

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 Transportation and Economic Development Appropriations Committee

BILL: PCS/SB 1780

INTRODUCER: Transportation and Economic Development Appropriations Committee

SUBJECT: Department of State

DATE: March 30, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Belcher	Noble	TA	Pre-meeting
2.			GO	
3.			WPSC	
4.			RC	
5.				
6.				

I. Summary:

The bill makes revisions to statutes concerning the Department of State (DOS). The bill creates a consolidated cultural grants program and adds definitions for clarification; makes changes to the Florida Secured Transaction Registry by eliminating the 3rd-party administrator; provides deadlines for corporations to file annual reports, eliminates requirement for DOS to provide a second-notice for failure to file, and provides for administrative dissolution for failure to file; deletes the requirement that a fictitious name renewal notice be sent to the registered owner; requires that the expiration of a fictitious name be sent to the owner or registrant; requires notice by electronic transmission if electronic address is available; and deletes reference to the Legislative Library.

The bill is effective upon becoming a law.

Provisions of the bill will result in a recurring General Revenue savings of \$2,091,244.

The bill amends the following sections of the Florida Statutes: s. 15.16, 120.55, 265.281, 265.282, 265.283, 265.284, 265.285, 265.286 (substantially reworded), 607.1420, 607.1421, 607.1530, 607.1531, 608.448, 608.4481, 608.512, 608.513, 617.1420, 617.1421, 617.1531, 617.1809, 620.1906, 620.9003, 679.527, and 855.09.

The bill repeals the following sections of the Florida Statutes: ss. 265.2861, 265.2862, 265.289, 265.608, 265.609, 265.702 and 265.708.

II. Present Situation:

Division of Cultural Affairs

The grant programs that the Division of Cultural Affairs currently administers are located throughout Chapter 265. Some grant programs have their own section in statute while others do not. There is a lack of consistency in providing terms and designations for sections dealing with grant programs. Additionally, grant programs have been added to the statute requiring cultural affairs to administer programs which do not fit into the definition of “fine arts” (such as Science Museums) but which do fall under a more general heading of cultural programs.

The Division currently administers eighteen arts and cultural grant programs funded through ten appropriation categories:

- Arts Grants
- Arts in Education
- Science Museums
- Youth & Children’s Museums
- Local Arts Agencies
- State Service Organizations
- Challenge Grants
- Cultural Institutions
- State Touring
- Historical Museums
- Underserved Arts Community Assistance
- Individual Artists Fellowships
- Artists Enhancements
- Culture Builds Florida
- Quarterly Assistance
- Cultural Endowment
- Cultural Facilities
- Regional Cultural Facilities

(Note: Florida Humanities Council is an appropriation category listed in the Division’s budget but is a pass through grant and not a program in statute nor does it require rules for administering)

The Division’s grant programs are currently funded through ten appropriation categories. Organizations may apply for and receive funding for multiple grants. Organizations with large budgets have an advantage in the competitive grant process and thus may receive higher scores from grant review panels which correlate into the amount of money received and the number of grants awarded.

Currently, the Legislature only sees the list of priority listed grant programs—Cultural Facilities, Regional Cultural Facilities, Cultural Endowment and Challenge Grants.

Annually, the Division receives 1,000 to 1,100 applications for staff review. Eligible applications are presented to grant review panels. Approximately 800 grants are funded and managed each

year. The majority of these applications are submitted and managed through an on-line grants management system (OASIS).

Eligible cultural organizations have the option of applying for funding to two bricks and mortar programs: Cultural Facilities (award amounts not to exceed \$500,000) and Regional Cultural Facilities (award amounts not to exceed \$2,500,000). Only two organizations have qualified for funding for the Regional Cultural Facilities since the creation of the Regional program in 2002.

References to the Cultural Institutions Trust Fund remain in Statute even though the source of revenue was deleted in 2003 (SB 16A).

Division of Corporations

Florida Secured Transaction Registry

Currently 679.527, F.S., authorizes the Department of State (DOS) to select and contract with a private vendor to populate and maintain the Florida Secured Transaction Registry (Registry), the central database for secured transactions under the Uniform Commercial Code. The contract vendor serves as the filing office and officer.¹ This contract is due to expire in 2011. The vendor's responsibilities include accepting financing statement filings, indexing those filings on the Florida Secured Transaction Registry, and certifying copies of filed documents.

Nonrefundable processing fees for filing and indexing a record are authorized in s. 679.525, Florida Statutes. The contract between DOS and the filing officer [the vendor] requires that the fees collected be deposited into the parties' joint clearing account pursuant to s. 679.527(5)(a)5, Florida Statutes. As the price to perform all [Registry] services described in the contract, 37.85% of receipts are transmitted to the contract vendor. The department [state] is entitled to 62.15% of the receipts for which electronic transfer shall be made to the State Treasury daily.² The state's percentage of the fees is deposited into the General Revenue Fund.

As an operational efficiency, the proposed Senate budget provides eleven (11) positions and \$526,309 from recurring General Revenue to DOS to administer the Registry and serve as the filing office and officer. This would redirect processing fees of approximately \$1.7 million annually from the contract vendor to the General Revenue Fund, resulting in a recurring General Revenue savings of \$1.1 million.

Rendering Notifications

The Division of Corporations is currently required in chapters 607, 608, 617, 620, and 865 to provide various written notifications to businesses, owners, or registrants for annual report filings, business dissolutions for failure to file, and fictitious name renewals. As an efficiency measure, the department recommends that specific dates and times be mandated in statute as to when administrative action is taken by the department due an entity's failure to file and that the

¹ Section 679.4015, Florida Statutes.

² Renewal (First and Final) of Agreement between the State of Florida, Department of State and Image API, Inc., November 21, 2005. A copy of the complete contract is on file in the Senate Transportation and Economic Development Appropriations Committee.

department be authorized collect e-mail addresses and serve notices to businesses when possible utilizing electronic means. This will result in recurring General Revenue savings of \$500,000. This efficiency reduction has been included in the proposed Senate budget.

Division of Libraries, Archives, and Information Services

DOS has oversight of the Legislative Library that is currently located on the 7th floor of the Capitol Building. As an efficiency measure, the department and Governor recommended consolidating the Legislative Library with the State Library which is located in the R.A. Gray Building. This will result in recurring General Revenue savings of \$261,987. The proposed Senate budget includes this consolidation.

III. Effect of Proposed Changes:

Section 1 amends section 15.16, F.S., to authorize DOS to collect email addresses and provide electronic notification in the administration of chapters 55, 117, 118, 495, 606, 607, 608, 640, 617, 620, 621, ,679 and 713, and section 865.019, Florida Statutes.

Section 2 amends section 120.55, F.S., to delete a reference to the Legislative Library.

Section 3 repeals sections 265.2861, 265.2862, 265.289, 265.608, 265.609, 265.702 and 265.708, F.S. This includes the deletion of the Regional Cultural Facilities program, the Challenge Grant Program and the references to the Cultural Institutions Trust Fund.

Section 4 amends section 265.281, F.S., to rename sections 265.281-265.709 the Florida Arts and Culture Act.

Section 5 amends section 265.282, F.S., to broaden the term “fine arts” to “arts and culture” within the legislative intent.

Section 6 amends section 265.283, F.S., renaming the Florida Arts Council to the The Florida Council on Arts and Culture, reflecting the changes to the Legislative Intent section where “fine arts” has been broadened to “arts and culture”. The list of disciplines that fulfill the necessary community service required for Council membership is expanded to include media arts, visual arts, and museums. Definitions/criteria for the terms local arts agency, historical museum, science museum, youth and children’s museum, state service organization, arts in education grants, cultural support grants, touring program grants, Underserved Arts Community Assistance Program grants and Culture Builds Florida grants are provided.

Section 7 amends section 265.284, F.S., clarifying programs and duties of the Department.

Section 8 amends 265.285, F.S., renaming the Florida Arts Council to the Florida Council on Arts and Culture and expanding the list of disciplines that can be included.

Section 9 substantially rewords s. 265.286, F.S., and outlines the division grant programs to the following six (6) grant types:

1. Cultural and Museum Grants

- (Grants for general program support comprised of formerly stand alone grant programs: Statewide Arts Grants, Science Museums, Youth & Children's Museums, Cultural Institutions, Local Arts Agencies, State Service Organizations, and Historical Museums)
2. Culture Builds Florida
(Grants for specific projects include Arts in Education and Underserved Arts Communities Assistance Program which meet National Endowment for the Arts State Partnership Grant funding requirements)
 3. Cultural Endowment
 4. State Touring
 5. Individual Artists Fellowships
 6. Cultural Facilities

This program restructuring will also transition the current appropriation categories for cultural grants into five (5) "Special Categories" of appropriations as follows:

1. Cultural and Museum Grants (general program support)
2. Culture Builds Florida (specific projects)
3. Cultural Endowment
4. State Touring and Individual Fellowships (combined into one category)
5. Cultural Facilities.

Applicants may apply for either general program support or a specific project but not both and will be limited to one grant funded from these two programs to insure an equitable distribution of limited funds. However, applicants may also apply for a grant from the following programs: Cultural Endowment, State Touring and Individual Artists Fellowships, and Cultural Facilities programs as these are distinctly different types of programs.

The Secretary of State must submit in advance of each legislative session, but not prior to July 1, 2010, to allow time for rule amendments and drafting new grant guidelines, lists of grant applications recommended for funding by a peer review process arranged in order of priority for the following categories:

- Priority List 1 – Cultural and Museum Grants (general program support)
Priority List 2 – Culture Builds Florida (specific projects)

Through this process, the legislature will gain more information about the geographic distribution and types of projects requesting state funding.

Cultural Endowments and Cultural Facilities appropriation requests will be submitted to the legislature as they have been in the past (priority lists). Funding requests for State Touring and Individual Artists Fellowships will also be funded according to existing rules, (not lists submitted to legislature).

Consolidation will reduce the number of applications received by the division; result in fewer grants funded; illustrate constituency demand; and reflect the state's priorities (health and wellness, economic development, and lifelong learning). Restricting applicants to one application from either general program support or specific projects will provide a more equitable distribution of limited funds. Consolidation will also result in fewer grants to be

administered and the potential reduction of 1.00 FTE in FY 2009-2010. The elimination of the position is included in the department's FY 2009-2010 LBR, Schedule VIII-B.

Section 10 amends s. 607.1420, F.S., to provide a specific date and time for a corporation to be administratively dissolved for failure to file its annual report and to pay the annual filing fee.

Section 11 amends s. 607.1421, to delete to requirement to provide written notification of intent to administrative dissolve a corporation and to authorize the department to provide electronic notification of administratively dissolution.

Section 12 amends s. 607.1530, F.S., to provide a specific date and time for revocation of certificate of authority of a foreign corporation to transact business for failure to file its annual report.

Section 13 amends s. 607.1531, F.S., to delete to requirement to provide written notification of intent to revoke the certificate of authority for a foreign corporation to transact business and to authorize the department to provide electronic notification of revocation.

Section 14 amends s. 608.448, F.S., to provide a specific date and time for a limited liability company to be administratively dissolved for failure to file its annual report and to pay the annual filing fee.

Section 15 amends s. 608.4481, F.S., to delete to requirement to provide written notification of intent to administrative dissolve a limited liability company and to authorize the department to provide electronic notification of administratively dissolution.

Section 16 amends s. 608.512, F.S., to provide a specific date and time for revocation of certificate of authority of a foreign limited liability company to transact business for failure to file its annual report.

Section 17 amends s. 608.513, F.S., to delete to requirement to provide written notification of intent to revoke the certificate of authority for a foreign limited liability company to transact business and to authorize the department to provide electronic notification of revocation.

Section 18 amends s. 617.1420, F.S., to provide a specific date and time for a corporation to be administratively dissolved for failure to file its annual report and to pay the annual filing fee.

Section 19 amends s. 617.1421, to delete to requirement to provide written notification of intent to administrative dissolve a corporation and to authorize the department to provide electronic notification of administrative dissolution.

Section 20 amends s. 617.1530, F.S., to provide a specific date and time for revocation of certificate of authority of a foreign corporation to transact business for failure to file its annual report.

Section 21 amends s. 617.1531, F.S., to delete the requirement to provide written notification of intent to revoke the certificate of authority for a foreign corporation to transact business and to authorize the department to provide electronic notification of revocation.

Section 22 amends s. 620.1809, F.S., to provide a specific date and time for a limited partnership to be administratively dissolved for failure to file its annual report and to pay the annual filing fee. It also deletes a requirement to provide written notification of intent to administratively dissolve limited partnership and authorizes the department to provide electronic notification of administrative dissolution.

Section 23 amends s. 620.1906, F.S., to provide a specific date and time for revocation of certificate of authority of a foreign limited partnership to transact business for failure to file its annual report. It also deletes a requirement to provide written notification of intent to revoke the certificate of authority for a foreign limited partnership to transact business and authorizes the department to provide electronic notification of revocation.

Section 24 amends s. 620.9003, F.S., to provide a specific date and time for a partnership to be administratively revoked the statement of qualification for failure to file its annual report; It also deletes a requirement to provide written notification of intent to administratively revoke and authorizes the department to provide electronic notification of administrative revocation.

Section 25 amends s. 679.527, F.S., to terminate the contract currently in place to perform the administrative and operational functions of the filing office in regard to the Florida Secured Transaction Registry. Beginning on July 1, 2009, the department shall perform the duties as filing officer.

The department will require a 60 day lead time in order to bring the functions of accepting financing statement filings, indexing the filings on the Florida Secured Transaction Registry, and certifying copies of filed documents in-house and make it fully operational.

Section 26 amends s. 865.09, F.S., to delete a requirement that the owner or registrant of a fictitious name be given written notification of renewal. It also requires the department to provide notice to the owner or registrant of the expiration of the fictitious name and authorizes the department to provide electronic notification of expiration.

Section 27 provides that the bill is effective upon becoming a law.

Other Potential Implications:

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:

Secured Transactions Processing Fees

The bill eliminates a contract with a vendor which currently administers the Florida Secured Transaction Registry. For services rendered under the terms of the contract, the vendor currently receives approximately \$1.7 million annually directly from the processing fees that are collected pursuant s. 679.525, Florida Statutes.³ According to contract provisions, the vendor receives 37.85% of the fees collected as payment for services under the contract.⁴ The balance of the fees is deposited into the General Revenue Fund. Eliminating the contract will increase deposits to the General Revenue Fund approximately \$1.7 million annually.

B. Private Sector Impact:

The bill eliminates a contract with a vendor which currently administers the Florida Secured Transaction Registry. The vendor is paid approximately \$1.7 million annually to administer the Florida Secured Transaction Registry and to serve as the filing office and officer.

C. Government Sector Impact:

The provisions of the bill will result in recurring savings to the General Revenue Fund as follows:

Consolidation of Cultural Grants program	(1 FTE)	(\$145,566)
In-source Administration of the Florida Secured Transaction Registry	11 FTE	\$526,309
Discontinue Third-party Administrator		(\$1,700,000)
Discontinuing Notices by mail		(\$500,000)
Consolidate Legislative Library with State Library	<u>(2 FTE)</u>	<u>(\$261,987)</u>
Totals – Recurring – General Revenue	8 FTE	(\$2,091,244)

³ A seven-year history of receipts and distributions (during the contract period) provided by email from DOS, March 30, 2009, is on file in the Senate Transportation and Economic Development Appropriations Committee.

⁴ Renewal (First and Final) of Agreement between the State of Florida, Department of State and Image API, Inc., November 21, 2005. A copy of the complete contract is on file in the Senate Transportation and Economic Development Appropriations Committee.

Costs involved in changes to the on-line grant management system (OASIS) to accommodate a consolidated grants program have not been estimated and cannot be until administrative rules and guidelines are finalized.⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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:

None.

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

⁵ Department of State's bill analysis for PCS/SB 1780, dated March 13, 2009, on file with the Transportation and Economic Development Appropriations Committee. By email on March 30, 2009, DOS confirmed that administrative rules would be adopted and guidelines would be incorporated by reference in the rules.