director and professional and administrative employees as may be necessary to carry out the duties of the Commission. However, the Department of State is also required to provide administrative support and consulting services.

The Commission is authorized to establish a not-for-profit corporation to raise funds and to assist in the implementation of the master plan. The corporation may receive funds from the general public or other public or private sources for purposes of funding its activities and implementing the provisions of the bill. Costs to underwrite activities related to the quincentennial may be borne from revenues by the corporation.

The Department of State estimates a recurring cost of \$39,436.23 for the required staffing by the department. Additional costs for travel and per diem expenses by the 20 Commission Members is dependent upon the number of meetings per year. Also, there will be costs incurred for non-members who are subcommittee members. It is anticipated that travel costs can be absorbed by the revenues generated by the corporation. There will, however, be initial costs until the corporation is created and receives funds. See Fiscal Comments.

The bill takes effect upon becoming law and the Commission terminates July 1, 2014.

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

STORAGE NAME: h1127a.com.doc
DATE: March 22, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" 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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

The bill requires the Department of State to provide administrative support and consulting services to the Discovery of Florida Quincentennial Commemoration Commission for the Commission’s activities.

B. EFFECT OF PROPOSED CHANGES:

Background:

Juan Ponce de Leon – Discovery of Florida¹

Juan Ponce de Leon, a native of San Servos in the province in the Kingdom of Leon, came to Hispaniola with Columbus in 1493 to establish a permanent colony. In 1508, he traveled to Puerto Rico in search of gold. After learning of his exploits, the King of Spain made him governor of Puerto Rico. Ponce de Leon, however, lost his governorship to the son of Columbus, Diego. Don Diego Columbus had prior rights to Puerto Rico. Ponce de Leon retained all of his property in Puerto Rico.

On February 2, 1512, he received a patent from the King of Spain to discover and govern the island of Bimini and its people. He could not only establish a claim to Bimini but to all other lands that he might discover. He would have ownership to all houses and estates he established; would receive a share of all revenues and profits except from royal properties; with the exception of the royal share and the share for his men, would own all gold, precious metals, and other valuable commodities; and would receive the titles of adelantado and governor of Bimini and other lands he discovered.

In Puerto Rico, he prepared three ships and set sail for Bimini in March. On March 27th he sighted land and reached the coast of Florida on April 2nd. During the next week, he went ashore between Saint Augustine and the Saint Johns River, taking possession of the land and naming it Pascua florida. Before returning to Puerto Rico, Ponce de Leon sailed to these areas on the coast of Florida:

- Northward at least as far as the mouth of the St. Johns River,
- Southward, stopping at Cape Canaveral and possibly Biscayne Bay,
- Southward passing down the Florida Keys, named Los Martires,
- North up the coast to at least Charlotte Harbor, and
- Possibly as far north as Pensacola Bay.

Before Ponce de Leon could return and govern and colonize this area, he was sent to the Lower Antilles to subdue the Carib Indians. He did not return to Florida until 1521.

¹ A History of Florida (updated), Charlton W. Tebeau, pp. 20-21.

Department of State, Division of Historical Resources

The Secretary of State, as the administrator of the Divisions of Cultural Affairs, Historical Resources, and Library and Information Services, is known as "Florida's Chief Cultural Officer."²

The Department of State (DOS), created in s. 20.10, F.S., is composed of six divisions: Elections, Historical Resources, Corporations, Library and Information Services, Cultural Affairs, and Administration.

The Department of State is charged, among other things, with the responsibility for:

- Serving as the official custodian of records;
- Preserving and promoting the state's cultural heritage and programs through cultural grant programs and promotional programs and implementing programs to gain international recognition on behalf of Florida artists and arts programs;
- Protecting, preserving, and promoting Florida's historical resources through encouraging identification, evaluation, protection, preservation, collection, conservation and interpretation of and public access to information about Florida's historic sites, properties and objects related to Florida history and to archaeological and folk cultural heritage; and
- Administering the statewide historic preservation plan and administering historic properties of the state, either directly or through management of contracts.

The Division of Historical Resources is charged with encouraging identification, evaluation, protection, preservation, collection, conservation and interpretation of and public access to information about Florida's historic sites, properties and objects related to Florida history and to archaeological and folk cultural heritage. The responsibilities related to historic preservation are not only governed by state law but also by the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470).³ The division is comprised of the Director's office and three bureaus: Archaeological Research, Historical Museums, and Historic Preservation.

The division administers public information programs, the statewide historic preservation plan, the operation of historic sites and properties, and state and federal grants for historic preservation. Its duties also include the maintenance and operation of Florida's state historic museums, promotion and administration of the Florida Folklife Program, and administration of various archaeological research and preservation programs, including a historic marker program. Apart from the R.A. Gray Building where the Florida Museum of History and the division offices are housed, 63 other properties are assigned (leased) to the division to manage on behalf of the state. Only five of those are directly managed by the division, two more are not maintained by the division but the division has responsibility for maintaining exhibits, and the remainder are subleased to other entities.

Florida Sesquicentennial Commission

Chapter 94-142, L.O.F., established the Florida Sesquicentennial Commission within the Department of State to oversee the development of Florida's 150th statehood anniversary celebration. The Commission consisted of 18 members that were authorized to carry out certain functions relative to the planning and leading of the celebration. The Commission was terminated on January 1, 1996.

² See s. 15.18, F.S.

³ The federal law requires the state to have a State Historic Preservation Officer and a comprehensive statewide historic preservation plan that is approved by the Secretary of the Interior.

Governmental Organizational Structure - Definitions

Section 20.03, F.S., provides uniform nomenclature for use throughout the executive branch. The terms "council" or "advisory council"⁴, "task force"⁵, and "coordinating council"⁶, and "commission," are defined.

"Commission," unless otherwise defined by the State Constitution, means a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.

Effect of Proposed Changes:

The bill creates the Discovery of Florida Quincentennial Commemoration Commission (Commission) for the purpose of developing and implementing a statewide master plan for commemorating the 500 year anniversary of Juan Ponce de Leon's discovery of Florida. The bill provides for the appointment of a specified Commission membership and authorizes specific powers and duties relative to the development and implementation of the statewide master plan.

The Commission must hold its initial meeting no later than January 2005 to organize and begin its work. By January 2006 an initial draft of the master plan must be submitted to the Governor, President of the Senate, and Speaker of the House of Representatives. The master plan must be completed by January 2007.

Members of the Commission serve without compensation, except for per diem and travel expenses incurred in the performance of their duties. Any non-Commission members who are appointed by the Commission to subcommittees are not entitled to compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

The Commission may employ and fix the salaries and duties of an executive director and professional and administrative employees as may be necessary to carry out the duties of the Commission. However, the Department of State is also required to provide administrative support and consulting services.

The Commission is authorized to establish a not-for-profit corporation to raise funds and to assist in the implementation of the master plan. The corporation may receive funds from the general public or other public or private sources for purposes of funding its activities and implementing the provisions of the bill. Costs to underwrite activities related to the quincentennial may be borne from revenues by the corporation.

C. SECTION DIRECTORY:

Section 1. Creates the Discovery of Florida Quincentennial Commemoration Commission; provides for its termination; delineates the membership and their terms; provides for successor appointment; states

⁴ "Council" or "advisory council" means an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.

⁵ "Committee" or "task force" means an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of the assignment.

⁶ "Coordinating Council" means an interdepartmental advisory body created by law to coordinate programs and activities for which one department has primary responsibility but in which one or more other departments have an interest.

members will serve without compensation, except travel and per diem; provides for meetings and election of officers; sets out requirements for commission; requires master plan and provides elements and timeframes for completion; authorizes subcommittees and compensation for members; authorizes employment of staff; requires the Department of State to provide some staffing and consultation assistance; authorizes establishment of not-for-profit corporation; authorizes corporation to receive money and use for certain purposes.

Section 2. Provides the bill will take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

For FY 2004-05, the Department of State estimates a General Revenue impact of \$39,436.23 for one FTE. The FTE and associated costs will be recurring throughout the duration of the Commission. The Commission terminates on July 1, 2014.

There will be costs for Commission travel for the last six months of FY 2004-05 and until the not-for-profit corporation created by the Commission and has received resources sufficient to assist in paying for such travel. It is unknown how many meetings will be held or the location. Costs will be incurred for subcommittees as outlined in the bill. Again, it is unknown when or how much will be incurred.

There is no source identified for such travel costs.

The Florida Arts Council which consists of 14 members and holds quarterly meetings expends approximately \$14,000 on per diem and travel.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

No anticipated fiscal impact on private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require municipalities or counties to expend funds, does not reduce their authority to raise revenue, and does not reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

Art. II, s. 5, Fla. Const., pertains to public officers and deals with an issue commonly referred to as "dual office holding." Art. II, s. 5, Fla. Const., provides that "[n]o person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein." The following exceptions to this prohibition are provided:

"...a notary public or military officer may hold another office, and any officer may be a member of a constitution revision commission, taxation and budget reform commission, constitutional convention, or statutory body having only advisory powers."

Section 1 of the bill raises constitutional concerns. The section requires legislative members and the Governor to be members of the Discovery of Florida Quincentennial Commemoration Commission. The Commission appears not to be advisory in nature. The Commission is not placed within an executive agency and appears to be completely independent from any executive agency in its actions, it has power to create a not-for profit corporation, has power to form subcommittees, set meetings, pay per diem and reimburse expenses, hire staff and set salaries, has power to both develop and implement a master plan and through the not-for-profit corporation solicit and pay for all endeavors associated with the master plan and the responsibilities of the Commission.

Art. IV, s. 6, Fla. Const, provides that "[a]ll functions of the executive branch of state government shall be allotted among not more than twenty-five departments, exclusive of those specifically provided for or authorized in this constitution." The only agencies specifically created are the Florida Fish and Wildlife Commission, the Department of Veteran Affairs, and the Department of Elder Affairs. Additionally, Art. IV, s. 6, provides:

"The administration of each department, unless otherwise provided in this constitution, shall be placed by law under the direct supervision of the governor, the lieutenant governor, the governor and cabinet, a cabinet member, or an officer or board appointed by and serving at the pleasure of the governor..."

It can be argued that section 1 of the bill may constitute a violation of Art. IV, s. 6, Fla. Const., because it appears to have executive agency powers but its administration is not specifically placed by law as required.

Currently, in ch. 20, F.S., there are 19 departments other than those mentioned in the Florida Constitution. Additionally, there is the Parole Commission, the Agency for Workforce Innovation, and the Agency for Health Care Administration.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

The amendment adopted by the Tourism Subcommittee addresses constitutional issues and questions raised in the analysis.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 22, 2004, the Subcommittee on Tourism recommended a strike all amendment for adoption by the Commerce Committee. The strike all amendment does the following:

- Creates an act relating preserving Florida's history;
- Amends s. 267.031, F.S., adding specific responsibility for archaeological sites and artifacts to the responsibilities and duties of the Division of Historical Resource in the Department of State and providing for a memorandum of agreement for a network of public archaeology centers to be coordinated by the University of West Florida;
- Amends s. 267.14, F.S., adding the preservation of archaeological sites and objects of antiquity through the establishment of a network of public archaeology centers to the public policy statement;
- Creates s. 267.145, F.S., requiring the Department of State, through a memorandum of agreement to create a network of public archaeology centers and requiring that the University of West Florida coordinate the establishment and operation of a network of regional public archaeology centers through such agreement;
- Creates s. 267.174, F.S., to place the language concerning the "Discovery of Florida Quincentennial Commemoration Commission" and divides the section into subsections with headings;
 1. Places the Commission within the Department of State,
 2. Changes the membership number and membership criteria,
 3. Changes members terms of office to 4 years and provides for reappointment;
 4. Provides greater detail on meeting procedures and election of officers;
 5. Provides that meetings as well as records will be public;
 6. Sets for the duties of the Commission, including the development of a master plan and the specification of groups to participate in the plan development and implementation;
 7. Provides that the plan will include ceremonies in certain locales;
 8. Delays timeframes for master plan by one year;
 9. Provides additional advisory responsibilities of the Commission;
 10. Provides that the Secretary of State may appoint subcommittees to the Commission based upon the recommendation of the Commission;
 11. Requires the Secretary of State to appoint an advisory committee to the Commission that consists of all former state governors and the appointment of an advisory committee consisting of representatives of local governments including counties associated with Juan Ponce de Leon's 1513 and 1521 voyages;
 12. Based upon appropriation, requires the Department of State to provide administrative support and consulting services to the Commission;
 13. Provides that the department may enter into contracts with, or accept loans or grants of money, property, or personal services from, any agency, corporation, or person to carry out the requirements of s. 267.174, F.S.;
 14. Replaces the Commission establishing a not-for-profit corporation with a citizen support organization to be established by the Division of Historical Resources for the purpose of providing assistance in the development and implementation of the master plan;
 15. Provides that the Secretary of State is authorized to adopt the master plan;
 16. Provides that the Commission shall make recommendations for funding to the Secretary of State who shall include such in the department's budget recommendations; and
 17. Provides for the termination of both the Commission and the citizen support organization on July 1, 2014 and provides that all documents shall be transferred to the department and that all remaining assets shall be transferred to the Historical Operating Trust Fund.