

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 259 Beverage Law
SPONSOR(S): Business & Consumer Affairs Subcommittee, Hooper
TIED BILLS: **IDEN./SIM. BILLS:** SB 462

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---------------------------------------------|------------------|------------|------------------------------------------|
| 1) Business & Consumer Affairs Subcommittee | 15 Y, 0 N, As CS | Livingston | Creamer |
| 2) Economic Affairs Committee | | | |

SUMMARY ANALYSIS

The bill creates an exemption from being approved by the division as parties of interest in an alcoholic beverage license for the volunteer officers or directors of a performing arts center. The bill allows volunteer officers or directors to serve without having to be approved as part of the alcoholic beverage license application process. The bill does not affect the requirement that the performing arts center must disclose the identity of the volunteer officers or directors.

The bill is not anticipated to have a fiscal impact on state or local governments.

The effective date of the bill is July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present situation

Currently, subsection 561.01(17), F.S., of the alcoholic beverage laws, defines “performing arts center” to mean

a facility consisting of not less than 200 seats, owned and operated by a not-for-profit corporation qualified as an exempt organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1986 or of the corresponding section of a subsequently enacted federal revenue act, which is used and occupied to promote development of any or all of the performing, visual, or fine arts or any or all matters relating thereto and to encourage and cultivate public and professional knowledge and appreciation of the arts.

In addition to other special licenses issued under the beverage law, the division is authorized to issue a special alcoholic beverage license for consumption on the premises to a performing arts center, provided that any consumption of alcoholic beverages under the license may occur only in conjunction with an artistic, educational, cultural, promotional, civic, or charitable type of event occurring on the premises under the authorization of the arts center as the licensee.

Upon application for licensure, officers, shareholders, and directors of a legal or business entity applying for a license must file a sworn application to determine whether or not requirements for licensure are met, such as good moral character and not being under the age of 21. The beverage law also restricts the issuance of an alcoholic beverage to persons with a specified criminal history, including businesses whose officers possess a disqualifying criminal history.

If the licensed entity is unable to qualify for or continue to hold an alcoholic beverage license because management personnel is disqualified due to a prior criminal conviction, the company must terminate its relationship with the individual in order to continue to qualify for an alcoholic beverage license.

By contract, the performing arts center may transfer the license to a qualified food and beverage service provider for the arts center. However, the license remains the exclusive property of the performing arts center, and upon termination of the contract concerning the furnishing of food and beverage service, the license reverts to the performing arts center by operation of law.

The beverage law exempts certain companies, such as insurers, banks, and savings and loan associations that have an interest in an alcoholic beverage license (usually associated to a lending and foreclosure circumstance), from having to obtain the division's approval of their officers, directors, or stockholders. This exemption does not apply to performing arts centers. If the license is held in the name of the performing arts center, its officers, shareholders or directors are required to submit a personal data questionnaire and at the discretion of the division may be fingerprinted.

If the license is used by a food and beverage service provider under a contract for services with the performing arts center, then the officers, shareholders or directors of the food and beverage provider are required to complete a personal data questionnaire and may be fingerprinted.

In both cases, changes to the officers, shareholders or directors are required to submit a change of officer application and new officers, shareholders or directors are required to submit a personal data questionnaire and may be required to submit fingerprints.

Effect of proposed changes

The bill amends the qualification requirements for an alcoholic beverage license in s. 561.15(3), F.S., and the license application requirements in s. 561.17(1), F.S., to provide an exemption for performing

arts centers from the requirement that all persons with an interest, directly or indirectly, in an alcoholic beverage license must obtain division approval. The exemption applies to the performing arts center's volunteer officers or directors or any change of volunteer personnel.

The bill permits volunteer officers or directors of a performing arts center to continue to serve without having to be approved as part of the alcoholic beverage license application process. The bill does not affect the requirement that the performing arts center must disclose on the application the identity of volunteer officers or directors.

Since the volunteer officers and directors of a performing arts center would not be subject to division approval as a condition for a license, the division could not suspend, revoke, or refuse to issue an alcoholic beverage license based on any disqualifying criteria associated with a volunteer officer or director.

If a performing arts center changed a volunteer officer or director, the division could still require that the center identify the new officer by submitting a change of officer application to the division, but the officer would not have to submit a personal data questionnaire or be subject to fingerprinting.

B. SECTION DIRECTORY:

Section 1. Amends s. 561.15, F.S. to create an exemption for the volunteer officers or directors of a performing arts center or changes in those positions from being approved by the division as parties of interest in a special alcoholic beverage license.

Section 2. Amends s. 561.17, F.S., to create an exemption for the volunteer officers or directors of a performing arts center or changes in those positions from being approved by the division on the application form and be subject to fingerprinting.

Section 3. Effective date – July 1, 2011.

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:

The DBPR indicates that no fiscal impact is anticipated as a result of the provisions of the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 8, 2011, the Business & Consumer Affairs Subcommittee took up the bill, adopted two technical amendments, and passed the bill as a Committee Substitute by a vote of 15-0.

The CS differs from the bill as filed in the following areas:

- Specifies in two places of the bill that references to performing arts center means centers as defined in s. 561.01, F.S., of the alcoholic beverage code.