

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1199 Black Cultural Tourism Enhancement Commission
SPONSOR(S): Economic Development & Tourism Subcommittee; Stewart and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 442

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	12 Y, 0 N, As CS	Duncan	West
2) Appropriations Committee	24 Y, 0 N	Rayman	Leznoff

SUMMARY ANALYSIS

CS/HB 1199 creates the Black Cultural Tourism Enhancement Commission (Commission) administratively housed within the Department of State (DOS) operating as an independent entity in the exercise of its powers and duties. However, DOS is required to provide administrative and staff support services to the Commission. The bill directs the Commission to carry out specific duties including:

- Providing financial and technical support services to facilities and events that have the potential to expand tourism, create jobs, and stimulate economic development by marketing the state's black cultural sites.
- Serving as a resource for the Florida Tourism Industry Marketing Corporation (VISIT Florida) in order to expand cultural tourism in the state.

The bill specifies the required experience of the each member appointed to the Commission; establishes the terms of appointment of the Commission members; and provides that a Commission member may be appointed to a subsequent term. Commission members must serve without compensation, but are entitled to reimbursement for per diem and travel expenses.

The Commission is authorized to establish or designate a direct-support organization for the purpose of receiving grants, bequests, and other resources to support the state's black cultural sites and other functions performed by the Commission.

The bill may have an indeterminate negative impact on the Department of State.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

State Cultural Programs

The Florida Arts and Culture Act (Act)¹ provides that the state will provide support for, and gain national and international recognition of, the efforts, works, and performances of Florida artists, art agencies, museums, and nonprofit organizations. Furthermore, it is the intent of the Legislature to foster and ensure, through the state arts administrative agency programs, that arts and culture have a significant and positive effect on Florida residents.²

The Act also provides that the Secretary of State is the chief cultural officer of the state. The Division of Cultural Affairs (Division) is designated as the state arts administrative agency and is overseen by a Director who serves at the pleasure of the secretary.³ The Division is required to directly administer and oversee all of the programs authorized by the Act and is directed to:⁴

- Accept and administer state and federal funds appropriated by the Legislature, or funds from other public or private sources;
- Enter into agreements for awarding grants or other contracts with any person, firm, performing arts company, educational institution, arts organization, corporation, or governmental agency as may be necessary to carry out the functions under the Act;
- Accept on behalf of the state donations or money, property, art objects, and antiquities;
- Sponsor performances and exhibits; promote and encourage the study and appreciation of arts and culture; and collect, publish, and print pamphlets, papers, newsletters, and other materials relating to arts and cultural programs available throughout the state;
- Conduct and support cultural programs and cultural exchanges in conjunction with the appropriate state agencies and other organizations; and
- Adopt rules pursuant to ss. 120.536(1) and 120.54, F. S., to implement provisions of law.

The grants and award programs administered by the Division include:

Cultural Endowment Program – The purpose of this program is to create an endowment matching funds provide operating resources to participating cultural organizations. Organizations eligible to be designated a Cultural Sponsoring Organization must meet requirements of the Division.⁵ Eligible organizations may receive a \$240,000 state matching share of funding, which must be approved by the Legislature. This program has not been funded since 2002.⁶

Cultural Facilities Program - The purpose of this program is to coordinate and guide the state's support and funding of renovation, new construction, or acquisition of cultural facilities. The Florida Council on Arts and Culture ranks the applicants and forwards the list to the Secretary of State who reviews and approves the ranked list to be included the Department of State's legislative budget request.⁷ In Fiscal Year 2012-13, \$3,630,822 was awarded to the program.⁸

¹ Section 265.281, F.S.

² Section 265.282, F.S.

³ Section 265.284(1) and (2), F.S.

⁴ Section 265.284(3), F.S.

⁵ Florida Department of State, Division of Cultural Affairs, *Cultural Endowment Program, Guidelines and Application*, available at <http://www.florida-arts.org/documents/guidelines/EndowmentGuidelines07.pdf>.

⁶ Florida Department of State, Division of Cultural Affairs, *2013-2014 Cultural Endowment, Priority List for State Matching Share*, available at <http://www.florida-arts.org/documents/grantreports/lists/2014.endowment-ranked-list.cfm> (last visited April 8, 2013).

⁷ Florida Department of State, Division of Cultural Affairs, *2014-2015 Cultural Facilities Grant Guidelines*, available at <http://www.florida-arts.org/documents/guidelines/2014-2015.cf.guidelines.cfm#purpose> (last visited April 8, 2013).

⁸ Florida Department of State, Division of Cultural Affairs, *Grant Awards and Recommendations* available at <http://www.florida-arts.org/resources/awards/> (last visited April 8, 2013).

General Program Support Grants – This program is designed to support the general program activities of an organization that is realizing its stated mission and furthering the state’s cultural objectives by conducting, creating, producing, presenting or sponsoring cultural exhibits, performances, educational programs, or events; or providing services as a State Service Organization or Local Arts Agency.⁹ The Florida Council on Arts and Culture ranks the applicants and forwards the list to the Secretary of State who reviews and approves the ranked list to be included the Department of State’s legislative budget request.¹⁰ In Fiscal Year 2012-13, \$5,000,000 was awarded to the program.¹¹

Specific Cultural Project Grants – This grant is designed to fund a cultural project, program, exhibition, or series taking place within the grant period (July 1 through June 30). The grant activities must support the mission of the organization and further the state’s cultural objectives. The four project types are: Arts in Education; Discipline-Based; Culture Builds Florida; and Underserved Cultural Community Development.¹² The Florida Council on Arts and Culture ranks the applicants and forwards the list to the Secretary of State who reviews and approves the ranked list to be included the Department of State’s legislative budget request.¹³ No awards were made in Fiscal Year 2012-13.¹⁴

State Touring Program – The purpose of the Program is to bring live performances to the state. Florida-based artists or companies that are available for touring apply to be on the roster. A peer review panel meets every two years to select a new roster.¹⁵ No awards were made in Fiscal Year 2012-13.¹⁶

Individual Artist Fellowship – This grant supports individuals of exceptional talent and demonstrated ability. Fellowship awards support the general artistic and career advancement of the artist.¹⁷ No awards were made in Fiscal Year 2012-13.¹⁸

Florida Council on Arts and Culture

The Florida Council on Arts and Culture (Council) is a 15-member advisory body created within the Department of State body that reviews and makes recommendations for the award of grants. The Council consists of 15 members as follows:¹⁹

- Seven members appointed by the Governor;
- Four members appointed by the President of the Senate; and
- Four members appointed by the Speaker of the House of Representatives.

Members appointed should have a substantial history of community service in the performing or visual arts. In addition, it is desirable that members have successfully served on boards of cultural institutions such as museums and performing arts centers or are recognized as patrons of the arts.²⁰

The specific duties of the Council include:²¹

- Advocating for arts and culture by encouraging the study and presentation of arts and cultural activities that are of public interest;

⁹ Florida Department of State, Division of Cultural Affairs, *General Program Support*, available at <http://www.florida-arts.org/programs/gps/> (last visited April 8, 2013).

¹⁰ Florida Department of State, Division of Cultural Affairs, *2014-2015 General Program Support Grant Guidelines*, available at <http://www.florida-arts.org/documents/guidelines/2014-2015.gps.guidelines.cfm> (last visited April 8, 2013).

¹¹ *Supra* Note 8.

¹² Florida Department of State, Division of Cultural Affairs, *Specific Cultural Project*, available at <http://www.florida-arts.org/programs/scp/> (last visited April 8, 2013).

¹³ Florida Department of State, Division of Cultural Affairs, *2013-2014 Specific Cultural Project Grant Guidelines*, available at <http://www.florida-arts.org/documents/guidelines/2013-2014.scp.guidelines.cfm> (last visited April 8, 2013).

¹⁴ *Supra* note 8.

¹⁵ Florida Department of State, Division of Cultural Affairs, *State Touring*, available at <http://www.florida-arts.org/programs/touring/> (last visited April 8, 2013).

¹⁶ *Supra* note 8.

¹⁷ Florida Department of State, Division of Cultural Affairs, *Individual Artist Fellowship*, available at <http://www.florida-arts.org/programs/fellowship/> (last visited April 8, 2013).

¹⁸ *Supra* note 8.

¹⁹ Section 265.285, F.S.

²⁰ *Id.*

²¹ Section 265.285(2), F.S.

- Advising the Secretary of State in all matters pertaining to arts and cultural programs;
- Encouraging the participation in and appreciation of the arts to meet the needs and aspirations of persons in all parts of the state;
- Advising the Secretary of State in all matters concerning the awarding of grants;
- Promoting the enhancement and beautification of the interiors of the Capitol Building and other public buildings; and
- Reviewing applications for grants for the acquisition, renovation, or construction of cultural facilities and make recommendations for the award of such grants.

In 2005, the Council published “Culture Builds Florida”²² a strategic plan for continuing the development of arts and culture in the state and the benefits they bring to the state’s economy. The plan focused on four key areas: strengthening the economy, learning and wellness, design and development, and leadership.²³

Florida Tourism Promotion

Florida’s tourism promotion and marketing services, functions, and programs are carried out by VISIT Florida in conjunction with Enterprise Florida, Inc.’s, Division of Tourism Marketing.²⁴ The Florida Tourism Industry Marketing Corporation, known as VISIT Florida, is a public-private partnership, operating as a direct-support organization under contract with Enterprise Florida, Inc.²⁵ VISIT Florida is overseen by a 31-member board of directors, appointed by Enterprise Florida, Inc., and the Department of Economic Opportunity, who are tourism-industry professionals from regions across the state.²⁶

VISIT Florida and Enterprise Florida, Inc.’s, Division of Tourism Marketing are jointly responsible for developing a 4-year marketing plan for the purposes of marketing the state’s tourism assets. The marketing plan must address the following:²⁷

- Continuation of overall tourism growth;
- Expansion to new or under-represented tourist markets;
- Maintenance of traditional and loyal tourist markets;
- Coordination of efforts with county destination marketing organizations, other local government marketing groups, privately owned attractions and designations, and other private sector partners to create a four-season advertising campaign;
- Development of innovative techniques or promotions to build repeat visitation by targeted segments of the tourist population;
- Consideration of innovative sources of state funding for tourism marketing;
- Promotion of nature-based tourism and heritage tourism; and
- Development of a component to address emergency response to natural and manmade disasters from a marketing standpoint.

The plan shall be annual in construction and ongoing in nature. The plan shall also include recommendations for specific performance standards and measurable outcomes for the divisions and direct-support organization.²⁸

Effect of Proposed Changes

The bill creates the Black Cultural Tourism Enhancement Commission (Commission) administratively housed within the Department of State (DOS) operating as an independent entity in the exercise of its powers and duties. However, DOS is required to provide administrative and staff support services to the Commission. The bill directs the Commission to:

²² Florida Department of State, Division of Cultural Affairs, *Culture Builds Florida*, available at <http://www.florida-arts.org/documents/CBFFvisioningbook.pdf> .

²³ Florida Department of State, Division of Cultural Affairs, *Our Strategic Plan*, available at <http://www.florida-arts.org/about/strategicplan/> (last visited April 8, 2013).

²⁴ Section 288.923, F.S.

²⁵ Section 288.1226, F.S.

²⁶ Section 288.1226(4), F.S.

²⁷ Section 288.923(4)(c), F.S.

²⁸ Section 288.923(4)(c)2., F.S.

- Provide financial and technical support services to facilities and events that have the potential to expand tourism, create jobs, and stimulate economic development by marketing the state's black cultural sites.
- Provide training and technical assistance for staff at the state's black cultural tourism sites in order to develop tour guides and tour operators for the sites.
- Provide resources and technical assistance to educators for teaching black history, promoting the state's black cultural sites as historic venues, and supporting tourism through student tours of black cultural and historical sites.
- Serve as a resource for the Florida Tourism Industry Marketing Corporation (VISIT Florida) in order to expand cultural tourism in the state.

The Commission is composed of 13 members and includes the following:

- Three members appointed by the Governor.
 - One of whom represents an institution of higher learning.
 - One of whom represents the Florida African-American Heritage Preservation Network.
 - One of whom represents business and civic interests in the African-American community.
- Two members appointed by the President of the Senate.
 - One of whom is involved in instructional design in a school district or an institution of higher learning.
 - One of whom is an employee of a museum of African-American history in Florida.
- Two members appointed by the Speaker of the House of Representatives.
 - One of whom has a substantial history of community service in the performing or visual arts in the African-American community.
 - One of whom is an employee of a museum of African-American history in Florida.
- Two members appointed by the Secretary of State.
 - Both of whom are directors of museums of African-American history in Florida or black archives and research centers in Florida.
- Two members appointed by the Commissioner of Education.
 - Both of whom are members of the Commissioner of Education's African American History Task Force.
- Two members appointed by the Florida Conference of Black State Legislators.
 - One of whom represents a philanthropic foundation.
 - One of whom is a member of the clergy.

A member of the Commission is appointed for a four-year term. However, at the time of the initial appointments, two members appointed by the Governor, one member appointed by the President of the Senate, one member appointed by the Speaker of the House of Representatives, one member appointed by the Secretary of State, and one member appointed by the Commissioner of Education must be appointed for two-year terms. A member may be appointed for a subsequent term.

Commission members must serve without compensation, but are entitled to reimbursement for per diem and travel expenses.

The Commission is authorized to establish or designate a direct-support organization for the purpose of receiving grants, bequests, and other resources to support the state's black cultural sites and other functions performed by the Commission.

B. SECTION DIRECTORY:

Section 1: Creates the 13-member Black Cultural Tourism Enhancement Commission administratively housed within the Department of State.

Section 2: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. 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 requires the department to administratively support the Commission. However, it does not require the creation of additional FTE or an executive director. The bill provides no funding for the administration and staffing to support the Commission, nor is there funding to cover reimbursement for per diem and travel for Commission members. The Department of State provided the following estimated costs related to the bill which includes their assumptions regarding staffing and travel: the creation of an executive director contracted position could be up to \$45,000; estimated costs for the Commission meeting twice a year, travel reimbursement for 13 commission members and one staff member could be \$11,200 (14 x \$400 per meeting - two room nights, rental car and per diem = \$5,600 x 2 = \$11,200); or if meetings are conducted quarterly for 13 Commissioners and one staff member could be \$22,400 (14 x \$400 per meeting - two room nights, rental car and per diem = \$5,600 x 4 = \$22,400).

Again, the bill does not require additional staff. Absent the creation of an executive director, the impact appears to be insignificant. It is unclear whether existing staff could be utilized to serve the commission.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This 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 counties or municipalities have to raise revenues 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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 10, 2013, the Economic Development & Tourism Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Specifies the required experience of the each member appointed to the Commission.
- Establishes the terms of appointment of the Commission members.
- Provides that a Commission member may be appointed to a subsequent term.

The analysis has been updated to reflect the adopted amendment.