

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1295 Art in State Buildings
SPONSOR(S): Economic Development & Community Affairs Policy Council, Glorioso
TIED BILLS: IDEN./SIM. BILLS: CS/SB 1104

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Rows include Governmental Affairs Policy Committee, Government Operations Appropriations Committee, and Economic Development & Community Affairs Policy Council.

SUMMARY ANALYSIS

From July 1, 2009, to April 1, 2011, the bill repeals a statutory requirement that each appropriation for the original construction of a state building which provides public access must include an amount of up to 0.5 percent of the total appropriation for the construction of the building, not to exceed \$100,000, for the acquisition of works of art by artists or crafts persons.

The repeal of the statutory requirement that each appropriation for such state building includes a provision for the acquisition of art, as well as rulemaking authority under the section.

According to the Department of State, since s. 255.043(1), F.S., became effective, there have been 1,448 works purchased or commissioned for a total of \$11,519,577 spent under the program. The smallest reported amount paid for a work was \$75.00 and the highest was \$125,000.

The bill appears to have no fiscal impact on state or local government.

The bill takes effect July 1, 2009; however, the provisions of the bill expire April 1, 2011, and the repealed provisions are reenacted.

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

The regulation of public property and publicly owned buildings is provided in chapter 255, F.S. Section 255.043(1), F.S., provides that each appropriation for the original construction of a state building which provides public access shall include an amount of up to 0.5 percent of the total appropriation for the construction of the building, not to exceed \$100,000, to be used for the acquisition of works of art.

The works of art must be displayed for viewing in public areas in the interior or on the grounds or the exterior of the building and not in private offices or areas with limited public access.

Under subsection (2) of the section, the Department of Management Services (DMS) or other state agencies receiving appropriations for original construction must notify the Florida Arts Council and the user agency of any construction project which is eligible under the provisions of the section. The DMS or other state agency must determine the amount to be made available for purchase or commission of works of art for each project and must report these amounts to the Florida Arts Council and the user agency. Payments are made from funds appropriated for fixed capital outlay. The approval of any invoice for payment for any purchase or commission of works of art is the responsibility of the user agency.

The user agency, not the Florida Arts Council, selects the artist or craftsman. The final approval of any recommendation for the purchase or commissioning of works must be consistent with the art selection process established by rule by the Department of State.

Effect of Proposed Changes

From July 1, 2009 to April 1, 2011, the bill repeals s. 255.043, F.S., thereby eliminating the statutory requirement that each appropriation for the original construction of a state building must include an amount of up to 0.5 percent of the total appropriation for procuring works of art for the building. The repeal of s. 255.043, F.S., also eliminates all requirements related to the purchase of works of art for new state building construction and to related rulemaking authority. During this time no expenditure for public art is permitted without prior legislative approval.

Effective April 1, 2011, the provisions of s. 255.043, F.S., are reenacted, and the text of that section reverts to that in existence on June 30, 2009, except that any amendments to the text enacted other than by this act must be preserved and continue to operate.

B. SECTION DIRECTORY:

Section 1. Repeals s. 255.043, F.S., but, provides for reenactment of the section on April 1, 2011; prohibits expenditures for public art under this section during the interim without legislative approval.

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:

The bill may have a negative fiscal impact on Florida artists and crafts persons as appropriations for original construction for state buildings will no longer be required to include funding for purchase of their works. Art budgets scheduled from 2008 to 2010 vary from a low of \$842 up to \$100,000.¹

D. FISCAL COMMENTS:

According to the Department of State, since s. 255.043(1), F.S., became effective, there have been 1,448 works purchased or commissioned for a total of \$11,519,577 spent under the program.² The smallest reported amount paid for a work was \$75.00 and the highest was \$125,000. The mean average paid for all works is \$7,955. In 2005, \$406,725 was spent for works; in 2006, \$294,069 was spent for works; and in 2007, \$701,389 was spent for works.

Project appropriations scheduled over the next 24 months provide for the purchase or commission of works of art totaling approximately \$655,000.³

Additionally, in FY 08-09 at the request of the user agencies and DMS, the Department of State established an Art in State Buildings Manager OPS position to assist agencies with the selection process and revised the program rule to accommodate this change. The position is funded by the user agencies and employs a professional with a background in public art administration. Upon completion

¹ Department of State bill analysis of SB 1104 (identical to HB 1295), March 2, 2009, p. 2.

² As of March, 2008.

³ Department of State bill analysis for SB 1104 (identical to HB 1295), March 2, 2009, p. 1.

of the Art in State Buildings projects previously funded by the Florida Legislature, the OPS would be eliminated within a two to three year period.⁴

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rulemaking authority to implement the art in state buildings statutory requirement is repealed.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the Department of Management Services (DMS), repealing s. 255.043, F.S., would not eliminate art that is budgeted as a part of the appropriation for a project, but impacts the guidelines established for the amount of the purchase. DMS expressed concern that without statutory guidelines, expenditures as well as the selection and placement of public art in new state-owned buildings may not be uniformly applied for state projects and the visibility into the amount of matching funds received through donations would be lost.⁵

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 14, 2009, the Economic Development & Community Affairs Policy Council adopted an amendment conforming the bill to its Senate companion. The amendment provided that the repeal of s. 255.043, F.S., will be in place until April 1, 2011, when the language will be reenacted and will revert to the text in existence on June 30, 2009, unless otherwise amended. The amendment also requires that any expenditures for public art under s. 255.043, F.S., during the interim shall not occur without prior legislative approval. The bill, as amended, was reported out as a committee substitute.

⁴ Ibid.

⁵ Department of Management Services analysis of HB 1295, March 10, 2009, p. 2.