

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Governmental Operations Committee

BILL: SB 1014

INTRODUCER: Senator Gaetz

SUBJECT: Management of Historic Pensacola Properties

DATE: February 26, 2008 REVISED: 03/6/08

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rhea	Wilson	GO	Fav/1 amendment
2.			HE	
3.			TA	
4.			HI	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input checked="" type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The Department of State currently is required by law to contract with the University of West Florida for the management of various state-owned historic properties in Pensacola. The university, in turn, is authorized to contract with a direct-support organization to manage the historic properties. The bill provides that, upon agreement by all parties to the existing management contracts, the contracts will be rescinded upon execution of a management contract between the Board of Trustees of the Internal Improvement Trust Fund and the University of West Florida. Under the bill, the university is still authorized to contract with its direct-support organization to manage the properties.

Additionally, under current law, the Department of State is authorized to transfer ownership and responsibility for any artifacts, documents, equipment, and other forms of tangible personal property formerly under the jurisdiction of the Historic Pensacola Preservation Board of Trustees to the University of West Florida. Under the bill, this authority to convey ownership of tangible personal property to the university is transferred from the Department of State to the Board of Trustees of the Internal Improvement Trust Fund. Further, the university is currently authorized to sell or transfer such personal property if its direct-support organization recommends it to the university president and if it is determined that the object is no longer appropriate for the purpose

of advancing historic preservation. The bill limits this authority by requiring prior authorization from the Department of State before disposal of any tangible personal property that has intrinsic historical or archaeological value relating to the history, government, or culture of the state.

This bill amends section 267.173, Florida Statutes.

II. Present Situation:

Chapter 267, F.S., is the “Florida Historical Resources Act” (the “act”). The Division of Historical Resources of the Department of State is delegated authority to implement the provisions of the act and is given authority to enter into contracts “. . . as it may determine are necessary, expedient, or incidental to the performance of its duties or the execution of its powers under this chapter.”

Section 267.173(2), F.S., requires the Department of State to contract with the University of West Florida for the management of the various state-owned properties managed by the Historic Pensacola Preservation Board of Trustees prior to July 1, 2001. The contract requires that the university must use all proceeds derived from the management of the properties for the purpose of advancing historic preservation.

The section authorizes the department to transfer ownership and responsibility to any artifacts, documents, equipment, and other forms of tangible personal property to the university to assist in management transition.

The university is designated by the section as the governing body for the management and maintenance of the state-owned properties contracted by the section and is delegated authority to perform all lawful acts necessary, convenient and incident to effectuate its function and purpose.

Additionally, the university is delegated authority to contract with the direct-support organization authorized by s. 267.1732, F.S.¹ Under s. 267.173(4)(b), F.S., the university or its direct-support organization is authorized to:

- Rent or lease for revenue any land, improved or restored real estate, or personal property directly related to carrying out the purposes for historic preservation under terms and conditions of the contract with the Department of State and deemed by the university to be in the best interest of the state.
- Sell craft products created through the operation and demonstration of historical museums, craft shops, and other facilities.
- Sell merchandise relating to the historical and antiquarian period of Pensacola and its surrounding territory and the historical period of West Florida from the Apalachicola River to the western boundary of the state.

¹ The sole purpose of the direct-support organization authorized by this section is to support the historic preservation efforts and the historic preservation education programs and initiatives of the university. The direct-support organization is required to be: (a) a Florida not-for-profit corporation; (b) organized and operated to receive, hold, invest, and administer property and to make expenditures to or for the benefit of the university; and (c) approved by the university to operate for the benefit of and in a manner consistent with the goals of the university and in the best interest of the state.

Additionally, under s. 267.173(4)(c), F.S., the university or the direct-support organization is delegated authority to:

- Enter into agreements to accept credit card payments as compensation, and establish accounts in credit card banks for the deposit of credit card sales invoices.
- Fix and collect charges for admission to any of the state-owned facilities under contract with the department.
- Permit the acceptance of tour vouchers issued by tour organizations or travel agents for payment of admission.
- Adopt and enforce reasonable rules to govern the conduct of the visiting public.

Pursuant to s. 267.173(7), F.S., the university is authorized to exchange, sell, or otherwise transfer any artifact, document, equipment and other form of tangible personal property if its direct-support organization recommends to the university president such exchange, sale, or transfer if it is determined that the object is no longer appropriate for the purpose of advancing historic preservation.

III. Effect of Proposed Changes:

Upon agreement by all parties to existing management contracts for the various state-owned properties managed by the Historic Pensacola Preservation Board of Trustees prior to July 1, 2001, those existing contracts will be rescinded upon execution of a contract between the Board of Trustees of the Internal Improvement Trust Fund and the University of West Florida for the management of those properties.

The university is required to provide for the management of these state-owned properties and is authorized to contract with the direct-support organization authorized by s. 267.1732, F.S. Any such contract must provide that all proceeds derived from the management of these properties must be used for the purposes of advancing historic preservation, research, and education.

Under the bill, this authority to convey ownership of certain tangible personal property to the university is transferred from the Department of State to the Board of Trustees of the Internal Improvement Trust Fund. The bill maintains the authority of the university to sell or transfer such personal property if its direct-support organization recommends it to the university president and if it is determined that the object is no longer appropriate for the purpose of advancing historic preservation; however, the bill limits this authority by requiring prior authorization from the Department of State before disposal of any tangible personal property that has intrinsic historical or archaeological value relating to the history, government, or culture of the state.

The bill takes effect July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides that the university and its direct-support organization are eligible to match state funds in the Alec P. Courtelis University Facility Enhancement Challenge Grant Program established pursuant to s. 1013.79, F.S. The grant program is for the purpose of assisting universities build high priority instructional and research-related capital facilities, including common areas connecting such facilities. The associated foundations that serve the universities are required to solicit gifts from private sources (which does not include any federal, state, or local government funds) to provide matching funds for capital facilities. By October 1 of each year, the Board of Governors transmits to the Legislature a list of projects that meet all eligibility requirements to participate in the Alec P. Courtelis University Facility Enhancement Challenge Grant Program and a budget request that includes the recommended schedule necessary to complete each project. In order for a project to be eligible under this program, it must be included in the university 5-year capital improvement plan and must receive approval from the Board of Governors or the Legislature. The historic Pensacola properties appear to be currently eligible for the Courtelis grant program, so adding the reference appears to be only clarifying in nature.

The referenced properties receive Plant Operations and Maintenance funding through the university budget. There are portions of some of these buildings that do not currently receive this funding; however, adding them to the funding formula could have a fiscal impact (<\$50,000).

VI. Technical Deficiencies:

None.

VII. Related Issues:

On line 51, the bill provides that proceeds derived from the management of these state-owned properties must be used for the purposes of advancing historic preservation, research, and education. Currently, these funds may be used only for the purpose of advancing historic preservation. As the university is a research and educational institution, the addition of “research and education” to the purposes for which funds derived from the historic properties may be used could be construed to permit a much broader use of those funds. In contrast, on lines 80-81, the university and the direct-support organizations are granted contracting authority to perform acts that assist the university in carrying out its historic preservation and “historic preservation education” responsibilities. Further clarification of legislative intent regarding the use of proceeds derived from management of the historic properties would ensure use of those funds for historic preservation.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

Barcode 170714 by Governmental Operations on March 6, 2008:

The amendment clarifies that the University of West Florida or its direct-support organization must use all proceeds derived from management of the state-owned historic properties for the purposes of advancing historic preservation, historic preservation research, and historic preservation education. Further, the amendment expands the contract authority delegated to the university and its direct-support organization to permit contracts to enhance the historic properties under their management.