

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives:

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Conveyance of Dead Bodies in Florida

The state Anatomical Board is located at the University of Florida's College of Medicine Health Science Center,¹ and is comprised of representatives from the various Florida colleges of medicine.² The board's declared mission is to supply anatomical materials for teaching and research programs in Florida.³

Part II of ch. 406, F.S., regulates the disposition of dead bodies. Section 406.61, F.S., makes the sale of a body or body parts a misdemeanor of the first degree. It also makes the transmission or conveyance of a body or body parts to a place outside the state, except by a recognized Florida medical or dental school, a first degree misdemeanor. Exceptions are provided for autopsies and for human specimens transported by the Anatomical Board for educational or scientific purposes.

A person, institution or organization that conveys bodies or parts of bodies into or out of the state for medical education or research purposes is required to notify the Anatomical Board of such intent and receive approval from the board.⁴ When the board approves the conveyance of bodies or body parts, its goal is to ensure that the purpose for the conveyance is appropriate, and that a body or any parts are obtained from donors or families who consent to the proposed use.⁵ Section 406.59, F.S., prohibits universities, colleges, schools, teaching hospitals, institutions and associations from receiving dead human bodies for any other purpose than the promotion of medical science.

Plastination of Bodies

"Plastination" or "polymer preservation" is a technique used to preserve bodies or body parts that was developed in 1977 by Gunther von Hagens, a German anatomist.⁶ The water and fat are replaced by certain plastics, yielding specimens that can be touched, do not decay, and retain most microscopic

¹ Section 406.50, F.S.

² Anatomical Board of the State of Florida, Letter to the Medical Examiners Commission, (November 19, 2007). Available online at: http://www.fdle.state.fl.us/cjst/mec/nov2007_mec_mtg/Anatomical_Board_Information.pdf (last viewed March 15, 2009).

³ University of Florida, College of Medicine, Anatomical Board of the State of Florida: Our Mission. (2004). Available online at: <http://www.med.ufl.edu/anatbd/> (last viewed March 15, 2009).

⁴ Section 406.61, F.S.

⁵ February 9, 2009, e-mail from Susan Collingwood, Senior University Counsel for Health Affairs, University of Florida, on file with the Military & Local Affairs Policy Committee.

⁶ Gunther von Hagens' Body Worlds: The Original Exhibition of Real Human Bodies, The Idea behind Plastination. Available online at: http://www.bodyworlds.com/en/plastination/idea_plastination.html (last viewed March 15, 2009).

properties of the original sample.⁷ A specimen can be anything from a full human body to a small piece of an animal organ. Once plastinated, a body may be manipulated and positioned.⁸ Bodies that have been preserved via this method have been used for teaching anatomy for several decades. In recent years, plastinated human bodies and body parts have been featured in museum exhibits.

The board first considered the issue of plasticized bodies in 2005 when it denied the Tampa Museum of Science and Industry (MOSI) a permit to transport body parts into the state for an exhibition entitled "BODIES: The Exhibition." The board denied the permit because MOSI did not provide documentation that the decedents whose bodies were to be displayed had consented to this use of their remains.⁹ According to the board, there was significant controversy surrounding the exhibit, with allegations that some of the bodies were Chinese prisoners (political or otherwise), others were executed prisoners, that the bodies were paid for, and that any "consents" provided by family members were the product of forgery or coercion.¹⁰

In a letter to the board, the Florida Attorney General opined that approval of the board was required for such an exhibition, noting that "educational relevance" was listed as one of the purposes of the exhibit on its website.¹¹ He stated that while s. 406.61, F.S., specifically refers to "medical education," the law does not limit that education to medical students.¹² Despite the board's ruling, MOSI continued with the display. Subsequently, the Attorney General and local law enforcement declined to take action.¹³

Presently, the Mary Brogan Museum of Art and Science in Tallahassee is hosting a similar exhibit, "OUR BODY...The Universe Within."¹⁴ The producer of the exhibit indicates on its website that all of the anatomical specimens originate from China and have been provided for the exhibit in a manner "consistent with the laws of China." The anatomical specimens are not owned by the exhibitor, but are provided by a Chinese foundation. While the producer does not have the specific identity of each anatomical specimen, it maintains that the bodies have been donated through medical schools and other research facilities in China to promote education, science and medical research.¹⁵

Florida Anatomical Gifts

Part V of ch. 765, F.S., regulates anatomical gifts, or gifts of a body or parts of a body after the death of a donor. This law provides specific processes for making anatomical gifts, and requires execution of a donor document, such as a donor card, registration in the online donor registry, an advance directive, or other document.¹⁶ These requirements are in part for the purpose of ensuring donor intent and consent to donate. Section 765.513, F.S., provides that hospitals, physicians, medical or dental schools, colleges or universities, and banks or storage facilities may receive anatomical gifts for education, research, advancement of medical or dental science, therapy or transplantation.

⁷ Gunther von Hagens' Body Worlds: The Original Exhibition of Real Human Bodies, The Method of Plastination. Available online at: http://www.bodyworlds.com/en/plastination/method_plastination.html (last viewed March 15, 2009).

⁸ Gunther von Hagens' Body Worlds: The Original Exhibition of Real Human Bodies, The Plastination Process. (2007). Available online at: http://www.bodyworlds.com/en/plastination/plastination_process.html (last viewed March 15, 2009).

⁹ February 9, 2009, e-mail from Susan Collingwood, Senior University Counsel for Health Affairs, University of Florida, on file with the Military & Local Affairs Policy Committee.

¹⁰ *Ibid.*

¹¹ Letter from Attorney General Charlie Crist to Dr. Lynn Romrell, Executive Director of the Anatomical Board. Available online at: [http://myfloridalegal.com/webfiles.nsf/WF/JFAO-6F7N6S/\\$file/romrell.pdf](http://myfloridalegal.com/webfiles.nsf/WF/JFAO-6F7N6S/$file/romrell.pdf) (last viewed March 15, 2009).

¹² Office of the Florida Attorney General, Charlie Crist, News Release: *Crist Responds to Florida Anatomical Board* (August 2005). Available online at:

<http://myfloridalegal.com/852562220065EE67.nsf/0/86A1D427312C3F8F8525705B0060F0F6?Open&Highlight=0,bodies,the,exhibiti>
[on](http://myfloridalegal.com/852562220065EE67.nsf/0/86A1D427312C3F8F8525705B0060F0F6?Open&Highlight=0,bodies,the,exhibiti) (last viewed March 15, 2009).

¹³ February 5, 2009, e-mail from Susan Collingwood, Senior University Counsel for Health Affairs, University of Florida, noting that the board itself does not have enforcement powers, on file with the Military & Local Affairs Policy Committee.

¹⁴ The Mary Brogan Museum of Art and Science: *Our Body...the Universe Within*. Available online at: <http://www.thebrogan.org/> (last viewed March 15, 2009).

¹⁵ The Mary Brogan Museum of Art and Science, More Information on Our Body: Our Body Frequently Asked Questions. Available online at: http://www.thebrogan.org/index.php?option=com_content&task=view&id=132&Itemid=119 (last viewed March 15, 2009).

¹⁶ Section 765.514, F.S.

The American Association of Museums

The mission of the American Association of Museums (AAM) “is to enhance the value of museums to their communities through leadership, advocacy and service.”¹⁷ According to the AAM’s website, it is the only organization representing the entire scope of museums and professionals and nonpaid staff who work for and with museums. It currently represents more than 15,000 individual museum professionals and volunteers; 3,000 institutions; and 300 corporate members. Individual members span the range of museum occupations, including directors, curators, registrars, educators, exhibit designers, public relations officers, development officers, security managers, trustees and volunteers. Every type of museum is represented including art, history, science, military and maritime, and youth museums, as well as aquariums, zoos, botanical gardens, arboretums, historic sites, and science and technology centers.¹⁸

Through its Accreditation Commission, the AAM evaluates museums for accreditation based on program standards and requirements. To participate in the AAM Accreditation Program, a museum must:¹⁹

- be a legally organized nonprofit institution or part of a nonprofit organization or government entity;
- be essentially educational in nature;
- have a formally stated and approved mission;
- use and interpret objects and/or a site for the public presentation of regularly scheduled programs and exhibits;
- have a formal and appropriate program of documentation, care, and use of collections and/or objects;
- carry out the above functions primarily at a physical facility/site;
- have been open to the public for at least two years;
- be open to the public at least 1,000 hours a year;
- have accessioned 80 percent of its permanent collection;
- have at least one paid professional staff with museum knowledge and experience;
- have a full-time director to whom authority is delegated for day-to-day operations;
- have the financial resources sufficient to operate effectively; and
- demonstrate it meets the “Characteristics of an Accreditable Museum.”

In the state of Florida, the AAM has accredited the following entities:²⁰

- Bass Museum of Art (Miami Beach);
- Boca Raton Museum of Art;
- Bonnet House Museum & Gardens (Ft. Lauderdale);
- Cummer Museum of Art and Gardens (Jacksonville);
- Fairchild Tropical Botanic Garden (Miami);
- Florida Holocaust Museum (St. Petersburg);
- Florida Museum of Natural History at the University of Florida;
- Florida State University Museum of Fine Arts;
- Frost Art Museum at Florida International University;
- George D. and Harriet W. Cornell Fine Arts Museum at Rollins College (Winter Park);
- Henry B. Plant Museum (Tampa);
- Henry Morrison Flagler Museum (Palm Beach);
- Historic Spanish Point Gulf Coast Heritage Association (Osprey);
- Historical Museum of Southern Florida (Miami);
- Jewish Museum of Florida (Miami Beach);
- John and Mable Ringling Museum of Art (Sarasota);

¹⁷ American Association of Museums: About AAM. Available online at: <http://www.aam-us.org/aboutaam/index.cfm> (last viewed March 15, 2009).

¹⁸ *Ibid.*

¹⁹ American Association of Museums, About Museums: Accredited Museums. Available online at: <http://www.aam-us.org/museumresources/accred/standards.cfm> (last viewed March 15, 2009).

²⁰ *Ibid.*

- Lowe Art Museum University of Miami (Coral Gables);
- Marie Selby Botanical Gardens (Sarasota);
- Mel Fisher Maritime Heritage Society (Key West);
- Miami Art Museum;
- Miami Museum of Science ;
- Morikami Museum and Japanese Gardens (Delray Beach);
- Museum of Art (Ft. Lauderdale);
- Museum of Arts & Sciences (Daytona Beach);
- Museum of Contemporary Art (North Miami);
- Museum of Discovery and Science (Ft. Lauderdale);
- Museum of Fine Arts (St. Petersburg);
- Museum of Florida History (Tallahassee);
- Museum of Science & History of Jacksonville;
- Museum of Science & Industry (Tampa);
- National Museum of Naval Aviation U.S. Dept of the Navy (Pensacola);
- Norton Museum of Art (West Palm Beach);
- Orange County Regional History Center (Orlando);
- Orlando Museum of Art;
- Orlando Science Center;
- Pensacola Museum of Art;
- Polk Museum of Art (Lakeland);
- Salvador Dali Museum (St. Petersburg);
- Samuel P. Harn Museum of Art at the University of Florida;
- Society of the Four Arts (Palm Beach);
- Tallahassee Museum of History and Natural Science;
- Tampa Museum of Art;
- University of South Florida Contemporary Art Museum;
- Vero Beach Museum of Art; and
- Vizcaya Museum and Gardens (Miami).
- Wolfsonian-FIU at Florida International University;

The Mary Brogan Museum of Art and Science in Tallahassee is not accredited by the AAM.

Effect of Proposed Changes

HB 125 amends s. 406.61, F.S., to permit entities accredited by the American Association of Museums to convey plastinated bodies or parts of bodies into or out of the state for exhibition and public educational purposes without the consent of the Florida Anatomical Board.

Qualified museums may convey plastinated bodies or parts of bodies in and out of the state without the consent of the Florida Anatomical Board if:

- the museum notifies the board regarding the duration and location of the exhibition at least 30 days before the intended conveyance;
- provides the board with a description of the bodies or parts of bodies, and the name and address of the providing company; and,
- provides the board with documentation that each body was donated by the decedent or his or her next of kin for the purpose of plastination and public exhibition, or, in lieu of such documentation, an affidavit stating that the body was directly donated by the decedent or his or her next of kin to the providing company for such purpose, and that the providing company has donation forms on file for each body.

The bill also makes grammatical changes to s. 406.61, F.S.

B. SECTION DIRECTORY:

Section1: Amends s. 406.61, F.S., relating to the conveyance of bodies.

Section 2: Provides an effective date of July 1, 2009.

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 identified.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

Florida Association of Museums

The Florida Association of Museums has not taken a position on the bill.²¹

²¹ February 6, 2009, e-mail from Malinda J. Horton, Executive Director, Florida Association of Museums, on file with the Military & Local Affairs Policy Committee.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

At its meeting on March 4, 2009, the Military & Local Affairs Policy Committee adopted an amendment which makes technical changes to the bill, and imposes an additional requirement that an accredited entity provide the Anatomical Board with documentation that bodies were legally donated for the purpose of plastination.

At its meeting on March 18, 2009, the Health Regulation Policy Committee adopted one amendment and reported the bill favorably. The amendment authorizes certain entities to convey plastinated bodies for certain purposes without the consent of the Anatomical Board if the entity:

- provides certain notice to the board; and,
- certifies that the entity has no knowledge or reason to believe the plastinated bodies were made available through an unlawful act.

At its meeting on April 14, 2009, the Economic Development & Community Affairs Policy Council adopted a Council Substitute which limits the application of the bill to entities that are accredited by the American Association of Museums. The Council Substitute requires that those entities:

- provide notice to the board;
- provide the board with a description of the bodies or parts of bodies, and the name and address of the providing company; and,
- provides the board with documentation that each body was donated by the decedent or his or her next of kin for the purpose of plastination and public exhibition, or, in lieu of such documentation, an affidavit stating that the body was directly donated by the decedent or his or her next of kin to the providing company for such purpose, and that the providing company has donation forms on file for each body.

This analysis is drafted to the Council Substitute.