

**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 Committee on Governmental Oversight and Accountability

BILL: CS/SB 366

INTRODUCER: Committee on Governmental Oversight and Accountability and Senator Hukill

SUBJECT: State Poet Laureate

DATE: March 7, 2013                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Naf	McVaney	GO	Fav/CS
2.			ED	
3.			RC	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

CS/SB 366 creates the position of State Poet Laureate and provides requirements for the selection, terms of service, and duties of the State Poet Laureate. It also provides for the designation of past State Poets Laureate as State Poets Laureate Emeritus or Emerita. The position of State Poet Laureate was created by governor's proclamation in 1928, but is not addressed in current statutory law.

The bill assigns the Florida Council on Arts and Culture certain responsibilities relating to the promotion of poetry and grants the Department of State rulemaking authority to implement the bill's provisions.

This bill substantially amends sections 265.285 and 265.2863, Florida Statutes.

## II. Present Situation:

### Florida Council on Arts and Culture

The Florida Council on Arts and Culture is an advisory body within the Department of State.<sup>1</sup> 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;<sup>2</sup>
- Encourage the participation in and appreciation of arts and culture;
- Encourage public interest in the state's cultural heritage and expand its resources;
- 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.<sup>3</sup>

### State Poets Laureate

#### Generally

As of January 2013, 42 states had an official State Poet Laureate position.<sup>4</sup> Duties of such poets laureate vary, but all involve the promotion of the reading, writing, and appreciation of poetry.<sup>5</sup>

#### In Florida

In 1928, the position of Poet Laureate of the State of Florida was established by governor's proclamation.<sup>6</sup> The position is a lifetime appointment.<sup>7</sup> Three poet laureates have been appointed since the inception of the position.<sup>8</sup>

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

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<sup>1</sup> Section 265.285(1)(a), F.S.

<sup>2</sup> 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.

<sup>3</sup> Section 265.285(2), F.S.

<sup>4</sup> *See* "Frequently Asked Questions," U.S. State Poets Laureate, Library of Congress, <http://www.loc.gov/rr/main/poets/current.html> (last visited March 1, 2013).

<sup>5</sup> *Id.*

<sup>6</sup> *See* "U.S. State Poets Laureate, Florida," Library of Congress, <http://www.loc.gov/rr/main/poets/florida.html> (last visited March 1, 2013).

<sup>7</sup> *See id.* and "Florida's Poet Laureate," Florida Division of Cultural Affairs, <http://www.florida-arts.org/programs/poetlaureate/> (last visited March 1, 2013).

<sup>8</sup> The position is currently vacant, as the most recent state poet laureate, Edmund Skellings, passed away in August 2012. He was appointed by Governor Robert Graham in 1980, after a competition and selection by an anonymous national panel. *See* "Florida's Poet Laureate," Florida Division of Cultural Affairs, <http://www.florida-arts.org/programs/poetlaureate/> (last visited March 1, 2013).

### **III. 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. It provides for the designation of past State Poets Laureate as State Poet Laureate Emeritus or State Poet Laureate Emerita.<sup>9</sup>

The bill also assigns certain responsibilities relating to poetry to the Florida Council on Arts and Culture (council) and grants the Department of State (department) rulemaking authority to implement the bill's provisions.

#### **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, in accordance with procedures adopted by the department, to accept nominations for State Poet Laureate. The council must solicit nominations from a broad array of literary sources and members of the public.

The bill also requires the council to recommend at least five 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 as prescribed by the department, 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 three of the council's nominees to the Governor. The Governor must appoint one of the Secretary of State's nominees as 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. A vacancy for the remainder of the unexpired term must be filled in the same manner as the original appointment.

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<sup>9</sup> The Merriam-Webster Dictionary defines "emeritus" to mean "one retired from professional life but permitted to retain as an honorary title the rank of the last office held" (<http://www.merriam-webster.com/dictionary/emeritus>, last visited March 1, 2013). "Emerita" refers to a female in such position (<http://www.merriam-webster.com/dictionary/emerita>, last visited March 1, 2013).

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 or State Poet Laureate Emerita in recognition of his or her service to the state.

The bill specifies that the State Poet Laureate and State Poets Laureate Emeritus or Emerita serve without compensation. The bill does not authorize reimbursement of any expenses incurred by a State Poet Laureate.

#### **Rulemaking Authority**

The bill authorizes the department to adopt rules to administer the section.

The bill's effective date is July 1, 2013.

#### **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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill adds duties relating to promotion of poetry and selection of State Poet Laureate nominees for the Florida Council on Arts and Culture, and creates duties relating to the selection and appointment of the State Poet Laureate for the Department of State and for the Governor. It also authorizes the department to adopt rules to implement the act. Department staff states costs incurred by solicitation and review of nominations and by

rule promulgation will be absorbed by the agency within existing resources.<sup>10</sup> It is likely that costs incurred by the Governor to appoint each State Poet Laureate will also be absorbed within existing resources.

The bill prohibits compensation for State Poets Laureate and does not authorize reimbursement for expenses incurred by State Poets Laureate.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

### Rulemaking

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 forms.<sup>11</sup> An agency may only adopt rules that implement or interpret the specific powers and duties granted by the enabling statute.<sup>12</sup> Because legislative power involves the exercise of policy-related discretion over the content of law,<sup>13</sup> 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.”<sup>14</sup>

The bill authorizes the Department of State to adopt rules to administer the section, but does not explicitly require it. The bill appears to implicitly require rulemaking, however, because it requires the council’s acceptance of nominees to be in accordance with procedures by the department and requires the department to prescribe duties of the State Poet Laureate.<sup>15</sup>

### 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.

## VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

### **CS by Governmental Oversight and Accountability on March 7, 2013:**

The CS requires more nominees to be submitted from the council to the Secretary of State, and from the Secretary of State to the Governor, than did the originally-filed bill.

<sup>10</sup> Email correspondence between Department of State staff and Senate Governmental Oversight and Accountability Committee staff on February 21, 2013 (on file with the Senate Governmental Oversight and Accountability Committee).

<sup>11</sup> 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).

<sup>12</sup> Section 120.536, F.S.

<sup>13</sup> See *State ex rel. Taylor v. City of Tallahassee*, 177 So.2d 719 (Fla. 1937).

<sup>14</sup> See *Askew v. Cross Key Waterways*, 372 So.2d 913 (Fla. 1978).

<sup>15</sup> Lines 39-41 and 50-51 of the bill, respectively.

B. Amendments:

None.

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

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