

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 Fiscal Policy

BILL: CS/SB 310

INTRODUCER: Fiscal Policy Committee; and Senators Legg and Margolis

SUBJECT: National Statuary Hall

DATE: January 21, 2016

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|-----------------|-----------|------------------|
| 1. | <u>Kim</u> | <u>McVaney</u> | <u>GO</u> | Favorable |
| 2. | <u>Jones</u> | <u>Hrdlicka</u> | <u>FP</u> | Fav/CS |
| 3. | _____ | _____ | <u>RC</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 310 provides that the Great Floridians Program within the Department of State (DOS) must select a prominent Florida citizen to replace General Edmund Kirby Smith's statue and be commemorated in the National Statuary Hall Collection. The Florida Council on Arts and Culture (council) must select a sculptor.

The bill instructs the council and the DOS to estimate the costs associated with replacement of the statue, including the costs:

- To design, construct, transport, and place the new statue;
- To remove and transport the current statue; and
- Any unveiling ceremony for the new statue.

The DOS must report to the Governor, President of the Senate, and Speaker of the House on the recommendations and findings to replace the statue by January 1, 2017.

After the selections are made, the Legislature must pass a memorial requesting the replacement of the statue of General Edmund Kirby Smith. If the Governor agrees in writing with the replacement request, the memorial will be submitted to the United States Joint Committee on the Library of Congress for consideration.

The bill permits the council to raise funds from private sources to fund the costs associated with the replacement of the statue. The funds raised must be placed in the Grants and Donations Trust

Fund of the DOS and may be used only for the limited purposes associated with replacing the statue.

The bill takes effect upon becoming a law.

II. Present Situation:

National Statuary Hall

In 1864, Congress created the National Statuary Hall, which permits the display of two statues from each state within the Capitol of the United States.¹ Originally located in the Old Hall of the House of Representatives, the placement of statues has expanded throughout the corridors of the Capitol.² Each state is permitted to provide no more than two statues of a deceased citizen of that state who were “illustrious for their historic renown or for distinguished civic or military services, such as each State may deem to be worthy of this national commemoration.”³ An individual must have been deceased for 10 years before his or her statue may be displayed in the National Statuary Hall.⁴

Replacement of Statues

A statue must have been on display for at least a decade before it may be replaced.⁵ Like all current statues, a replacement statue must be made of marble or bronze and depict a distinguished, deceased citizen of the donating state.⁶

A state may request that the United States Joint Committee on the Library of Congress approve the replacement of its statues by a resolution from the state’s Legislature and the consent of the Governor.⁷ The state is responsible for costs related to the replacement, including the “construction, transportation, and placement of the new statue, the removal and transportation of the statue being replaced, and any unveiling ceremony.”⁸

After the Joint Committee has approved the request, ownership of the replaced statue transfers to the state and the replaced statue may only be returned to the Capitol by federal law.⁹ A duly authorized state official must inform the Architect of the Capitol where the replaced statue will be displayed after it is removed from the Capitol.¹⁰

¹ Architect of the Capitol, *About the National Statuary Hall Collection*, available at <http://www.aoc.gov/capitol-hill/national-statuary-hall-collection/about-national-statuary-hall-collection> (last viewed January 15, 2016).

² *Id.*

³ 2 U.S.C. s. 2131.

⁴ 2 U.S.C. s. 2131a(a).

⁵ 2 U.S.C. s. 2132(a)(2)(B). The Joint Committee on the Library of Congress may grant a waiver of this requirement.

⁶ 2 U.S.C. s. 2132(b)(1).

⁷ 2 U.S.C. s. 2132(a).

⁸ 2 U.S.C. s. 2132(b)(2).

⁹ 2 U.S.C. s. 2132(d).

¹⁰ Architect of the Capitol, Office of the Curator, *Procedure and Guidelines for Replacement of Statues in the National Statuary Hall Collection*, (January 2014), available at http://www.aoc.gov/sites/default/files/statue_replacement_guidelines_2014.pdf (last viewed January 15, 2016).

Florida's Statues

The Florida statues in the National Statuary Hall Collection are Dr. John Gorrie and General Edmund Kirby Smith.¹¹ Florida donated a statue of Dr. Gorrie to the National Statuary Hall Collection in 1914. Dr. Gorrie (1802-1855) was a physician in Apalachicola, Florida, who advocated draining swamps, the use of mosquito netting to prevent disease, and the cooling of sickrooms to reduce fever. Dr. Gorrie was granted a patent for a machine to make ice and is credited with being the father of refrigeration and air-conditioning.¹²

In 1922, Florida gave a statue of Gen. Kirby Smith to the National Statuary Hall Collection. General Edmund Kirby Smith (1824-1893) was a soldier and educator who served in the Mexican War and taught mathematics at the United States Military Academy (West Point). He resigned from the United States Army in 1861 to join the Confederate States of America. He rose to the rank of general and surrendered the last military force of the Confederacy in the Civil War. After the Civil War, he moved to Tennessee where he pursued an academic career and served as Chancellor of the University of Nashville.¹³

Great Floridians Program

The Great Floridians Program recognizes and records the achievements of living and deceased Floridians who have made major contributions to the progress and welfare of Florida.¹⁴ The Division of Historical Resources of the DOS (division) nominates present or former Florida citizens who made major contributions to the progress of the United States or Florida.¹⁵ In identifying people worthy of a nomination, the division is required seek the advice of people who are experienced in informing the public about Florida's history.¹⁶ Annually, the division must convene an ad hoc committee composed of representatives of specified government officials. The committee must meet as least twice a year and must nominate at least two individuals to be submitted to the Secretary of State.¹⁷ The Secretary of State then selects two individuals to be honored as 'Great Floridians'.¹⁸ The division is required to educate the public about the Great Floridians selected by the Secretary of State.¹⁹

The Florida Council on Arts and Culture

The Florida Council on Arts and Culture (council) is an advisory body within the DOS that promotes arts and culture throughout the state.²⁰ The council consists of 15 members who are

¹¹ Architect of the Capitol, *National Statuary Hall Collection*, available at <http://www.aoc.gov/the-national-statuary-hall-collection> (last viewed January 15, 2016).

¹² Architect of the Capitol, *National Statuary Hall Collection, John Gorrie*, available at <http://www.aoc.gov/capitol-hill/national-statuary-hall-collection/john-gorrie> (last viewed January 15, 2016).

¹³ Architect of the Capitol, *National Statuary Hall Collection, Edmund Kirby Smith*, available at <http://www.aoc.gov/capitol-hill/national-statuary-hall-collection/edmund-kirby-smith> (last viewed January 15, 2016).

¹⁴ Section 267.0731, F.S.

¹⁵ Section 267.0731(1), F.S.

¹⁶ Section 267.0731(1)(a), F.S.

¹⁷ Section 267.0731(1)(b), F.S.

¹⁸ Section 267.0731(1), F.S.

¹⁹ Section 267.0731(2), F.S.

²⁰ Section 265.285(1)(a) and (2)(a), F.S.

appointed by the Governor, the Speaker of the House of Representatives, and the President of the Senate. The members must have a substantial history of community service in the performing or visual arts, science, history, or children's museums.²¹ The council advises the Secretary of the State regarding the administration of grants pertaining to arts and culture, and reviews applications for grants related to cultural facilities.²²

III. Effect of Proposed Changes:

The bill provides that the ad hoc committee of the Great Floridians Program must select a prominent Florida citizen, who may include a person of distinguished civil or military service, to be commemorated in the National Statuary Hall Collection. The Division of Historical Resources is required to prescribe the guidelines to be used for the selection. Once a selection has been made the ad hoc committee must submit its recommendation to the Division of Historical Resources and the Division of Cultural Affairs of the DOS.

The bill requires the Florida Council on Arts and Culture (council) to select a sculptor, with preference given to a sculptor from Florida, to design the statue of the prominent Florida citizen selected. Guidelines prescribed by the DOS and 2 U.S.C. s. 2131 must be used in the selection of the sculptor.

The council and the DOS must estimate the costs associated with the replacement of the statue, including the costs:

- To design, construct, transport, and place the new statue;
- To remove and transfer of the current statue; and
- Any unveiling ceremony for the new statue.

The bill permits the council to raise funds from private sources to fund the costs associated with the replacement of the statue. The funds raised must be placed in the Grants and Donations Trust Fund of the DOS and may be used only for the limited purposes associated with statue replacement described in the bill.

Based on the recommendations and findings of the ad hoc committee and the council, the DOS must submit a report, by January 1, 2017, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must include:

- The name of the prominent Florida citizen and a description of the process used to select the prominent Florida citizen;
- The name of the sculptor and a description of the process used to select the sculptor; and
- An estimate of the total costs associated with replacement of the statue, including the costs to design, construct, transport, and place the new statue; the removal and transfer of the current statue; and any unveiling ceremony for the new statue.

After the selection of a prominent Florida citizen and a sculptor has been made, the Legislature must pass a memorial requesting the United States Joint Committee on the Library of Congress approve the request to replace of the statue of General Edmund Kirby Smith. Upon the

²¹ Section 265.285(1), F.S.

²² Section 265.285(2)(f) and (h), F.S.

Legislature's adoption of the memorial, the Governor must agree in writing with the request to replace the statue, and then the memorial will be submitted to the Joint Committee on the Library of Congress for consideration.

The bill takes effect upon becoming a law.

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 requires the Great Floridians Program to select a prominent Florida citizen to replace the statue of General Edmund Kirby Smith and be commemorated at the National Statuary Hall Collection. The bill also requires the DOS to prescribe the guidelines used in the selection of a sculptor to design the statue. The DOS should be able to absorb the costs of the bill from existing agency resources.

The bill permits the Florida Council on Arts and Culture to raise funds from private sources to fund the costs associated with the replacement of the statue. The funds raised must be placed in the Grants and Donations Trust Fund of the DOS and may be used only for the limited purposes associated with statue replacement described in the bill.

VI. Technical Deficiencies:

The bill requires the ad hoc committee of the Great Floridians Program to select a Florida citizen based upon guidelines prescribed by the Division of Historical Resources and the council to select a sculptor based upon guidelines prescribed by the DOS and federal laws related to statue replacement. The DOS currently has no applicable rules or guidelines for the Great Floridians

Program or the council, and it is unclear what types of guidelines will be prescribed to implement the bill.²³

The bill requires the Legislature to pass a memorial after the selections are made, but the DOS does not report to the Legislature and Governor on the selections until January 1, 2017. It may be more appropriate to require a memorial during the next session of the Legislature after the report is made.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Fiscal Policy on January 20, 2016:

The CS specifies that the prominent Florida citizen to be selected by ad hoc committee of may include a person of distinguished civil or military service and the committee must submit its recommendation to the Division of Historical Resources and Division of Cultural Affairs. The CS also clarifies that when selecting a sculptor to design the statue, preference should be given to a sculptor from Florida.

The CS instructs the Florida Council on Arts and Culture and the DOS to estimate the costs associated with replacement of the statue, including the costs:

- To design, construct, transport, and place the new statue;
- To remove and transport the current statue; and
- Any unveiling ceremony for the new statue.

The CS permits the Florida Council on Arts and Culture to raise funds from private sources to fund the costs associated with the replacement of the statue. The funds raised must be placed in the Grants and Donations Trust Fund of the DOS and may be used only for the limited purposes. The CS also requires the DOS to file a report to the Governor, President of the Senate, and Speaker of the House on the recommendations and findings of the ad hoc committee and council by January 1, 2017.

²³ Email from Eddie Philips, Florida Department of State, Office of Legislative Affairs dated November 6, 2015 (on file with the Senate Committee on Governmental Oversight and Accountability).

B. Amendments:

None.

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