

# 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.)

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Prepared By: Transportation and Economic Development Appropriations Committee

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BILL: CS/CS/SB 2384

INTRODUCER: Transportation and Economic Development Appropriations Committee, Government Efficiency Appropriations Committee and Senator Dockery

SUBJECT: Department of State

DATE: April 24, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Herrin</u>	<u>Yeatman</u>	<u>CA</u>	<u><b>Favorable</b></u>
2.	<u>Gilreath</u>	<u>Johansen</u>	<u>GE</u>	<u><b>Fav/CS</b></u>
3.	<u>Weaver</u>	<u>Martin</u>	<u>TA</u>	<u><b>Fav/CS</b></u>
4.	_____	_____	<u>WM</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The bill establishes January 1 as the date when the terms begin for persons appointed to the Florida Arts Council.

The bill transfers to the Legislature the responsibilities of the Florida Historic Capitol that are currently under the Department of State. The bill ensures that the Florida Historic Capitol is maintained in accordance with good historic preservation practices that are specified in the National Park Service Preservation Briefs and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. The bill also transfers the Florida Historic Capitol Curator responsibilities to the Legislature from the Department of State.

The bill amends language governing cultural endowments to:

- remove an audit requirement to conform to Single Audit Act requirements,
- amend conditions for the return of the state portion of the endowment,
- deposit the returned funds in the Fine Arts Trust Fund to fund qualified organizations on the cultural endowment priority list in lieu of reverting to the General Revenue Fund,
- require that authority to disburse funds is subject to notice and review procedures in s. 216.177, F.S., and
- require reversion of state matching funds to the General Revenue Fund at the end of the fiscal year if there are no qualified organizations on the Cultural Endowment Program priority list.

The bill revises report and meeting dates for the Discovery of Florida Quincentennial Commemoration Commission.

The bill requires agencies, in conducting biennial mailing list purges, to provide recipients with the option of receiving publications electronically in lieu of hard copies. Additionally, agencies are required to submit an annual list of all published documents that meet the definition in s. 257.05, Florida Statutes, to the State Library; and clarifies the types of documents that are subject to the written justification requirement for publications with costs exceeding \$50,000.

This bill substantially amends sections 257.05, 265.285, 265.606, 267.174, 272.129, 272.135, 283.31, 283.55, and 607.193 of the Florida Statutes.

## **II. Present Situation:**

### **Cultural Endowment Program**

Cultural endowment grants are provided through the Cultural Endowment Program, under ss. 265.601-265.606, F.S., which provides a state match of \$240,000 to a qualifying organization that provides a match of \$360,000 for the establishment of an endowment, the interest from which is to be used for operation costs. Currently, 32 qualified organizations are on a waiting list for the Cultural Endowment Program.

The Cultural Endowment Program requires a qualifying organization to return the \$240,000 state match for the endowment if the organization ceases to exist, files for protection under federal bankruptcy, or willfully expends any portion of the endowment principal. Funds that are returned are required to revert to the General Revenue Fund. The Department of State has expressed concern that the criteria should be broadened to encompass other conditions under which the organization is no longer able to manage the endowment.

Section 265.606(4), F.S., requires the sponsoring organization to submit an annual audit explaining how endowment program funds were used and requires that the organization submit an annual postaudit of its financial accounts by an independent certified public accountant. The Department of State has expressed concern that the second audit requirement is in violation of the Florida Single Audit Act, s. 215.97, F.S., which requires a coordination of auditing efforts when entities are receiving funding from various state agencies. The law also refers to determinations for the primary agency of responsibility for audits. Determinations are based upon thresholds of funding.

### **Discovery of Florida Quincentennial Commemoration Commission:**

In the 2004 Legislative Session, the Department of State and the Division of Historical Resources were given additional responsibilities through the creation of the Discovery of Florida Quincentennial Commemoration Commission which was placed within the department.<sup>1</sup> The purpose of the Commission is to plan and lead the commemoration of Juan Ponce de Leon's discovery of Florida. This is to be done through the development and implementation of a statewide master plan. The law provides for appointment of a Commission and authorizes specific powers and duties relative to the development and implementation of the master plan. Special subcommittees are permitted and an advisory committee is required to assist the

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<sup>1</sup> See Chapter 2004-91, L.O.F.

Commission in its responsibilities. The Commission must hold its initial meeting no later than January 2007 to organize and begin its work. By January 2008 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 2009. Department and division responsibilities include, but are not limited to, establishment of a citizens support organization to assist in the development and implementation of the master plan and administrative support and consulting services. The responsibilities of the department were contingent upon appropriation. No funding was provided for responsibilities to organize the initial meeting of the Commission, to pay per diem and travel for members, nor to pay for any other administrative costs associated with the Commission.

### **Florida Historic Capitol and Curator**

The Florida Historic Capitol has been at its present location since 1845 and was expanded several times. It retains the original floor plan in the center of the building. In 1978, the building was no longer used by state employees and it began its restoration to its 1902 appearance.

Chapter 81-332, Laws of Florida, provided that the President of the Senate and the Speaker of the House of Representatives have responsibility and authority for the allocation of all space in the restored capitol. The law also required that the rotunda, corridors, Senate chamber, House of Representative chamber, and Supreme Court chamber not be used as office space and that the Department of State be allocated space for program and administrative functions relating to the preservation, museum, and cultural programs of the department. The Department of State was required to restore all space in the Florida Historic Capitol in a manner consistent with the 1902 form and made available for allocation.

In 1982, the Florida Historic Capitol was restored and opened as a museum. The Florida Historic Capitol is on the National Registry of Historic Places and is an accredited museum. The accreditation as a museum is under the umbrella accreditation of the Museum of Florida History at the R.A. Gray Building. Artifacts and reproductions are displayed in the Governor's Suite and in the Senate, House, and Supreme Court chamber. Special exhibits interpret the state's political history, constitutions, and the history of the building.

The Capitol Curator, created within the Department of State, is responsible for:

- the promotion and encouragement of knowledge and appreciation of the Florida Historic Capitol;
- the collection, research, exhibition, interpretation, preservation, and protection of the history, artifacts, objects, furnishings, and other materials related to the Florida Historic Capitol; and
- the development, direction, supervision, and maintenance of the interior design and furnishings of all spaces within the building consistent with the 1902 restoration.

### **Supplemental Corporate Filing Fees**

In 2005, Chapter 620, pertaining to partnership laws, was amended by Chapter 2005-267, Laws of Florida. A section pertaining to reports that are required to be filed with the Department of

State was changed to s. 620.1210, F.S., and the original section pertaining to such reports was repealed.

A cross reference in s. 607.193, F.S., relating to supplemental corporate fees, was not amended to cite the new section in Chapter 620, F.S. The language regarding existing late fees associated with a limited partnership or a foreign limited partnership filing is in need of clarification.

### **Public Documents**

State agencies perform many activities that involve providing information to the public. These include such efforts as distributing information on health care risks and available services, notifying the public and affected groups about changes in regulatory standards, announcing the availability of grants and funding opportunities, and releasing data and annual reports. This communication helps ensure that the public is informed of what government is doing and the services that are available. State agencies historically have communicated this information largely through printed documents. Several statutes relate to the cost and distribution of these publications.

- Section 283.31, Florida Statutes, requires executive branch agencies to maintain records for every agency publication with production costs exceeding \$50,000. Specifically, agencies are to document the purpose and justification for these publications and the sources of funding used for their production, and they are to compare the costs of different printing methods and justify the decision to print the documents in-house, by another agency, or by the private sector.
- Section 283.55, Florida Statutes, requires agencies to biennially survey addressees on agency publication mailing lists to determine whether they wish to continue receiving publications. Addressees must respond to continue receiving publications by mail and thus to remain on the agency mailing list. This provision does not apply to universities or to an agency whose mailing list consists only of persons registered with or licensed by the agency where payment of the registration fee makes that person a subscriber to agency publications.
- Section 257.05, Florida Statutes, requires agencies to submit copies of their public documents, as defined in this section, to the State Library for transmittal to depository libraries throughout the state.

In November 2005, OPPAGA issued Report No. 05-53, *State Printing Expenditures Have Decreased, But Additional Steps Could Produce More Savings*, November 2005, which examined how much agencies are spending to produce and distribute public documents and whether existing statutory provisions are effective in managing these cost. OPPAGA's findings included:

- Statewide printing expenditures have decreased. Over the past eight years, statewide printing expenditures have been reduced by about 25% from \$27.9 million in Fiscal Year 1997-98 to \$20.7 million in Fiscal Year 2004-05. Most of these expenditures (80%) were funded from

various trust funds and federal grants; however, the remaining 20% (\$4.05 million) were supported from general revenue.<sup>2</sup>

- Agencies are not consistently justifying publications exceeding the statutory cost threshold, as required by s. 283.31, F.S. The effectiveness of this control on agency printing is limited because the statute does not define the term “publication,” and agencies have interpreted this term differently. In addition, the statute does not provide a mechanism for monitoring compliance with the documentation requirements.
- Mailing list maintenance requirements specified in s. 283.55, F.S., do not encourage electronic distribution of public documents. Although most agencies conduct purges of their mailing lists, publication recipients are not asked whether they would prefer an electronic version of an agency publication, as the statute does not provide for this alternative.
- Agencies are not submitting all public documents to the State Library, as required by s. 257.05, F.S. This requirement is intended to facilitate ready public access to state publications. However, agencies are not consistently complying with this statute for several reasons, including a lack of knowledge among agency staff about the statutory requirement, differing interpretations regarding what documents need to be submitted, and the State Library’s lack of authority to monitor and enforce compliance.

OPPAGA’s report identified several policy options for consideration by the legislature, including:

- Updating chapters 257 and 283, F.S., to require agencies to use electronic document distribution to the maximum extent practicable to help clarify statewide policy regarding public documents. The policy should require agencies, when conducting biennial mailing list purges, to ask recipients if they would prefer to receive publications electronically in lieu of hard copies; which would likely increase electronic distribution.
- Requiring agencies to submit an annual list of all published documents meeting the definition in s. 257.05, Florida Statutes, to the State Library to aid it in ensuring that it receives copies of all public documents for transmittal to depository libraries throughout the state.
- Clarifying what types of documents are subject to the written justification requirement for publications with costs exceeding \$50,000, and requiring agencies to report these justifications annually in their legislative budget requests.

### III. Effect of Proposed Changes:

**Section 1** amends 265.285, F.S., to establish January 1 as the date when the terms begin for persons appointed to the Florida Arts Council. This will ensure that council members who review the cultural facilities grants and other grants through the statutorily required review process are the ones who make final recommendations on those grants.

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<sup>2</sup> The state accounting system (FLAIR) does not facilitate the separation of expenditures for public documents from expenditures for other printed products. Consequently, these expenditures include both internal documents (e.g., stationery, training materials, and administrative forms), as well as external documents designed to communicate with the public such as reports, newsletters, and brochures. Expenditures also include specialty products such as registration decals for motor vehicles.

**Section 2** amends s. 265.606, F.S., to remove the requirement for the submission to the Department of State of an annual postaudit by the local sponsoring organization. The deletion of this additional audit requirement removes potential costs that would be incurred by the sponsoring organization for the audit and conforms to Single Audit Act requirements.

The bill broadens one of the criteria for reversion of the state funding portion of the endowment from ceasing operation to no longer being able to manage the endowment. Additionally, the bill provides that if the state portion of the endowment is returned, it will not revert to the General Revenue Fund. Instead the state portion will revert to the Florida Fine Arts Trust Fund and be used to fund the next organization on the Cultural Endowment Program priority list that has not previously received an endowment in the most current funding cycle. The authority to disburse funds is subject to notice and review procedures in s. 216.177, F.S.

Finally, if there are no qualified organizations on the Cultural Endowment Program priority list, the bill requires the reversion of returned state matching funds to the General Revenue Fund at the end of the fiscal year.

**Section 3** amends s. 267.174, F.S., to move forward by one year the requirements for the first meeting of the Discovery of Florida Quincentennial Commemoration Commission, the initial draft of the master plan, and the submission of the master plan to the Legislature.<sup>3</sup>

**Section 4** amends s. 272.129, F.S., to transfer to the Legislature the responsibilities of the Florida Historic Capitol that are currently under the Department of State. The bill ensures that the Florida Historic Capitol is maintained in accordance with good historic preservation practices that are specified in the National Park Service Preservation Briefs and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

**Section 5** amends s. 272.135, F.S., to also transfer the Florida Historic Capitol Curator responsibilities to the Legislature from the Department of State.

**Section 6** amends s. 607.193, F.S., to correct a cross reference in section 607.193, F.S., related to supplemental corporate fees.

**Section 7** amends s. 257.05, F.S., to require agencies to submit an annual list of all published documents meeting the definition in s. 257.05, F.S., to the State Library to aid the State Library in ensuring that it received copies of all public documents for transmittal to depository libraries throughout the state.

**Section 8** amends s. 283.31, F.S., to clarify what types of documents are subject to the written justification requirement for publications with costs exceeding \$50,000.

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<sup>3</sup> Section 267.174, F.S., requires that the initial meeting of the Commission be no later than January 31, 2007, the initial draft of the master plan be submitted to the Legislature by January 2008, and the master plan be submitted by January 2009. The quincentennial celebration will not be until 2013.

**Section 9** amends s. 283.55, F.S., to require agencies, when conducting biennial mailing list purges, to ask recipients if they would prefer to receive publications electronically in lieu of hard copies.

**Section 10** provides the act shall take effect July 1, 2006.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

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:

None.

C. Government Sector Impact:

The bill will have a minimal impact on general revenue. If the recipient organization returns the \$240,000 state portion of the Cultural Endowment Program grant, it will revert to the Florida Fine Arts Trust Fund rather than the General Revenue Fund. If there are no organizations qualified to receive the Cultural Endowment Program grant funds, then the returned portion of the state matching funds will revert to the General Revenue Fund at the end of the fiscal year. According to the Department of State, only 5 organizations have returned state matching funds since the inception of the program in 1985.

Requiring agencies to submit an annual list of all published documents to the State Library may result in an increased number of documents housed in the State Libraries and designated depository libraries. According the Department of State, any fiscal impact associated with this requirement, can be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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

None.

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