

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: Community Affairs Committee

---

BILL: SB 2384

INTRODUCER: Senator Dockery

SUBJECT: Department of State

DATE: March 17, 2006

REVISED: 03/21/06

---

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Herrin</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
2.	<u></u>	<u></u>	<u>GE</u>	<u></u>
3.	<u></u>	<u></u>	<u>TA</u>	<u></u>
4.	<u></u>	<u></u>	<u>WM</u>	<u></u>
5.	<u></u>	<u></u>	<u></u>	<u></u>
6.	<u></u>	<u></u>	<u></u>	<u></u>

---

## I. Summary:

This bill provides that certain reinstatement fees, late fees, and penalties shall be deposited in the Florida Fine Arts Trust Fund and distributed each fiscal year for specified purposes. It deletes an audit submission requirement for a sponsoring organization in the Cultural Endowment Program. The bill also provides for the reversion of a state matching fund endowment to the Florida Fine Arts Trust Fund in certain circumstances. The reverted funds shall be awarded to the first organization on the Cultural Endowment Program priority list that has not previously received a cultural endowment in the most current fiscal year funding cycle. This bill provides an additional circumstance that would cause funds to revert to the Cultural Endowment Program.

The bill extends the deadline for the initial meeting of the Florida Quincentennial Commemoration Commission to 2008. It also extends the deadline for the submission of an initial draft of the commission's master plan to the Governor, the Legislature, and the Secretary of State to 2010.

This bill substantially amends sections 15.09, 265.606, and 267.174 of the Florida Statutes.

## II. Present Situation:

**Cultural Endowment Program** – The Division of Cultural Affairs within the Department of State (DOS) plans and implements programs designed to gain national and international recognition on behalf of Florida artists and art organizations. The division also disseminates arts-related information and fosters the development of a receptive climate for the arts in Florida. The purpose of the Cultural Endowment Program within this division is to create an endowment matching funds program that will provide operating resources to participating cultural organizations. Each individual endowment in the program has a total value of \$600,000 of which

\$360,000 is raised by the sponsoring organization and the remaining \$240,000 in matching funds are contributed by the state.<sup>1</sup> A sponsoring organization that receives a matching fund endowment is eligible to apply for additional matching fund endowments, but additional endowments may not be awarded more frequently than once every 36 months.<sup>2</sup> Qualified sponsoring organizations which are approved and recommended by the Secretary of State and not funded by the Legislature shall be retained on the Cultural Endowment Program priority list for the following fiscal year.<sup>3</sup>

Section 265.284, F.S., creates the Florida Fine Arts Trust Fund to account for state and federal funds and private contributions and donations supporting fine arts, grants, and authorized programs.

**Division of Historical Resources** - 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.<sup>4</sup>

**Historical Resources Operating Trust Fund** - All moneys received from any source as appropriations, deposits, or contributions to the Historic Preservation Grant Program within the Division of Historical Resources in the DOS are paid and credited to the Historical Resources Operating Trust Fund.<sup>5</sup> This fund also supports the Historical Museum Grants program that provides matching grants, to a department or agency of the state; a unit of county, municipal, or other local government; or a public or private profit or nonprofit corporation, partnership, or other organization to assist in the development of public educational exhibits relating to the historical resources of Florida.<sup>6</sup> The fund also provides grants to Florida history museums that are not state-operated to assist such museums in paying for operating costs.<sup>7</sup>

**Division of Corporations** – This division within DOS is authorized to collect a number of fees and penalties, including the following: a \$600 application fee for reinstatement following administrative dissolution of a corporation;<sup>8</sup> all fees owed by a corporation that has been administratively dissolved and is seeking reinstatement;<sup>9</sup> penalties from a foreign corporation that transacts business in this state without authority to do so;<sup>10</sup> a \$400 late charge for remitting a supplemental corporate fee after May 1;<sup>11</sup> fees and penalties for a foreign limited liability company that transacts business in this state without authority to do so;<sup>12</sup> a \$175 reinstatement

---

<sup>1</sup> Section 265.606(3), F.S.

<sup>2</sup> Section 265.606(3), F.S.

<sup>3</sup> Section 265.606(7), F.S.

<sup>4</sup> See 16 U.S.C. 470.

<sup>5</sup> Section 267.0617 (2), F.S.

<sup>6</sup> Section 267.0619 (1)(a), F.S.

<sup>7</sup> Section 267.0619 (1)(b), F.S.

<sup>8</sup> Section 607.0122, F.S.

<sup>9</sup> Section 607.1422, F.S.

<sup>10</sup> Section 607.1502(4), F.S.

<sup>11</sup> Section 607.193(2)(b), F.S.

<sup>12</sup> Section 608.502(4), F.S.

fee for a not-for-profit corporation applying for reinstatement following administrative dissolution;<sup>13</sup> all fees owed by a not-for-profit corporation that has been administratively dissolved and is seeking reinstatement;<sup>14</sup> and fees due by a not-for-profit corporation before applying for reinstatement after dissolution for failure to maintain a registered agent.<sup>15</sup>

**Discovery of Florida Quincentennial Commemoration Commission** - Section 267.174, F.S., creates the “Discovery of Florida Quincentennial Commemoration Commission” (commission) within DOS for the purposes of planning and leading the Discovery of Florida Quincentennial Commemoration, a celebration of the 500-year anniversary of Juan Ponce de Leon's discovery of Florida. The commission’s membership consists of 7 members appointed by the Governor, 2 members appointed by the President of the Senate, 2 members appointed by the Speaker of the House of Representatives, and the Secretary of State or the secretary's designee, Executive Director of the Office of Tourism, Trade, and Economic Development, Chair of the Florida Historical Commission, and the Chair of the Florida Arts Council.

The commission is tasked with developing a statewide master plan for commemorating the quincentennial of Juan Ponce de Leon's discovery of Florida. The master plan may include, but is not limited to, the following projects and activities:

- State and local historic preservation programs and activities.
- State and local archaeological programs and activities.
- Publications, films, and other educational materials.
- Biographical, bibliographical, and documentary projects that chronicle the life of Juan Ponce de Leon, his 1513 and 1521 voyages to this state, the creation of the commission, and the implementation of the master plan.
- Conferences, lectures, seminars, and other programs.
- Museum, library, cultural center, park improvements, services, and exhibits, including, but not limited to, a quincentennial commemorative painting and mobile exhibits.
- Programs that educate the public on Florida's extinct Native American cultures.
- Public art that captures the spirit of exploration.
- Tourism attractions, license plate, logo, seal or trademark design, and retail items.
- Ceremonies, celebrations, and commemorations throughout the state with special emphasis on Charlotte, Lee, Palm Beach, St. Johns, and Monroe Counties, which counties are associated with Juan Ponce de Leon's 1513 voyage.<sup>16</sup>

The initial meeting of the commission shall be held no later than January 31, 2007.<sup>17</sup> An initial draft of the master plan shall be completed and submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of State by January 2008

---

<sup>13</sup> Section 617.0122(13), F.S.

<sup>14</sup> Section 617.1422(1), F.S.

<sup>15</sup> Section 617.1623(1), F.S.

<sup>16</sup> Section 267.174(7)(b), F.S.

<sup>17</sup> Section 267.174(5), F.S.

with the completed master plan submitted to such officials by January 2009.<sup>18</sup> The commission shall terminate on July 1, 2014.<sup>19</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 15.09, F.S., to provide that certain reinstatement fees, late fees, and penalties shall be deposited in the Florida Fine Arts Trust Fund and distributed each fiscal year as follows:

- \$2 million to the Historical Resources Operating Trust Fund for funding historic preservation matching grants;
- \$1.75 million to the Historical Resources Operating Trust Fund for funding historical museum grants; and
- \$14.3 million for funding cultural grants; and Remaining funds to provide state matching funds for the Cultural Endowment Program.

If the funds going in to the Florida Fine Arts Trust Fund fall below the amounts required to be disbursed, the spending authority for the Florida Fine Arts Trust Fund and the Historical Resources Operating Trust Fund shall be reduced proportionally.

**Section 2** amends s. 265.606, F.S., to delete the requirement that a sponsoring organization in the Cultural Endowment Program submit an annual postaudit of its financial accounts to the Division of Cultural Affairs.<sup>20</sup> It also provides for the reversion of the \$240,000 state matching fund endowment to the Florida Fine Arts Trust Fund in certain circumstances. When the funds revert, it shall be awarded to the first organization on the Cultural Endowment Program priority list that has not previously received a cultural endowment in the most current fiscal year funding cycle. The bill specifies that one of the circumstances that would cause the funds to revert is the inability of the recipient sponsoring organization<sup>21</sup> to manage an endowment.

**Section 3** amends s. 267.174, F.S., to extend the deadline for the initial meeting of the Florida Quincentennial Commemoration Commission from January 31, 2007 to July 31, 2008. It also extends the deadline for the submission of an initial draft of the commission's master plan to the Governor, the Legislature, and the Secretary of State from January 2009 to May 2010.<sup>22</sup>

**Section 4** provides the act shall take effect July 1, 2006.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

<sup>18</sup> Section 267.174(7)(c), F.S.

<sup>19</sup> Section 267.174(9), F.S.

<sup>20</sup> The existing s. 265.606(4)(c), F.S., is in conflict with the Florida Single Audit Act.

<sup>21</sup> The term "sponsoring organization" is defined in s. 265.603(5), F.S., as a non-profit entity that meets certain criteria and is directly responsible for a cultural exhibit, performance, or event.

<sup>22</sup> In the 2005 Regular Session, these dates were extended by one year. See s. 21, 2005-207, Laws of Florida.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

This bill will provide dedicated funding for the Historical Resources Operating Trust Fund for specified purposes and the Cultural Endowment Program. Grant funding supports festivals, museum, science and art exhibits and programs, cultural educational opportunities and productions that may provide employment opportunities.

**C. Government Sector Impact:**

This bill will provide dedicated funding for the Historical Resources Operating Trust Fund for specified purposes and the Cultural Endowment Program. This dedicated funding source will be comprised of certain penalties and late fees collected by the Division of Corporations which will be deposited in the Florida Fine Arts Trust Fund. The Department of State estimates that the Division of Corporations will collect \$22.5 million annually for the next 3 years.

Local governments may benefit from increased spending by heritage tourists during their visits to Florida.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.



## **VIII. Summary of Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---