

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6041 Division of Historical Resources
SPONSOR(S): Stevenson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1296

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Natural Resources & Public Lands Subcommittee	12 Y, 0 N	Moore	Shugar
2) Government Accountability Committee	15 Y, 7 N	Moore	Williamson

SUMMARY ANALYSIS

Florida's rich and unique heritage of historic properties in this state, representing more than 10,000 years of human presence, is an important legacy to be valued and conserved for present and future generations. The destruction of these nonrenewable historical resources will engender a significant loss to the state's quality of life, economy, and cultural environment. Accordingly, all treasure trove, artifacts, and objects having intrinsic or historical and archaeological value, which have been abandoned on state-owned lands or state-owned sovereignty submerged lands belong to the state with title vested in the Division of Historical Resources (Division) of the Department of State for the purposes of administration and protection.

The Division may issue permits for surveying and exploration activities to identify historical resources; excavation and salvage activities to recover historical resources; archaeological excavation for scientific or educational purposes on state-owned lands or on state-owned sovereignty submerged lands; and exploration and salvage of historic shipwreck sites by commercial salvors on state-owned sovereignty submerged lands. The Division's rules for research permits and permits for exploration and recovery activities associated with historic shipwreck sites are found in chs. 1A-32, and 1A-31, F.A.C., respectively.

The Division may also implement a program to administer finds of isolated historic artifacts from state-owned river bottoms whereby the Division may transfer ownership of such artifacts to the finder in exchange for information about the artifacts and the circumstances and location of their discovery (Isolated Finds Program). The Division administered the Isolated Finds Program from 1996 to 2005, and discontinued it upon recommendation of the Florida Historical Commission.

By October 1, 2004, each state agency or political subdivision that owns or manages public land, waters, or structures must identify any geographic sites under its jurisdiction that contain offensive or derogatory place names and file a report identifying those names with the Division. The Division was required to provide a report to the Governor and the Legislature no later than July 1, 2005, which identified: each offensive or derogatory place name identified by an agency or political subdivision; the replacement name selected by the Division; whether any markers and maps had been changed to reflect the name changes; the date that requests to change names were filed with the United States Board of Geographic Names and whether those changes have been made; and any other relevant information the Division finds appropriate.

The bill removes permitting authority provisions that the Division was not utilizing. The bill does not affect the Division's authority to permit activities for survey and excavation activities for scientific or educational purposes or the permitting authority for chs. 1A-32, and 1A-31, F.A.C.

The bill repeals laws relating to the Isolated Finds Program, and the abrogation of offensive and derogatory geographic place names.

The bill does not appear to have a fiscal impact on the state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Division of Historical Resources

Present Situation

Florida's rich and unique heritage of historic properties, representing more than 10,000 years of human presence, is an important legacy to be valued and conserved for present and future generations. The destruction of these nonrenewable historical resources will engender a significant loss to the state's quality of life, economy, and cultural environment.¹ Accordingly, all treasure trove, artifacts, and objects having intrinsic or historical and archaeological value, which have been abandoned on state-owned lands or state-owned sovereignty submerged lands² belong to the state with title vested in the Division of Historical Resources (Division) of the Department of State for the purposes of administration and protection.³

Permitting Authority

The Division may issue permits for:

- Surveying and exploration activities to identify historical resources;
- Excavation and salvage activities to recover historical resources;
- Archaeological excavation for scientific or educational purposes on state-owned lands or on state-owned sovereignty submerged lands; and
- Exploration and salvage of historic shipwreck sites by commercial salvors on state-owned sovereignty submerged lands.⁴

The Division must adopt rules to administer the issuance of permits for all such activities and to administer the transfer of objects recovered by commercial salvors under permit in exchange for recovery services provided to the state.⁵ Altering archaeological sites on state-owned lands without a permit is a first degree misdemeanor.⁶ Excavating on state-owned lands without a permit is a third degree felony.⁷ Offering for sale or exchange objects so obtained is a third degree felony.⁸

Research Permits

The Division issues research permits for archaeological field investigations on state-owned lands and on state-owned sovereignty submerged lands pursuant to ch. 1A-32, F.A.C. Permits are issued to

¹ Section 267.061(1)(a), F.S.; s. 267.021(3), F.S., defines "historic property" or "historic resource" to mean any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value, and folklife resources, including monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the state.

² Rule 18-21.003(61), F.A.C., defines sovereignty submerged lands to mean those lands including, but not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters to which the state acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated.

³ Section 267.061(1)(b), F.S.

⁴ Section 267.031(5)(n), F.S.

⁵ *Id.*

⁶ Section 267.13(1)(a), F.S.

⁷ Section 267.13(1)(b), F.S.

⁸ Section 267.13(1)(c), F.S.

professional archaeologists who have histories of responsible work and project completion.⁹ The permitting process holds archaeologists accountable for turning in reports, site forms, and cultural material within one year of fieldwork completion.¹⁰

Exploration and Recovery Permits for Historic Shipwreck Sites

The Division also issues permits for exploration and recovery activities associated with historic shipwreck sites¹¹ on state-owned sovereignty submerged lands pursuant to ch. 1A-31, F.A.C. An exploration permit allows the permittee to collect remote sensing and visual information on potential historic shipwreck sites without excavation or bottom disturbance. The Division may modify these permits to allow for disturbance and excavation to determine the presence or absence and the nature of potential historic shipwreck sites.¹²

The Division may issue a recovery permit after the existence and nature of a historic shipwreck site is documented by exploration permit activities. A recovery permit allows the permittee to conduct excavations that are more extensive and recover archaeological materials, and it allows for the transfer of title to the permittee of objects recovered.¹³

Effect of Proposed Changes

The bill amends s. 267.031(5), F.S., relating to the Division's permitting authority. The bill removes permitting authority provisions that the Division was not utilizing. The bill does not affect the Division's authority to permit activities for survey and excavation activities for scientific or educational purposes or the permitting authority for chs. 1A-31, and 1A-32, F.A.C.

Finds of Isolated Historical Artifacts from State-Owned River Bottoms

Present Situation

The Division may also implement a program to administer finds of isolated historic artifacts from state-owned river bottoms whereby the Division may transfer ownership of such artifacts to the finder in exchange for information about the artifacts and the circumstances and location of their discovery (Isolated Finds Program).¹⁴ The Division administered the Isolated Finds Program from 1996 to 2005, and discontinued it upon recommendation of the Florida Historical Commission (Commission).¹⁵

Florida Historical Commission

The Commission was created in 2001 to enhance public participation and involvement in the preservation and protection of the state's historic and archaeological sites and properties. The Commission advises and assists the Division in carrying out its purposes, duties, and responsibilities.¹⁶ The Commission is composed of 11 members: seven appointed by the Governor, in consultation with

⁹ Chapter 1A-32, F.A.C.; Division, *Research Permits*, <http://dos.myflorida.com/historical/archaeology/public-lands/research-permits/> (last visited Jan. 25, 2018).

¹⁰ Chapter 1A-46, F.A.C.; Division, *Research Permits*, <http://dos.myflorida.com/historical/archaeology/public-lands/research-permits/> (last visited Jan. 25, 2018).

¹¹ Rule 1A-31.0015(6), F.A.C., defines "historic shipwreck site" to mean the remains of a sunken or abandoned ship or other watercraft on or below the seabed including but not limited to ships' structure and rigging, hardware, tools, utensils, cargo, personal items of crew and passengers, and treasure trove, which is at least 50 years old.

¹² Rule 1A-31.0062(1)(a), F.A.C.

¹³ Rule 1A-31.0062(1)(b), F.A.C.

¹⁴ Section 267.115(9), F.S.

¹⁵ DOS, *2016 Agency Legislative Bill Analysis for HB 803 Relating to Historic and Archaeological Artifacts* (Jan. 2016), on file with the Natural Resources & Public Lands Subcommittee; see s. 267.0612, F.S., for the Florida Historical Commission.

¹⁶ Section 267.0612, F.S.; see ch. 2001-199, Laws of Fla.

the Secretary of State; two appointed by the President of the Florida Senate; and two by the Speaker of the Florida House of Representatives.¹⁷

The Commission, at its May 21, 2005, meeting, considered three options regarding the Isolated Finds Program: discontinue the Isolated Finds Program, with no substitute program to take its place; formalize the existing Isolated Finds Program guidelines as an agency rule with little or no modification; or develop a new permit-based program for river collecting formalized by the rule making process. The Commission voted unanimously to discontinue the Isolated Finds Program.¹⁸

Effect of Proposed Changes

The bill repeals subsection (9) of s. 267.115, F.S., relating to the Isolated Finds Program.

Abrogation of Offensive and Derogatory Place Names

Present Situation

By October 1, 2004, each state agency¹⁹ or political subdivision that owned or managed public land, waters, or structures was required to identify any geographic sites²⁰ under its jurisdiction that contain offensive or derogatory place names²¹ and file a report identifying those names with the Division. A political subdivision was also required to include a recommended replacement name.²²

The Division was required to compile the reports and provide a copy to the Commission. The Commission was required to advise the Division in its review of recommended place names and in the development of alternative names that reflect the state's diversity and culture. By March 1, 2005, the Division was required to choose a new name for each geographic site reported by an agency or political subdivision.²³ The Division was also required to:

- Notify each reporting entity of the alternative name selected by the Division, and each agency or political subdivision was required to ensure that whenever it updated a map or recorded plat, or replaces a sign, interpretive marker, or other marker because of wear or vandalism, the new name was used;
- Notify the Department of Transportation, the Department of Economic Opportunity, the Department of Management Services, and any other entity that compiles information for or develops maps or markers for the state of the name change so that it could be reflected on subsequent editions of maps, informational literature, or markers produced by those entities;
- Place a formal request with the United States Board on Geographic Names (BGN) to render a decision on each proposed name change to be reflected on all maps of the BGN; and
- Provide a report to the Governor and the Legislature no later than July 1, 2005, regarding implementation of these provisions, which was required to identify at least the following: each offensive or derogatory place name identified by an agency or political subdivision; the replacement name selected by the Division; whether any markers and maps have been changed to reflect the name changes; the date that requests to change names were filed with

¹⁷ Section 267.0612(1)(a)1., F.S.

¹⁸ DOS letter to the Florida Archeological Council, May 25, 2005, http://www.flarchcouncil.org/documents/IsolatedFindsPolicy_May252005.pdf (last visited Feb. 5, 2018).

¹⁹ Section 267.021(2), F.S., defines "agency" to mean any state, county, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law.

²⁰ Section 267.0625(2)(b), F.S., defines "geographic site" to mean a location or publicly owned structure in this state, and includes, but is not limited to, rivers and other navigable waters of the state, geographic features, and parks, or state or local roads, bridges, and publicly owned buildings.

²¹ Section 267.0625(2)(c), F.S., defines "offensive or derogatory place names" to mean a place name that is a racial, ethnic, or religious slur.

²² Section 267.0625(3)(a), F.S.

²³ Section 267.0625(3)(b)-(c), F.S.

the BGN and whether those changes have been made; and any other relevant information the Division finds appropriate.

Effect of Proposed Changes

The bill repeals s. 267.0625, F.S., relating to the abrogation of offensive and derogatory geographic place names.²⁴

B. SECTION DIRECTORY:

Section 1. Amends s. 267.031, F.S., relating to responsibilities of the Division.

Section 2. Repeals s. 267.0625, F.S., relating to the abrogation of offensive and derogatory geographic place names, and subsection (9) of s. 267.115, F.S., relating to the Isolated Finds Program.

Section 3. Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

²⁴ Per the Division Director's email, dated January 29, 2018, the requirements of this law were implemented. A copy of which is on file with the Natural Resources & Public Lands Subcommittee.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.