

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 139 National Statuary Hall
SPONSOR(S): Appropriations Committee; Government Accountability Committee; Henry, Leek, and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 472

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Accountability Committee	20 Y, 1 N, As CS	Renner	Williamson
2) Appropriations Committee	24 Y, 0 N, As CS	Cobb	Leznoff

SUMMARY ANALYSIS

Each state may display two statues in the National Statuary Hall within the Capitol of the United States. The statues must be of deceased citizens of that state who were illustrious for their historic renown or for distinguished civic or military services and deemed worthy of national commemoration. A state may request the Joint Committee on the Library of Congress to approve the replacement of its statue by a resolution adopted by the state's Legislature and approved by the Governor.

The Florida statues in the National Statuary Hall Collection are of Dr. John Gorrie and General Edmund Kirby Smith. In 2016, the Legislature enacted legislation to establish a process for recommending the replacement and removal of the statute of General Edmund Kirby Smith. In part, it required the Great Floridians Program (GFP) within the Division of Historical Resources of the Department of State to select three prominent Florida citizens to replace General Edmund Kirby Smith's statue. In January 2017, the GFP submitted three recommendations to the Legislature for consideration:

- Mary McLeod Bethune: Educator and civil rights activist who founded what became Bethune-Cookman University in Daytona Beach, Florida, in 1904.
- George Washington Jenkins, Jr.: Founder of the Publix grocery store chain in 1930, based in Lakeland, Florida.
- Marjory Stoneman Douglas: Author and environmentalist best known for her 1947 work *The Everglades: River of Grass*.

This bill requests the Joint Committee on the Library of Congress to approve the replacement of the statue of General Edmund Kirby Smith in the National Statuary Hall with a statue of Mary McLeod Bethune. The bill provides for the transfer of ownership of the statue of General Edmund Kirby Smith to the state and requires the Department of State to take possession of the statue and make it available for public display. The bill provides that this act is an official request to the Joint Committee on the Library of Congress. Furthermore, the bill requires the Department of State to deliver copies of the act to the President of the United States Senate, the Speaker of the United States House of Representatives, the Joint Committee on the Library of Congress, and to each member of the Florida delegation to the United States Congress.

The bill does not appear to have an impact on state or local revenues or expenditures.

The bill has an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

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 may display no more than two statues of deceased citizens of that state who were “illustrious for their historic renown or for distinguished civic or military services” and deemed worthy of 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 state may replace its statues provided the state meets certain requirements. 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 the Joint Committee on the Library of Congress to approve the replacement of its statues by a resolution adopted by the state’s Legislature and approved by the Governor.⁷ The state is responsible for costs related to the replacement, including costs associated with the “design, construction, transportation, and placement of the new statue, the removal and transportation of the statue being replaced, and any unveiling ceremony.”⁸

If the Joint Committee approves 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 notify the Architect of the Capitol of the location in the state where the replaced statue will be displayed after it is removed from the Capitol.¹⁰

Florida Statues

The Florida statues in the National Statuary Hall Collection are of Dr. John Gorrie and General Edmund Kirby Smith.¹¹

¹ Architect of the Capitol, *About the National Statuary Hall Collection*, available at <https://www.aoc.gov/art/national-statuary-hall-collection/about-national-statuary-hall-collection> (last visited August 31, 2017).

² *Id.*

³ 2 U.S.C. § 2131.

⁴ 2 U.S.C. § 2131(a).

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

⁶ 2 U.S.C. § 2132(b)(1).

⁷ 2 U.S.C. § 2132(a).

⁸ 2 U.S.C. § 2132(b)(2).

⁹ 2 U.S.C. § 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: https://www.aoc.gov/sites/default/files/statue_replacement_guidelines_2014.pdf (last visited August 31, 2017).

¹¹ Architects of the Capitol, *National Statuary Hall Collection*, available at <https://www.aoc.gov/the-national-statuary-hall-collection> (last visited August 31, 2017).

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 he is credited with being the father of refrigeration and air-conditioning.¹²

In 1922, Florida gave a statue of General Edmund Kirby Smith to the National Statuary Hall Collection. General 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 army of 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

Replacement of the Statue of General Edmund Kirby Smith

In 2016, the Legislature enacted legislation to establish a process for recommending the replacement and removal of the statute of General Edmund Kirby Smith. Chapter 2016-41, Laws of Florida, required the ad hoc committee of the Great Floridians Program (GFP)¹⁴ within the Division of Historical Resources (division) of the Department of State (DOS) to select three prominent Florida citizens for consideration to be commemorated in the National Statuary Hall and to submit its recommendations to the Legislature by January 1, 2017. From the GFP recommendations, the Legislature must select one Florida citizen to replace General Edmund Kirby Smith's statue.

The law required the division to establish eligibility guidelines to assist the GFP in making its recommendations. The division's guidelines required the eligible candidate to have been a citizen of the state by either birth or residence and to have been deceased for 10 or more years as of January 1, 2017, and provided that the eligible candidate could not be a fictional character, animal, plant, structure, or other non-human entity or being.¹⁵ The division also recommended that the GFP consider the following:

- Significant contributions of the candidate to Florida history, economy, culture, arts, education, infrastructure, and/or environment;
- Significant contributions of the candidate to United States history, economy, culture, arts, education, infrastructure, and/or environment;
- Distinguished military or civil service of the candidate, at the national and/or state level; and
- Length of time the candidate was a resident of the State of Florida.¹⁶

The law required the Florida Council on Arts and Culture (council)¹⁷ to select a sculptor to design the replacement statue and to raise funds from private sources to fund the costs associated with

¹² Architect of the Capitol, *National Statuary Hall Collection, John Gorrie*, available at: <https://www.aoc.gov/art/national-statuary-hall-collection/john-gorrie> (last visited August 31, 2017).

¹³ Architect of the Capitol, *National Statuary Hall Collection, Edmund Kirby Smith*, available at: <https://www.aoc.gov/art/national-statuary-hall-collection/edmund-kirby-smith> (last visited August 31, 2017).

¹⁴ The GFP recognizes and records the achievements of living and deceased Floridians who have made major contributions to the progress and welfare of Florida. Annually, the Division of Historical Resources of the Department of State must convene an ad hoc committee composed of representatives of specified government officials. The ad hoc committee must meet at least twice a year and nominate at least two individuals to be honored as "Great Floridians." Section 267.0731, F.S.

¹⁵ Florida Department of State *Report to the Governor, Senate President and Speaker of the House on the National Statuary Hall Recommendations and Artist Selection*, pg. 6, December 27, 2016. On file with the Government Accountability Committee.

¹⁶ *Id.*

¹⁷ The council is an advisory body within DOS that promotes arts and culture throughout the state. The council consists of 15 members 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. The council

replacement, including costs for the removal and transfer of the current statue; the design, construct, transport, and placement of a new statue in the National Statuary Hall; and any unveiling ceremony for the new statue. The estimated costs are as follows:¹⁸

Description	Costs
Removal of the current sculpture from the United States Capitol and placement of the new statue	\$15,000
Artist payment for design and development of the new statue	\$50,000
Artist payment to fabricate the sculpture and the sculpture's base and to transport both	\$250,000
Additional in-person council meeting, including travel and per diem	\$8,000
Transport of the current sculpture to Florida	\$10,000
Unveiling ceremony, including event planning, invitations, venue, catering, and travel	\$55,000
Estimated Total	\$388,000

In January 2017, the GFP submitted the following three citizens for consideration:

- Mary McLeod Bethune: Educator and civil rights activist who founded what became Bethune-Cookman University in Daytona Beach, Florida, in 1904.
- George Washington Jenkins, Jr: Founder of the Publix grocery store chain in 1930, based in Lakeland, Florida.
- Marjory Stoneman Douglas: Author and environmentalist best known for her 1947 work *The Everglades: River of Grass*.

Mary McLeod Bethune

Mary McLeod Bethune was born in 1875 in Mayesville, South Carolina. Mary McLeod Bethune studied at Scotia Seminary in North Carolina and Moody Bible Institute in Chicago with the goal of becoming a missionary. When no missionary openings were available, she became a teacher, first at the Haines Institute in Augusta, Georgia and then at the Kendall Institute in Sumpter, South Carolina. The “dream of opening her own school” took Mary McLeod Bethune to Palatka, Florida and then to Daytona Beach, where she started the school that would eventually become Bethune-Cookman University.¹⁹

Mary McLeod Bethune also became a national leader on issues related to civil rights, education, women, and young people. She served as president of the National Association of Colored Women's Clubs and founded the National Council of Negro Women. She was appointed to numerous national commissions and was an advisor on minority affairs in the Roosevelt Administration, organizing two national black conferences on the problem of black Americans.²⁰

Effect of Proposed Changes

The bill requests the Joint Committee on the Library of Congress to approve the replacement of the statue of General Edmund Kirby Smith in the National Statuary Hall with a statue of Mary McLeod Bethune. The bill provides for the transfer of ownership of the statue of General Edmund Kirby Smith to the state and requires the Department of State to take possession of the statue and make it available

also 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. Section 265.285, F.S.

¹⁸ *Id.* at pg. 14

¹⁹ Bethune-Cookman University biography page on Bethune, available at http://www.cookman.edu/about_bcu/history/our_founder.html (last visited August 31, 2017).

²⁰ *Id.*

for public display. The bill provides that this act is an official request to the Joint Committee on the Library of Congress. Furthermore, the bill requires the Department of State to deliver copies of the act to the President of the United States Senate, the Speaker of the United States House of Representatives, the Joint Committee on the Library of Congress, and to each member of the Florida delegation to the United States Congress.

B. SECTION DIRECTORY:

- Section 1 Requesting the Joint Committee on the Library of Congress to approve the replacement of the statue of General Edmund Kirby Smith in the National Statuary Hall Collection with a statue of Mary McLeod Bethune.
- Section 2 Provides that this act is an official request to the Joint Committee on the Library of Congress.
- Section 3 Requires the Department of State to deliver copies of the act to certain persons.
- Section 4 Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None.
- 2. Expenditures:
None. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
None.
- 2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Though there is no direct fiscal impact to the state related to the provisions of this bill, there will be an indeterminate cost to replace the statue of General Edmund Kirby Smith. The Florida Council on Arts and Culture may also raise funds from private sources to fund the costs associated with the replacement of the current statue. The funds must be placed into the Grants and Donations Trust Fund within the Department of State and may be used only for limited purposes associated with replacing the statue. To date, no funds have been raised.²¹

²¹ Phone conversation between committee staff and DOS staff, September 6, 2017.
STORAGE NAME: h0139c.APC
DATE: 2/15/2018

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On October 10, 2017, the Government Accountability Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provided that this act is an official request to the Joint Committee on the Library of Congress. It also required the Department of State to deliver copies of the act to the President of the United States Senate, the Speaker of the United States House of Representatives, the Joint Committee on the Library of Congress, and to each member of the Florida delegation to the United States Congress.

This analysis is drafted to the committee substitute as passed by the Government Accountability Committee.

On February 14, 2018, the Appropriations Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provided for the transfer of ownership of the statue of General Edmund Kirby Smith to the state and required the Department of State to take possession of the statue and make it available for public display.

This analysis is drafted to the committee substitute as passed by the Appropriations Committee.