

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1479 State Poet Laureate

SPONSOR(S): Nelson

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	12 Y, 0 N	Naf	Williamson
2) Transportation & Economic Development Appropriations Subcommittee	15 Y, 0 N	Rayman	Davis
3) State Affairs Committee	15 Y, 0 N	Naf	Hamby

SUMMARY ANALYSIS

The position of State Poet Laureate was created by governor's proclamation in 1928, but is not addressed in current statutory law. HB 1479 creates the position of State Poet Laureate in law and provides requirements for the selection, terms of service, and duties of the State Poet Laureate.

The bill assigns the Florida Council on Arts and Culture certain responsibilities relating to the promotion of poetry and to the State Poet Laureate. It also grants rulemaking authority for implementation of provisions relating to the State Poet Laureate to the Department of State.

The bill has an insignificant fiscal impact on state government.

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Council on Arts and Culture

The Florida Council on Arts and Culture is an advisory body within the Department of State.¹ Its duties are to:

- Advocate for arts and culture;
- Advise the Secretary of State in matters pertaining to arts and cultural programs and grants administered by the Division of Cultural Affairs;²
- Encourage the participation in and appreciation of arts and culture;
- Encourage and assist freedom of artistic expression;
- Advise the Secretary of State in matters concerning the awarding of grants for arts and culture; and
- Review applications for grants for the acquisition, renovation, or construction of cultural facilities and recommend a priority for the receipt of such grants.³

State Poets Laureate

Generally

As of November 2011, 42 states had a State Poet Laureate position.⁴ Duties of such poets laureate vary, but all involve the promotion of reading, writing, and poetry appreciation.⁵ Whether the poet laureate receives compensation or holds a term-limited or lifetime appointment also varies from state to state.⁶

In Florida

In 1928, the position of Poet Laureate of the State of Florida was established by governor's proclamation.⁷ The position is a lifetime appointment.⁸ Three poet laureates have been appointed since the inception of the position.⁹

Current statutory law does not contain provisions relating to a state poet laureate.

Effect of Proposed Changes

Summary

The bill creates the position of State Poet Laureate in law and provides requirements for the selection, terms of service, and duties of the State Poet Laureate.

¹ See s. 265.285(1)(a), F.S.

² The Division of Cultural Affairs of the Department of State is the state arts administrative agency. Among its duties are the acceptance and administration of state and federal funds provided for the fine arts, grants, and certain programs. See s. 265.284, F.S.

³ See s. 265.285(2), F.S.

⁴ See "Current State Poets Laureate," Library of Congress, <http://www.loc.gov/rr/main/poets/current.html> (last visited January 27, 2012).

⁵ See Department of State bill analysis (January 26, 2012) (On file with the Government Operations Subcommittee).

⁶ *Id.*

⁷ See "U.S. State Poets Laureate, Florida," Library of Congress, <http://www.loc.gov/rr/main/poets/florida.html> (last visited January 27, 2012).

⁸ See *id.* and "Florida's Poet Laureate," Florida Division of Cultural Affairs, <http://www.florida-arts.org/programs/poetlaureate/> (last visited January 27, 2012).

⁹ The current state poet laureate is Edmund Skellings, who was appointed by Governor Robert Graham in 1980, after a competition and selection by an anonymous national panel. See *id.*

The bill assigns certain responsibilities relating to poetry and to the State Poet Laureate to the Florida Council on Arts and Culture (council). It also grants rulemaking authority for implementation of provisions relating to the State Poet Laureate to the Department of State (department).

Duties of the Florida Council on Arts and Culture

The bill amends the current duties of the council to also require the council to:

- Promote the reading, writing, and appreciation of poetry throughout the state; and
- Accept nominations and recommend nominees for appointment as the State Poet Laureate.

Establishment, Selection, and Duties of the State Poet Laureate

The bill establishes the honorary position of State Poet Laureate within the department.

The bill requires the council to accept nominations for State Poet Laureate. The council must solicit nominations from a broad array of literary sources and individuals, including, but not limited to:

- Faculty of college and university literature departments;
- Literary organizations, societies, and centers;
- Publishers and editors of books of poetry; and
- The state poet laureates of any state.

The bill also requires the council to recommend at least three nominees to the Secretary of State. Each nominee must be:

- A permanent resident of the state;
- A public literary poet who has significant standing inside and outside of the state; and
- Willing and physically able to perform the duties of the State Poet Laureate, which may include, but are not limited to, engaging in outreach and mentoring for the benefit of schools and communities throughout the state and performing readings of his or her own poetry, as requested.

The bill requires the Secretary of State to submit at least two of the council's nominees to the Governor. The Governor must appoint one such nominee the State Poet Laureate.

Terms of Service of the State Poet Laureate

The bill specifies that the State Poet Laureate will serve a term of 4 years, which runs concurrently with the term of the appointing Governor, and which runs until the successor of the State Poet Laureate is appointed. A vacancy for the remainder of the unexpired term must be filled in the same manner as the original appointment.

The bill also provides that each of the state's poets laureate appointed before the effective date of the bill and each State Poet Laureate appointed under the bill's provisions, upon the appointment of his or her successor, will be designated a State Poet Laureate Emeritus in recognition of his or her service to the state.

The bill specifies that the State Poet Laureate and State Poets Laureate Emeritus serve without compensation.

Rulemaking Authority

The bill authorizes the department to adopt rules to implement provisions relating to the position of State Poet Laureate. It also implicitly requires the department to adopt rules governing nominations for the position by the council and setting out the duties of the State Poet Laureate.

The bill provides an effective date of July 1, 2012.

B. SECTION DIRECTORY:

Section 1. Amends s. 265.285, F.S., relating to duties of the Florida Council on Arts and Culture.

Section 2. Creates s. 265.2863, F.S., relating to a State Poet Laureate.

Section 3. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill adds duties relating to promotion of poetry and selection of the State Poet Laureate for the Florida Council on Arts and Culture, and creates duties relating to the selection of the State Poet Laureate for the Department of State and for the Governor. It also authorizes the department to adopt rules to implement provisions relating to the State Poet Laureate. Department staff states costs incurred by solicitation and review of nominations and by rule promulgation will be absorbed by the agency within existing resources.¹⁰ It is likely that costs incurred by the Governor to appoint each State Poet Laureate will also be absorbed within existing resources.

The bill does not compensate the State Poet Laureate for expenses.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

A rule is an agency statement of general applicability that interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency as well as certain types of

¹⁰ See Department of State bill analysis (January 26, 2012) (On file with the Government Operations Subcommittee).

forms.¹¹ Rulemaking authority is delegated by the Legislature through statute and authorizes an agency to “adopt, develop, establish, or otherwise create” a rule. Because legislative power involves the exercise of policy-related discretion over the content of law,¹² any discretion given an agency to implement a law must be “pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program.”¹³

The bill provides the Department of State rulemaking authority to implement the provisions relating to the position of State Poet Laureate. The requirements included in the provisions appear to satisfy the threshold of “some minimal standards and guidelines.”

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not provide a process by which a State Poet Laureate may be removed from the position for reasons such as misconduct. The Legislature may wish to consider whether such a provision would be appropriate.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

¹¹ See s. 120.52(16), F.S.; *Sloban v. Florida Board of Pharmacy*, 982 So.2d 26 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So.2d 696 (Fla. 1st DCA 2001).

¹² See *State ex rel. Taylor v. City of Tallahassee*, 177 So.2d 719 (Fla. 1937).

¹³ See *Askew v. Cross Key Waterways*, 372 So.2d 913 (Fla. 1978).