

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 975 Archeological Sites and Specimens

SPONSOR(S): Transportation & Economic Development Appropriations Subcommittee; Metz

TIED BILLS: **IDEN./SIM. BILLS:** SB 1188

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	11 Y, 0 N	Collins	West
2) Transportation & Economic Development Appropriations Subcommittee	13 Y, 0 N, As CS	Rayman	Davis
3) Economic Affairs Committee	14 Y, 2 N	Collins	Creamer

SUMMARY ANALYSIS

Florida law prohibits persons from conducting archaeological field investigations on, or removing or attempting to remove, deface, destroy, or otherwise alter any archaeological site or specimen located upon any land owned or controlled by the state or within the boundaries of a designated state archaeological landmark or landmark zone, except under the authority of a permit granted by the Division of Historical Resources of the Department of State (Division). Persons engaging in these activities without an approved permit can face criminal penalties, administrative fines, and the forfeiture of any collected materials.

The bill expands the area where unauthorized archaeological activity is prohibited to include land owned by water authorities, and authorizes the Division to issue permits for archaeological research at these locations.

The fiscal impact of this bill is insignificant on state funds.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

State Policy Relative to Historic Properties

The state policy relative to Historic Properties¹ acknowledges that the rich and unique heritage of historic properties in this state, representing more than 10,000 years of human presence, is an important legacy to be valued and conserved for present and future generations, and that the destruction of these nonrenewable historical resources will engender a significant loss to the state's quality of life, economy, and cultural environment. It is the policy of the state to:

- Provide leadership in the preservation of the state's historic resources;
- Administer state-owned or state-controlled historic resources in a spirit of stewardship and trusteeship;
- Contribute to the preservation of non-state-owned historic resources and give encouragement to organizations and individuals undertaking preservation by private means;
- Foster conditions, using measures that include financial and technical assistance, for a harmonious coexistence of society and state historic resources;
- Encourage the public and private preservation and utilization of elements of the state's historically-built environment; and
- Assist local governments to expand and accelerate their historic preservation programs and activities.

This policy also provides that all treasure trove, artifacts and objects having intrinsic or historical and archaeological value, which have been abandoned on state-owned lands or state-owned sovereignty submerged lands, belong to the state with the title vested in the Division for the purposes of administration and protection.

State Archaeological Landmarks and Landmark Zones

The Division may designate an archaeological site of significance to the scientific study or public representation of the state's historical, prehistoric, or aboriginal past as a "state archaeological landmark". In addition, the Division may publicly designate an interrelated grouping of significant archaeological sites as a "state archaeological landmark zone". No site or grouping of sites may be designated without the express written consent of a private owner. Upon designation of an archaeological site, the owners and occupants of each designated state archaeological landmark or landmark zone are given written notification by the Division. Once designated, no person may conduct field investigation activities without first securing a permit from the Division.²

Archaeological Research Permits

The Division may issue permits to conduct archaeological excavation and surface reconnaissance on state lands as long as the work to be conducted is undertaken by a museum, university, college, or other such institution. Division accredited institutions may conduct archaeological field activities on state-owned or controlled lands without acquiring permits; however, the Division must ensure the planned project will

¹ Section 267.061, F.S.

² Section 267.11, F.S.

conform to existing guidelines. The Division is required to review the planned project and make a determination within 15 days from the date of notification.³

Prohibited Archaeological Practices and Penalties

Those who attempt to conduct an archaeological field investigation or remove, deface, or destroy any archaeological site on state-owned or controlled land without first acquiring the required permits or approvals from the Division will commit a first degree misdemeanor and are subject to penalties provided in s. 775.082 or s. 775.083, F.S. All materials collected at the site, including photographs, will be forfeited to the state.⁴

Anyone who attempts to conduct an unsanctioned archaeological excavation will commit a first degree felony and will be subject to penalties provided in s. 775.082, s. 775.083, or s. 775.084, F.S. In addition, all materials collected at the site, including photographs, will be forfeited to the state, and the offender may be required to make restitution to the state for the archaeological or commercial value and cost of restoration and repair of such materials.⁵ Individuals are also prohibited, and subject to criminal penalties, for selling or purchasing archaeological artifacts which have been acquired in violation of state law.⁶

The Division also has the authority to institute administrative proceedings which could result in fines up to \$500 per day for anyone who attempts to excavate historical artifacts on state-owned or controlled lands.⁷

Effect of Proposed Changes

The bill expands the provisions contained in s. 267.12, F.S. related to the issuance of archaeological research permits for excavation and surface reconnaissance conducted on state-owned or controlled lands to also apply to land owned by water authorities. In addition, the bill amends s. 267.13, F.S. to extend prohibited practices and penalties related to archaeological sites located on state-owned or controlled land to include land owned by water authorities. The bill defines the term "water authority" to mean an independent special district created by special act whose purpose is to control and conserve freshwater resources, and clarifies that this does not include water management districts as defined by s. 373.069, F.S.

The bill makes no changes to the process by which lands are designated as state archaeological landmarks or landmark zones.

B. SECTION DIRECTORY:

Section 1: Amends s. 267.12, F. S., to include land owned by a water authority as an area that the Division of Historical Resources may issue permits for evacuation and surface reconnaissance.

Section 2: Amends s. 267.13, F. S., to include land owned by a water authority as an area of land whereby it is a crime to excavate, conduct archaeological investigations, or remove artifacts without express authority from the Division of Historical Resources.

Section 3: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

³ Section 267.12, F.S.

⁴ Section 267.13(1)(a), F.S.

⁵ Section 267.13(1)(b), F.S.

⁶ Section 267.13(1)(c), F.S.

⁷ Section 267.13(2), F.S.

1. Revenues:

None.

2. Expenditures:

Insignificant. See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Water Authority land managers will be required to coordinate with the Division in the preparation of permits prior to anticipate archaeological field activities.

Local law enforcement may need to be enhanced to prevent unauthorized archaeological activities.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of State estimates there will be an insignificant increase in the number of permits issued due to the provisions of this bill. This workload can be absorbed within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On Wednesday, March 27, 2013, the Transportation & Economic Development Appropriations Subcommittee adopted two amendments to HB 975. The amendments define the term "Water Authority" to mean an independent special district created by special act whose purpose is to control and conserve freshwater resources. The term does not include any water management district created pursuant to s. 373.069, F.S.

The bill analysis is written to HB 975 as amended.