

**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 Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: CS/CS/SB 442

INTRODUCER: Governmental Oversight and Accountability Committee, Commerce and Tourism Committee, and Senator Thompson

SUBJECT: Black Cultural Tourism Enhancement Commission

DATE: April 4, 2013                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Hrdlicka</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>McKay</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	<u>Carey</u>	<u>Martin</u>	<u>ATD</u>	<u>Pre-meeting</u>
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

CS/CS/SB 442 creates the Black Cultural Tourism Enhancement Commission to provide assistance and resources to promote black cultural sites in the state.

This bill will have an indeterminate negative fiscal impact on the Department State associated with providing administrative support to the Commission. The Senate General Appropriations Act for Fiscal Year 2013-2014, as introduced (SB 1500), provides \$1 million in nonrecurring general revenue funds for this bill, contingent upon this bill or similar legislation becoming law.

The bill creates general law not contained in a designated section of the Florida Statutes.

**I. Present Situation:**

Florida has a variety of organizations and programs dedicated to culture, the arts, and tourism in Florida.

## State Cultural Programs

Under Florida law, the Secretary of the Department of State (DOS) serves as the state's chief cultural officer.<sup>1</sup> The Division of Cultural Affairs (division) within the DOS is overseen by a director who serves at the secretary's pleasure. The division has several responsibilities, including:

- Sponsoring performances and exhibits;
- Promoting and encouraging the study and appreciation of arts and culture;
- Producing information materials related to arts and cultural programs available throughout the state; and
- Conducting and supporting cultural programs and cultural exchanges by coordinating with appropriate state agencies and other organizations.

In addition to the abovementioned responsibilities, the division is responsible for administering and awarding several grant programs relating to arts and culture. The grant programs administered by the division include:

- **Cultural Endowment Program**<sup>2</sup> - A matching grant program for local cultural endowments to supply day-to-day operating expenses. Applicants and their foundations must be approved by the division. Applicants may request \$240,000 of State Matching Share funding, which must be approved through the legislative appropriations process. No funding has been made available for the program since 2002.<sup>3</sup>
- **Cultural Facilities Program**<sup>4</sup> - A grant program to assist counties, municipalities, and nonprofits in the acquisition, renovation, or construction of cultural facilities. Applications are ranked by the Florida Council on Arts and Culture within the DOS and approved by the Secretary of State. High-ranking applications are presented as part of the DOS's legislative budget request.<sup>5</sup> For FY 2012-2013, \$3,630,822 in Cultural Facilities Program grants have been awarded to date.<sup>6</sup>
- **General Program Support Grants**<sup>7</sup> - A grant program to assist in the funding of general program support for organizations and local governments that have cultural program activities. Applications for this grant program are ranked and approved by the Secretary of State, with high ranking applications submitted as part of the DOS's legislative budget request.<sup>8</sup> For FY 2012-2013, \$5,000,000 in General Program Support grants have been awarded to date.<sup>9</sup>

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<sup>1</sup> Section 265.284, F.S.

<sup>2</sup> Section 265.606, F.S.

<sup>3</sup> 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 on March 6, 2013).

<sup>4</sup> Section 265.701, F.S.

<sup>5</sup> Division of Cultural Affairs, "2013-2014 Cultural Facilities: Ranked Application List," available at: <http://www.florida-arts.org/documents/grantreports/lists/2014.facilities-ranked-list.cfm>, (last visited on March 6, 2013).

<sup>6</sup> Division of Cultural Affairs, "Grant Awards and Recommendations" page, available at: <http://www.florida-arts.org/resources/awards/>, (last visited on March 6, 2013).

<sup>7</sup> Section 265.286(5)(a), F.S.

<sup>8</sup> Division of Cultural Affairs, "Ranked Application List for 2013-2014 General Program Support," available at: <http://www.florida-arts.org/documents/grantreports/lists/2014.gps-ranked-list.cfm>, (last visited on March 6, 2013).

<sup>9</sup> *Supra* note 6.

- **Specific Cultural Project Grants**<sup>10</sup> - A grant program to assist organizations and local governments in the funding of specific cultural projects. Applications for this grant program are ranked and approved by the Secretary of State, with high ranking applications submitted as part of the DOS's legislative budget request.<sup>11</sup> No funding was made available for Specific Cultural Project Grants for FY 2012-2013.<sup>12</sup>
- **State Touring Presenters Grants**<sup>13</sup> - A grant program to assist artists and organizations in traveling the state to perform and participate in cultural activities. Awards for FY 2012-2013 are still being determined.<sup>14</sup>
- **Individual Artist Grant Program**<sup>15</sup> - A grant program supporting exceptionally talented Florida artists. Awards for FY 2012-2013 are still being determined.<sup>16</sup>

*Florida Council on Arts and Culture*<sup>17</sup>

The Florida Council on Arts and Culture (council) is a 15-member advisory body created within the DOS to advise the Secretary of State on issues relating to cultural grant funding and other issues regarding culture in Florida. The council advocates for arts and culture by encouraging the study and preservation of arts and cultural activities and by encouraging participation in such activities.

The council is also responsible for handling all nominations for the Florida Artists Hall of Fame, which is located on the Plaza Level in the Capitol rotunda.<sup>18</sup>

In 2005, the DOS and the council developed a strategic plan for continuing the development of arts and culture in the state, known as "Culture Builds Florida."<sup>19</sup> The plan focused on linking arts and cultural heritage into four major areas: strengthening the economy, promoting learning and wellness, building leadership, and advancing design and development.

*Citizens for Florida Arts, Inc.*

Citizens for Florida Arts, Inc., (CFA) is a citizen support organization established by the division for the purpose of providing assistance, funding, and promotional support.<sup>20</sup> CFA is intended to enhance current state programs relating to the arts and to create new arts opportunities, and is not intended to replace current state arts funding.

<sup>10</sup> Section 265.286(5)(b), F.S.

<sup>11</sup> Division of Cultural Affairs, "Ranked Application List for 2013-2014 Specific Cultural Project," available at: <http://www.florida-arts.org/documents/grantreports/lists/2014.scp-ranked-list.cfm>, (last visited on March 6, 2013).

<sup>12</sup> *Supra* note 6.

<sup>13</sup> Section 265.286(5)(c), F.S.

<sup>14</sup> *Supra* note 6.

<sup>15</sup> Section 265.286(5)(d), F.S.

<sup>16</sup> *Supra* note 6.

<sup>17</sup> Section 265.285, F.S.

<sup>18</sup> Section 265.2865, F.S.

<sup>19</sup> Department of State, *Florida Council on Arts and Culture*, (2005), available at: <http://www.florida-arts.org/documents/CBFFvisioningbook.pdf>, (last visited on March 6, 2013).

<sup>20</sup> Section 265.703, F.S.

## Tourism Promotion

Florida's tourism promotion and marketing services, functions, and programs are carried out by the Florida Tourism Industry Marketing Corporation in conjunction with Enterprise Florida, Inc.'s, Division of Tourism Marketing.<sup>21</sup> The Florida Tourism Industry Marketing Corporation, doing business as VISIT Florida, is a public-private partnership, operating as a direct-support organization under contract with Enterprise Florida, Inc.<sup>22</sup> 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.

VISIT Florida markets the state to domestic and foreign consumers, "works with major travel journalists, represents the state at domestic and international travel trade shows and promotes the state to travel agents, tour operators and consumers all over the world."<sup>23</sup> VISIT Florida also compiles official travel statistics, tracks tourism market trends, and conducts other research on the tourism market to improve effective advertising and marketing of the state's tourism resources. VISIT Florida also operates the state's five Official Florida Welcome Centers.

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 detail strategies for:

- Continuing overall tourism growth;
- Expanding new or under-represented tourist markets;
- Maintaining traditional and loyal tourist markets;
- Coordinating 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;
- Developing techniques or promotions to build repeat visitation by targeted segments of the tourist population;
- Considering innovative sources of state funding for tourism marketing;
- Promoting nature-based tourism and heritage tourism; and
- Developing a component to address emergency response to natural and manmade disasters from a marketing standpoint.

In order to implement the marketing plan, VISIT Florida and the Division of Tourism Marketing are directed to construct the plan in an "annual and ongoing nature," and the concepts outlined should be carried forward in an on-going and updated manner. The plan must include specific recommendations and performance metrics for VISIT Florida to use in evaluating its actual performance.

In addition to state-level tourism marketing and promotion activities carried out by VISIT Florida and the Division of Tourism Marketing, counties may establish tourism promotion

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<sup>21</sup> Section 288.923, F.S.

<sup>22</sup> Section 288.1226, F.S.

<sup>23</sup> VISIT Florida, *About VISIT Florida website*, available at: [http://www.visitflorida.com/about\\_visit\\_florida](http://www.visitflorida.com/about_visit_florida), (last visited on March 6, 2013).

agencies for the purpose of attracting guests to the county. Local tourism promotion agencies may use tourist development tax revenues to fund marketing and promotion activities.<sup>24</sup>

### **VIVA Florida 500**

VIVA Florida 500 is a statewide initiative lead by the DOS. According to the DOS, VIVA Florida 500 will provide “a unique opportunity to strengthen tourism, spur economic development, and educate the world about the state’s significant history and heritage.”<sup>25</sup> VIVA Florida 500 begins in 2013 to celebrate the 500<sup>th</sup> anniversary of the arrival of Juan Ponce de Leon, who named the region La Florida. VIVA Florida 500 will serve as a “platform for Cultural, Heritage and Nature-based Activities/Tourism/Events.” The DOS’s strategic goals for Viva Florida 500 are:<sup>26</sup>

- Provide leadership and facilitate collaboration;
- Create and grow productive public and private partnerships;
- Expand outreach and education;
- Host events in all 67 counties; and
- Stimulate Cultural Heritage Tourism.

Over 200 events and activities are planned statewide in partnership with several agencies and statewide resources. This list includes but is not limited to: VISIT Florida, the Florida Lottery, the Florida Department of Transportation, the Florida Department of Business and Professional Regulation, the Florida Department of Agriculture and Consumer Services, The Florida Humanities Council, the España-Florida Foundation 500 Years, Florida State Parks, and the the Florida Association of Museums.

## **II. Effect of Proposed Changes:**

**Section 1** creates the Black Cultural Tourism Enhancement Commission (commission) to be administratively housed within the Department of State (DOS), but is to operate as an independent entity to exercise its powers and duties. The DOS is directed to provide administrative and staff support services to the commission.

### *Duties of the Commission*

The bill directs the commission to perform several duties, including:

- Provide financial and technical support services to certain facilities and events;
- 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;

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<sup>24</sup> Section 125.0104, F.S.

<sup>25</sup> Department of State, *VIVA Florida 500 Press Brief*, available at: <http://www.vivaflorida.org/Media2/Press-Brief>, (last visited on March 6, 2013).

<sup>26</sup> Kerri Post, *Viva Florida 500 Presentation to the Senate Commerce and Tourism Committee*, (January 15, 2013), available at: [http://flsenate.gov/PublishedContent/Committees/2012-2014/CM/MeetingRecords/MeetingPacket\\_1966.pdf](http://flsenate.gov/PublishedContent/Committees/2012-2014/CM/MeetingRecords/MeetingPacket_1966.pdf), (last visited on March 6, 2013).

- 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; and
- Serve as a resource for VISIT Florida in order to expand cultural tourism in the state.

### *Commission Membership*

The bill specifies the commission is composed of 13 members who each serve 4-year terms. The commission is made up of the following:

- Three members appointed by the Governor (two of whom initially serve 2-year terms):
  - One of whom represents an institution of higher learning;
  - One of whom represents the Florida African-American Heritage Preservation Network; and
  - 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 initially serves a 2-year term):
  - One of whom is involved in instructional design in a school district or in an institution of higher learning; and
  - One of whom is an employee of a museum of African-American history in this state.
- Two members appointed by the Speaker of the House of Representatives (one of whom initially serves a 2-year term);
  - One of whom has a substantial history of community service in the performing or visual arts in the African-American community; and
  - One of whom is an employee of a museum of African-American history in this state.
- Two members appointed by the Secretary of State (one of whom initially serves a 2-year term), who are directors of museums of African-American history or black archives and research centers in this state.
- Two members appointed by the Commissioner of Education (one of whom initially serves a 2-year term), who 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 is a representative of a philanthropic foundation and one of whom is a member of the clergy.

Members may be subsequently reappointed to another 4-year term. Members serve without compensation, but are entitled to reimbursement for per diem travel expenses.

### *Direct Support Organization*

The commission is permitted 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.

**Section 2** provides for an effective date of July 1, 2013.

**III. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**IV. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

According to the DOS, the bill will have an indeterminate negative impact on administrative and other resource demands as it relates to providing administrative and staff support services.<sup>27</sup>

Government fiscal impacts will likely be negative, depending on the frequency of commission meetings, travel by staff and commission members, and other financial assistance needed to implement the provisions of the bill.

The Senate General Appropriations Act for Fiscal Year 2013-2014, as introduced (SB 1500), provides \$1 million in nonrecurring general revenue funds for this bill, contingent upon this bill or similar legislation becoming law.

**V. Technical Deficiencies:**

None.

**VI. Related Issues:**

Section 20.052, F.S., governs the creation of new advisory bodies, commissions, and boards.

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<sup>27</sup> Department of State, *Agency Bill Analysis: SB 442*, (February 1, 2013), (on file with the Senate Commerce and Tourism Committee).

The bill allows the commission to establish or designate a direct-support organization (DSO), but does not provide specific standards and guidelines for how the DSO should be created or operated. If it is the intent of the Legislature to have a DSO to support the commission created by the bill, the Legislature may wish to consider creating the DSO directly, to specify its powers, duties, and responsibilities.

## VII. Additional Information:

### A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

#### **CS/CS by Governmental Oversight and Accountability Committee on April 2, 2013:**

The CS specifies the professional backgrounds of the 13 members to be appointed to the commission.

#### **CS by Commerce and Tourism on March 11, 2013:**

The CS specifies that each member of the commission serve a term of 4 years. The CS designates 6 members who each initially serve a term of 2 years to create staggered terms. The CS also clarifies that a member may be appointed to a subsequent term.

### B. Amendments:

None.