

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7031 CS PCB TURS 06-01 Department of State
SPONSOR(S): Tourism Committee and Rep. Detert
TIED BILLS: **IDEN./SIM. BILLS:** SB 2384

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Tourism Committee	7 Y, 0 N	McDonald	McDonald
1) Transportation & Economic Development Appropriations Committee	18 Y, 0 N, w/CS	McAuliffe	Gordon
2) State Infrastructure Council	10 Y, 0 N, w/CS	McDonald	Havlicak
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill establishes 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.

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 Department of Management Services will continue to be responsible for the preventive maintenance and the Florida Department of Law Enforcement, Capitol Police, will continue to be responsible for security of the Florida Historic Capitol. The bill also transfers the Florida Historic Capitol Curator responsibilities to the Legislature from the Department of State.

The bill amends provisions relating to cultural endowments to do the following:

- 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.

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

The effective date of the bill is July 1, 2006.

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

STORAGE NAME: h7031d.SIC.doc
DATE: 4/19/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Arts Council

The Division of Cultural Affairs in the Department of State is responsible for managing Florida's cultural grant programs. The division is assisted in carrying out its duties by advisory groups. The Florida Arts Council, a 15-member advisory board appointed by the Governor, President of the Senate, and Speaker of the House of Representatives, advises the Secretary of State on the distribution of grant awards. Current law provides members appointed by the Governor serve four-year terms and members appointed by the Legislature serve two-year terms. However, current law does not specify the day or month of the year when appointed members are to begin their term.

Cultural Endowment Program

The 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.¹ 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

¹ See Chapter 2004-91, L.O.F.

development and implementation of the master plan. Special subcommittees are permitted and an advisory committee is required to assist the 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, relating to partnership laws, was amended by Chapter 2005-267, Laws of Florida. A section relating to reports required to be filed with the Department of State was changed to s. 620.1210, F.S., and the original section relating 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.

Effects of Proposed Changes:

Florida Arts Council

The bill establishes 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.

Cultural Endowment Program

The bill removes 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 department for the audit.

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 an organization receiving an endowment from the Cultural Endowment Program can no longer manage the endowment, the endowment funds would not revert to the General Revenue Fund, but to the Fine Arts Trust Fund. Those funds would then be used to fund the next qualified 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.

Quincentennial Commemoration Commission

The bill changes the date for the first meeting of the Discovery of Florida Quincentennial Commemoration Commission from January 31, 2007 to July 31, 2008; changes the date for completion and submission of the initial draft of the master plan from January 2008 to May 2009; and, changes the date for completion and submission of the master plan to the Legislature from January 2009 to May 2010.

Florida Historic Capitol and Curator

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 Department of Management Services will continue to be responsible for the preventive maintenance and the Florida Department of Law Enforcement, Capitol Police, will continue to be responsible for security of the Florida Historic Capitol. The bill also transfers the Florida Historic Capitol Curator responsibilities to the Legislature from the Department of State.

Supplemental Corporate Fee

The bill corrects a cross reference in section 607.193, F.S., related to supplemental corporate fees.

C. SECTION DIRECTORY:

Section 1. Amends s. 265.285, F.S., relating to the Florida Arts Council; providing a start date for appointments to the Florida Arts Council.

Section 2. Amends s. 265.606, F.S., relating to the Cultural Endowment Program; deleting a requirement for a postaudit; revising reversion requirements for state funding portion of endowment.

Section 3. Amends s. 267.174, F.S., relating to the Discovery of Florida Quincentennial Commemoration Commission; revising dates.

Section 4. Amends s. 272.129, F.S., relating to the Florida Historic Capitol; transferring responsibilities; ensuring historic maintenance of the Florida Historic Capitol; correcting outdated language.

Section 5. Amends s. 272.135, F.S., relating to the Florida Historic Capitol Curator; transferring Curator to the Legislature.

Section 6. Amends s. 607.193, F.S., relating to supplemental corporate fees.

Section 7. Provides an effective date.

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:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None specified.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 7, 2006, the Tourism Committee unanimously passed PCB TURS 05-01 as amended. The two technical amendments to the proposed committee bill were as follows:

- On line 53, the name of the trust fund was corrected to reflect the appropriate trust fund into which money is to be deposited.
- The numbering of sections was corrected.

At the April 11, 2006 meeting, the Transportation & Economic Development Appropriations Committee approved HB 7031 with a strike-all amendment. The amendment:

- Establishes 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.
- Transfers to the Legislature the responsibilities of the Florida Historic Capitol that are currently under the Department of State.
- 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.
- Corrects language relating to responsibilities of the Department of Management Services.
- Transfers the Florida Historic Capitol Curator and responsibilities to the Legislature from the Department of State.
- Amends provisions relating to cultural endowments by removing an audit requirement to conform to Single Audit Act, by broadening one of the provisions for reversion of the state portion of the endowment, and by providing for the return of the state portion of the endowment to fund other cultural endowments in lieu of reverting to the General Revenue Fund.
- Revises the dates 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.

At the April 18, 2006 meeting, the State Infrastructure Council adopted one amendment to HB 7031 w/CS and approved the bill as a council substitute. The amendment does the following:

- Requires that the authority to disburse returned state matching funds for a cultural endowment is subject to the notice and review procedures in s. 216.177, F.S., and
- Requires that if there is no qualified organization on the Cultural Endowment Program priority list, returned state matching funds will revert to the General Revenue Fund at the end of the fiscal year.