

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 Rules

BILL: SB 472

INTRODUCER: Senator Thurston and others

SUBJECT: National Statuary Hall

DATE: January 9, 2018

REVISED: 11/16/17

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------------|----------------|-----------|------------------|
| 1. | <u>Wells/Hrdlicka</u> | <u>Hansen</u> | <u>AP</u> | Favorable |
| 2. | <u>Wells/Hrdlicka</u> | <u>Phelps</u> | <u>RC</u> | Favorable |

I. Summary:

SB 472 requests the Joint Committee on the Library of Congress to approve the replacement of the statue of Confederate General Edmund Kirby Smith in the National Statuary Hall Collection with a statue of Mary McLeod Bethune.

The bill has no impact on state revenues or expenditures.

This bill takes effect on July 1, 2018.

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

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 November 7, 2017).

² *Id.*

³ 2 U.S.C. s. 2131.

⁴ 2 U.S.C. s. 2131a(a).

Replacement of Statues

Enacted by Congress in 2000, a state may request that the United States Joint Committee on the Library of Congress approve the replacement of the state's statue.⁵ A statue must have been on display for at least a decade before it may be replaced.⁶ Like all current statues, a replacement statue must be made of marble or bronze and depict a distinguished, deceased citizen of the donating state.⁷

The state's request may only be considered by the Joint Committee if "the request has been approved by a resolution adopted by the legislature of the State and the request has been approved by the Governor of the state."⁸ Guidelines by the Architect of the Capitol provide that "[t]he State legislature enacts a resolution that identifies the statue to be replaced, names the individual to be newly commemorated and cites his or her qualifications, selects a committee or commission to represent the State in selecting the sculptor, and directs the method of obtaining the necessary funds to carry the resolution into effect."⁹ The state is responsible for costs related to the replacement, including the "design, construction, transportation, and placement of the new statue, the removal and transportation of the statue being replaced, and any unveiling ceremony."¹⁰ Then, "[a] duly authorized State official, typically the governor, shall submit to the Architect of the Capitol a written request to provide a new statue, a description of the location in the State where the replaced statue will be displayed after it is transferred, and a copy of the applicable enacted State legislation authorizing the replacement."¹¹

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.¹²

Florida's Statues

The Florida statues in the National Statuary Hall Collection are Dr. John Gorrie and General Edmund Kirby Smith.¹³ 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.¹⁴

⁵ Pub. L. No. 106-554, s. 1(a)(2).

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

⁷ 2 U.S.C. s. 2132(b)(1).

⁸ 2 U.S.C. s. 2132(a).

⁹ 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 November 7, 2017).

¹⁰ 2 U.S.C. s. 2132(b)(2).

¹¹ *Id.*

¹² 2 U.S.C. s. 2132(d).

¹³ Architect of the Capitol, *The National Statuary Hall Collection*, available at <http://www.aoc.gov/the-national-statuary-hall-collection> (last viewed November 7, 2017).

¹⁴ Architect of the Capitol, National Statuary Hall Collection, John Gorrie, available at <https://www.aoc.gov/art/national-statuary-hall-collection/john-gorrie> (last viewed November 7, 2017).

Florida's second statue in the National Statuary Hall is of General Edmund Kirby Smith. General Smith (1824-1893) was born in St. Augustine, Florida, and was a soldier and educator. He 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 Military 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 devoted the remainder of his life to an academic career; he served as Chancellor of the University of Nashville and then was a professor of mathematics at the University of the South.¹⁵ In 1907, the Florida Legislature passed a bill to create and donate a statue of General Smith to the National Statuary Hall, and the statue was donated in 1922.¹⁶

Chapter 2016-41, L.O.F., directed the ad hoc committee of the Great Floridians Program¹⁷ within the Department of State (DOS) to recommend three prominent Florida citizens for the Legislature to consider to commemorate as a replacement for the statue of General Edmund Kirby Smith in the National Statuary Hall Collection. The act directed the Florida Council on Arts and Culture¹⁸ within the DOS to select a sculptor.¹⁹

The act also directed 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;²⁰ and
- For any unveiling ceremony for the new statue.

In January 2017, the Great Floridians ad hoc committee submitted three names for consideration by the Legislature:²¹

- Marjorie Stoneman Douglas, author;
- Dr. Mary McLeod Bethune, educator; and
- George Washington Jenkins, businessman.

¹⁵ 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 viewed November 7, 2017). Chapter 5714 (1907), L.O.F.

¹⁶ Id.

¹⁷ 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. Annually, the Division of Historical Resources of the DOS (division) must convene an ad hoc committee composed of representatives of specified government officials to nominate at least two present or former Florida citizens who made major contributions to the progress of the United States or Florida, which are submitted to the Secretary of State for designation as a "Great Floridian." See s. 267.0731, F.S.

¹⁸ The Florida Council on Arts and Culture (council) is a 15-member advisory body, appointed by specified government officials, housed within the DOS that promotes arts and culture throughout the state. 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. See s. 267.285, F.S.

¹⁹ Nilda Comas of Ft. Lauderdale was chosen. Report to the Governor, Senate President, and Speaker of the House on the National Statuary Hall Recommendations and Artist Selection, prepared by the DOS, December 27, 2016

²⁰ The statue of General Smith will be relocated to Confederate Park in Jacksonville. Email from the DOS, dated November 13, 2017, on file with the Appropriations Subcommittee on Transportation, Tourism, and Economic Development.

²¹ Report to the Governor, Senate President, and Speaker of the House on the National Statuary Hall Recommendations and Artist Selection, prepared by the DOS, December 27, 2016.

III. Effect of Proposed Changes:

The bill requests the Joint Committee of the Library of Congress to approve the replacement of the statue of General Smith in the National Statuary Hall Collection with a statue of Mary McLeod Bethune. The bill states that it is the “official request” to the Joint Committee pursuant to federal law, and requires the DOS to deliver a copy of the bill to the President of the United States Senate, the Speaker of the United States House of Representatives, the Joint Committee, and each member of the Florida Congressional delegation.

Mary McLeod Bethune was born July 10, 1875, in Mayesville, South Carolina. She studied at Scotia Seminary in North Carolina and Moody Bible Institute in Chicago with the goal of becoming a missionary. However, Ms. Bethune became a teacher when she could not find a church to sponsor her as a missionary. She taught in Georgia and in South Carolina, where she met and married a fellow teacher, Albertus Bethune, and had a son. The family moved to Palatka, Florida, and Ms. Bethune worked at a Presbyterian church and sold insurance. In the early 1900s, when her marriage ended, Ms. Bethune moved to Daytona (now Daytona Beach), Florida, and founded a boarding school for girls. Eventually, the school grew and merged with the all-male Cookman Institute of Jacksonville to form Bethune-Cookman College in 1929. Ms. Bethune was also active in civil rights and gender equality movements, appointed by President Franklin Roosevelt and President Harry S. Truman to positions in government, and served as the vice president of the National Association of Colored Persons (NAACP). She co-owned a resort in Daytona and co-founded the Central Life Insurance Company of Tampa.²²

The bill takes effect July 1, 2018.

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.

²² Michals, Debra, National Women’s History Museum, Mary McLeod Bethune (1875-1955), (2015), available at <https://www.nwhm.org/education-resources/biographies/mary-mcleod-bethune> (last viewed November 7, 2017). Bethune-Cookman University, History: Our Founder – Dr. Bethune, available at http://www.cookman.edu/about_BCU/history/our_founder.html (last viewed November 7, 2017).

B. Private Sector Impact:

Under ch. 2016-41, L.O.F., the Florida Council on Arts and Culture is permitted to raise funds from private sources to fund the costs associated with the replacement of the statue. The estimated costs associated with the replacement of the statue is \$388,000.²³ Such funds will be needed if the Joint Committee of the Library of Congress approves the state's request to replace the statue made by this bill.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures. If the Joint Committee of the Library of Congress approves the state's request, spending authority must be approved in order to pay the costs associated with replacement of the statue.

The funds collected from private donations collected pursuant to ch. 2016-41, L.O.F., must be placed into the Grants and Donations Trust Fund within the Department of State and may be used only for the limited purposes associated with replacing the statue.²⁴ However, nothing limits the Legislature from appropriating other state funds to fund the costs associated with the replacement of the statue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In 1907, when the statue of General Smith was approved by the Legislature to be given to the National Statuary Hall Collection, the request was made by a general bill.²⁵ However, that involved the initial gift of a statue to the collection. That bill directed placement of the statue in the National Statuary Hall and also directed the Governor to appoint a commission "to consider and ascertain the appropriate kind of statue to be selected and its costs." The commission was required to report to the Legislature in 1909.

The 2016 Legislature directed programs within the executive agency of the Department of State to select a Floridian to replace the General Smith statue, to select a sculptor, and to estimate the costs, and permitted the collection of private donations to replace the statue.²⁶

This bill to request the replacement of a statue *may* meet the requirements of the federal law, which requires that such a request may only be considered by the Joint Committee if "the request has been approved by a resolution adopted by the legislature of the State and the request has been approved by the Governor of the state." Pursuant to the guidelines of the Architect of the Capitol, the Governor must still submit a written request to provide the new statue, a description

²³ Report to the Governor, Senate President, and Speaker of the House on the National Statuary Hall Recommendations and Artist Selection, prepared by the DOS, December 27, 2016.

²⁴ Chapter 2016-41, L.O.F.

²⁵ See ch. 5714 (1907), L.O.F.

²⁶ Chapter 2016-41, L.O.F.

of the location in Florida where the replaced statue will be displayed after it is transferred, and a copy of the this bill authorizing the replacement.

VIII. Statutes Affected:

This 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.)

None.

B. Amendments:

None.

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