

**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.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: CS/SB 214

INTRODUCER: Commerce and Tourism Committee and Senator Thompson

SUBJECT: Black Cultural Tourism Enhancement Commission

DATE: April 1, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	Hrdlicka	CM	Fav/CS
2.			GO	
3.			ATD	
4.			AP	
5.			RC	

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

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 214 creates the Black Cultural Tourism Enhancement Commission to provide assistance and resources to promote black cultural sites in Florida. The Department of State is required to provide administrative and staff support, and the commission is authorized to establish or designate a direct support organization to support the functions of the commission.

**II. 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;

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

- 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, 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.
- Cultural Facilities Program<sup>3</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 DOS and approved by the Secretary of State. High-ranking applications are presented as part of DOS's legislative budget request.<sup>4</sup>
- General Program Support Grants<sup>5</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 DOS's legislative budget request.<sup>6</sup>
- Specific Cultural Project Grants<sup>7</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 DOS's legislative budget request.<sup>8</sup>
- State Touring Presenters Grants<sup>9</sup>- A grant program to assist artists and organizations in traveling the state to perform and participate in cultural activities.
- Individual Artist Grant Program<sup>10</sup>- A grant program supporting exceptionally talented Florida artists.

### ***Florida Council on Arts and Culture***<sup>11</sup>

The Florida Council on Arts and Culture (council) is a 15-member advisory body created within DOS to advise the Secretary of State on issues relating to cultural grant funding and other issues

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

<sup>3</sup> Section 265.701, F.S.

<sup>4</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 25, 2013).

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

<sup>6</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 25, 2014).

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

<sup>8</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 25, 2014).

<sup>9</sup> Section 265.286(5)(c), F.S.

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

<sup>11</sup> Section 265.285, F.S.

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>12</sup>

In 2005, 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>13</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>14</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.

### **Tourism Promotion**

Florida’s tourism promotion and marketing services, functions, and programs are carried out by the Florida Tourism Marketing Corporation (VISIT Florida) in conjunction with Enterprise Florida, Inc.’s, Division of Tourism Marketing.<sup>15</sup> VISIT Florida is a public-private partnership, operating as a direct-support organization under contract with Enterprise Florida, Inc. 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, facilitates Florida tourism industry participation at domestic and international travel and consumer shows, and works with travel agents, tour operators, and meeting and event planners.<sup>16</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.<sup>17</sup>

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;

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<sup>12</sup> Section 265.2865, F.S.

<sup>13</sup> DOS, *Florida Council on Arts and Culture* (2005), available at: <http://www.florida-arts.org/documents/CBFFvisioningbook.pdf>, (last visited on March 25, 2014).

<sup>14</sup> Section 265.703, F.S.

<sup>15</sup> Sections 288.923 and 288.1226, F.S.

<sup>16</sup> VISIT Florida, *About VISIT Florida website*, available at: <http://www.visitflorida.org/about-us/>, (last visited on March 27, 2014).

<sup>17</sup> Section 288.12265, F.S.

- 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 base its actual performance against.

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 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>18</sup>

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

CS/SB 214 creates the Black Cultural Tourism Enhancement Commission. The commission will be housed within the DOS, but is authorized to independently exercise its powers and duties. The DOS is required to provide administrative and staff support to the commission.

The commission is authorized to:

- Provide financial and technical assistance to facilities and events that have the potential to expand tourism, create jobs, and stimulate economic development in the state through the marketing of the state’s black cultural sites;
- Provide training and technical assistance for staff members of Florida’s black cultural sites in order to develop tour guides and tour operators for the sites;
- Provide resources and technical assistance for educators of the state related to the teaching of black history, promote Florida’s black cultural sites as historical venues, and support tourism in the state through student tours of the sites;
- Serve as a resource for VISIT Florida in order to expand cultural tourism in the state; and
- Establish the Florida State Museum and Institute on Black American History and Culture.

The commission consists of 13 members who serve 4-year terms. Some of the initial appointments will serve a 2-year term in order to create staggered terms. Members may be reappointed to a subsequent term. The appointments will be as follows:

- The Governor will appoint three members (two initial appointments for 2 years):
  - One of whom represents an institution of higher learning;

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<sup>18</sup> Section 125.0104, F.S.

- 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.
- The President of the Senate will appoint two members (one initial appointment for 2 years):
  - 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 Florida.
- The Speaker of the House of Representatives will appoint two members (one initial appointment for 2 years):
  - 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 Florida
- The Secretary of State will appoint two members who are (one initial appointment for 2 years):
  - Directors of museums of African-American history; or
  - Directors of black archives and research centers in this state.
- The Commissioner of Education will appoint two members (one initial appointment for 2 years) who are members of the Commissioner of Education's African American History Task Force; and
- The Florida Conference of Black Legislators will appoint two members:
  - One of whom is a representative of a philanthropic foundation; and
  - One of whom is a member of the clergy.

The bill authorizes the commission to organize and incorporate a not-for-profit direct-support organization (DSO) that may request and receive grants, bequests, and other resources, administer programs, and make expenditures to benefit the commission and its purposes. The DSO must operate pursuant to a contract with the commission. The commissioners serve as board members of the DSO. However, any administrative costs of the DSO must be paid through private funds. The commission must annually certify that the DSO is complying with the contract and must approve an annual budget. The DSO must also incur an annual financial audit. The DSO is subject to public meeting and record requirements.

The bill provides an effective date of July 1, 2014.

#### **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:

Indeterminate.

C. Government Sector Impact:

Indeterminate. The level of administrative and staff support required by the DOS is uncertain and dependent upon the frequency of commission meetings, travel by staff and commission members, the types of financial assistance to black cultural sites, and the types of training materials and technical assistance provided, and frequency of assistance for these sites.<sup>19</sup>

The bill provides that members of the commission are not compensated but are entitled to reimbursement for per diem and travel expenses

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill does not provide for any required reporting to the Legislature or the public on the activities and expenses of the commission. The DOS, in its analysis of the bill, stated that the bill “provides no rulemaking authority to govern the actions of the commission or to provide transparency and accountability of any funds that may be disseminated to historical sites and organizations” or expended by the commission in realizing their mission.<sup>20</sup>

The members of the commission, as public officers, would be subject to the ethics provisions of ch. 112, F.S. The bill does not contain any express provisions prohibiting any conflict of interest besides those in ch. 112.313(7), F.S., relating to contractual relationships that would benefit a commissioner’s private interests.

**VIII. Statutes Affected:**

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

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<sup>19</sup> Department of State, *Agency Bill Analysis: SB 214* (October 14, 2013).

<sup>20</sup> Department of State, *Agency Bill Analysis: SB 214* (October 14, 2013).

**IX. Additional Information:**

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

**CS by Commerce and Tourism on March 31, 2014:**

The CS authorizes the commission to establish the Florida State Museum and Institute on Black American History and Culture. Additionally, the CS creates a regulatory framework for the DSO.

- B. **Amendments:**

None.