

**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 Rules

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BILL: SB 290

INTRODUCER: Senator Hukill and others

SUBJECT: State Poet Laureate

DATE: April 1, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Naf</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
2.	<u>Letarte</u>	<u>Klebacha</u>	<u>ED</u>	<b>Favorable</b>
3.	<u>McVaney</u>	<u>Phelps</u>	<u>RC</u>	<b>Pre-meeting</b>

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**I. Summary:**

SB 290 creates the position of State Poet Laureate and provides requirements for the selection, terms of service, and duties of the State Poet Laureate. The bill also provides for the designation of past State Poets Laureate as State Poets Laureate Emeritus or Emerita. The bill assigns the Florida Council on Arts and Culture certain responsibilities related to the promotion of poetry and grants the Department of State rulemaking authority to implement the bill's provisions.

The bill takes effect on July 1, 2014.

**II. Present Situation:**

**State Poets Laureate**

A poet laureate is a poet who is "acclaimed as the most excellent or most representative of a locality or group."<sup>1</sup> According to the Library of Congress, 42 states have an official State Poet Laureate position.<sup>2</sup> Duties of such poets laureate vary, but generally include the promotion of the reading, writing, and appreciation of poetry.<sup>3</sup>

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<sup>1</sup> The American Heritage Dictionary, "poet laureate," <http://ahdictionary.com/word/search.html?q=poet+laureate> (last visited Mar. 21, 2014).

<sup>2</sup> Library of Congress, *U.S. State Poets Laureate: Frequently Asked Questions*, <http://www.loc.gov/rr/main/poets/faq.html> (last visited Mar. 21, 2014).

<sup>3</sup> *Id.*

In Florida, the position of Poet Laureate of the State of Florida was established in 1928 by the governor's proclamation and is a lifetime appointment.<sup>4</sup> Three poet laureates have been appointed since the inception of the position.<sup>5</sup>

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

### **Florida Council on Arts and Culture**

The Florida Council on Arts and Culture (Council) is an advisory body within the Department of State.<sup>6</sup> The duties of the Council 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>7</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 disbursement of such grants.<sup>8</sup>

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

SB 290 creates the position of State Poet Laureate and provides requirements for the selection, terms of service, and duties of the State Poet Laureate. The bill also provides for the designation of past State Poets Laureate as State Poets Laureate Emeritus or Emerita. The bill assigns the Florida Council on Arts and Culture (Council) certain responsibilities related to the promotion of poetry and grants the Department of State (Department) rulemaking authority to implement the bill's provisions.

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<sup>4</sup> Library of Congress, *U.S. State Poets Laureate: Florida*, <http://www.loc.gov/rr/main/poets/florida.html> (last visited Mar. 21, 2014).

<sup>5</sup> *Id.* 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. Florida Department of State: Florida Division of Cultural Affairs, *Florida's Poet Laureate*, <http://www.florida-arts.org/programs/poetlaureate/> (last visited Mar. 21, 2014).

<sup>6</sup> Section 265.285(1)(a), F.S.

<sup>7</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. Section 265.284, F.S.

<sup>8</sup> Section 265.285(2), F.S.

### **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.

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 four years. A vacancy for the remainder of an unexpired term must be filled in the same manner as the original appointment.

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 takes effect on 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:

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 (Department) and for the Governor. The bill also authorizes the Department to adopt rules to implement the act. Department staff states that costs incurred by solicitation and review of nominations and by rule promulgation will be absorbed by the agency within existing resources.<sup>9</sup>

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

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<sup>9</sup> Email from the Department of State (Nov. 13, 2013) (on file with the Senate Committee on Education).

types of forms.<sup>10</sup> An agency may only adopt rules that implement or interpret the specific powers and duties granted by the enabling statute.<sup>11</sup> Because legislative power involves the exercise of policy-related discretion over the content of law,<sup>12</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>13</sup>

The bill authorizes the Department of State (Department) to adopt rules to administer the section, but does not explicitly require it. However, the bill appears to implicitly require rulemaking because it requires the Council’s acceptance of nominees to be in accordance with procedures created by the Department and requires the Department to prescribe duties of the State Poet Laureate.<sup>14</sup>

### **Other Comments**

The bill does not provide a process by which a State Poet Laureate may be removed from the position.

### **VIII. Statutes Affected:**

This bill substantially amends section 265.285 of the Florida Statutes.  
This bill creates section 265.2863 of the Florida Statutes.

### **IX. Additional Information:**

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

None.

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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<sup>10</sup> Section 120.52(16), F.S.

<sup>11</sup> Section 120.536(1), F.S.

<sup>12</sup> See *State ex rel. Taylor v. City of Tallahassee*, 177 So. 2d 719, 720-721 (Fla. 1937).

<sup>13</sup> *Askew v. Cross Key Waterways*, 372 So. 2d 913, 825 (Fla. 1978).

<sup>14</sup> SB 290, lines 39-41 and 49-50 (2014 Reg. Session).