

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 Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: SB 1104

INTRODUCER: Senator Rodriguez

SUBJECT: Division of Library and Information Services

DATE: March 22, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Candelaria</u>	<u>McVaney</u>	<u>GO</u>	<u>Favorable</u>
2.	<u>Wells</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1104 consolidates and clarifies the responsibilities and duties of the Division of Library and Information Services (division) within the Department of State, in part to better reflect current practices.

The bill requires the certification of funds provided to libraries to be given to the Chief Financial Officer *annually* – as opposed to by December 1 of each year, as provided under current law. The bill repeals responsibilities and duties that the division does not currently undertake, including efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government and the preservation of duplicate records. The bill also repeals s. 257.34, F.S., relating to the creation, duties, and responsibilities of the Florida International Archive and Repository. The division has adequate authority pursuant to s. 257.35, F.S., relating to the Florida State Archives, to continue to perform this function.

The bill specifies that the division is responsible for setting standards and guidelines for the retention, storage, security, and disposal of records and clarifies the division’s specific responsibilities when records are stored by other agencies in a record center it operates. The bill also specifies the role and responsibility of an agency’s records management liaison officer.

Related to library cooperative grants, the bill removes the cap of \$400,000 on an annual grant from the state available to the administrative unit of a library cooperative for the purpose of sharing library resources. With the removal of the statutory cap of \$400,000, the bill will have an indeterminate impact for multitype library cooperatives who seek funds under the library cooperative grant program.

The bill will take effect on July 1, 2021.

II. Present Situation:

The Division of Library and Information Services – Allocation of State Funds

State funds allocated to libraries must be expended only for library purposes in the manner prescribed by the division. Such funds may not be expended for the purchase or construction of a library building or library quarters except such funds specifically appropriated for construction purposes.¹

The division must establish operating standards under which libraries and library cooperatives will be eligible to receive state funds.² The division is required to certify to the Chief Financial Officer the amount of funds paid to each county, municipality, special district, or special tax district on or before December 1 of each year.³

The Florida International Archive and Repository and The Florida State Archives

Section 257.34, F.S., establishes the Florida International Archive and Repository within the division for the preservation of public records,⁴ including manuscripts, international judgements involving disputes between domestic and foreign business, and all other public matters that the Department of State or the Florida Council of International Relations deems relevant to international issues. The division is charged with:

- Organizing and administering the Florida International Archive and Repository;
- Preserving and administering records that are transferred to its custody;⁵
- Permitting records to be inspected and copied at reasonable times and under the supervision of the division;⁶
- Assisting the records and information management program in the determination of retention values for records;
- Cooperating with and assisting state institutions, departments, agencies, counties, municipalities, and individuals engaged in internationally related activities;
- Providing a public research room where, under rules established by the division, the materials in the international archive and repository may be studied;
- Conducting, promoting, and encouraging research in international trade, government, and culture and maintaining a program of information, assistance, coordination, and guidance for public officials, educational institutions, libraries, the scholarly community, and the general public engaged in such research;
- Cooperating with and assisting agencies, libraries, institutions, and individuals in projects concerned with internationally related issues;
- Preserving original materials relating to internationally related issues; and

¹ Section 257.24, F.S.

² Sections 257.15 and 257.41(2), F.S. Section 257.41(2), F.S., further providing that the division must issue a certificate to each library cooperative that meets the standards and rules established.

³ Section 257.22, F.S.

⁴ Public records as defined in s. 119.011, F.S.

⁵ This includes accepting, arranging, and preserving the records according to approved archival and repository practices.

⁶ All public records transferred to the custody of the division are subject to the provisions of s. 119.07(1), F.S.

- Assisting and cooperating with the records and information management program in the training and information program described in s. 257.36(1)(g), F.S.⁷

Section 257.35, F.S., creates the Florida State Archives within the division for the preservation of public records,⁸ manuscripts, and other archival material that have been determined by the division to have sufficient historical or other value to warrant continued preservation and have been accepted by the division for deposit in its custody. The division performs similar duties for the Florida State Archives as it does for the Florida International Archive, including:

- Organizing and administering the Florida State Archives;
- Preserving and administering such records transferred to its custody;⁹
- Permitting records to be inspected and copied at reasonable times and under the supervision of the division;
- Assisting the records and information management program in the determination of retention values for records;
- Cooperating with and assisting state institutions, departments, agencies, counties, municipalities, and individuals engaged in activities in the field of state archives, manuscripts, and history;
- Accepting from any person any paper, book, record, or similar material which in the judgment of the division warrants preservation in the state archives;
- Providing a public research room where, under rules established by the division, the materials in the state archives may be studied;
- Conducting, promoting, and encouraging research in Florida history, government, and culture and maintaining a program of information, assistance, coordination, and guidance for public officials, educational institutions, libraries, the scholarly community, and the general public engaged in such research;
- Cooperating with and assisting agencies, libraries, institutions, and individuals in projects designed to preserve original source materials relating to Florida history, government, and culture;
- Preparing and publishing handbooks, guides, indexes, and other literature directed toward encouraging the preservation and use of the state's documentary resources;
- Encouraging and initiating efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government; and
- Assisting and cooperating with the records and information management program in the training and information program described in s. 257.36(1)(g), F.S.¹⁰

Records and Information Management

Section 257.36(1), F.S., creates a records management program within the division. The program's purpose is directed to the application of efficient and economical management methods relating to the creation, utilization, maintenance, retention, preservation, and disposal of records.¹¹ The division must establish and operate a records center or centers primarily for the

⁷ Section 257.34(1), F.S.

⁸ Public records as defined in s. 119.011, F.S.

⁹ This includes accepting, arranging, and preserving the records according to approved archival practices.

¹⁰ Section 257.35(1), F.S.

¹¹ Section 257.36(1)(a), F.S.

storage, processing, servicing, and security of public records that must be retained for varying periods of time but that are not required to be retained in an agency's office equipment or space.¹²

The division must create retention schedules which govern when public records may be destroyed or otherwise disposed of.¹³

Section 257.36(1)(g), F.S., requires the division to institute and maintain a training program in: (i) all phases of records and information management to bring approved practices to the attention of all agencies; and (ii) the requirements relating to access to public records under ch. 119, F.S.

Each agency¹⁴ has the duty to cooperate with the division in complying with ch. 257, F.S., and must designate a records management liaison officer. Further, each agency must establish and maintain an active and continuing program for the economical and efficient management of records.¹⁵

Library Cooperatives and Library Cooperative Grants

The Legislature intended that library cooperative programs be established to augment the local library resources with regional and statewide services.¹⁶ A multitype library cooperative (MLC) is a not-for-profit corporation, qualified or registered pursuant to ch. 617, F.S., and in good standing, consisting of two or more libraries under separate governance and of more than one type, including any combination of academic, school, special, state institution, and public libraries as required by s. 257.41(1), F.S.¹⁷

The administrative unit of a library cooperative is eligible to receive an annual grant (library cooperative grant) from the state of not more than \$400,000 for the purpose of sharing library resources. Grant funds may not be used to supplant local funds or other funds. Additionally, a library cooperative must provide from local sources matching cash funds equal to 10 percent of the grant award.¹⁸ Florida's priority for use of the library cooperative grants and matching funds is for the purpose of sharing library resources between members of the Florida Library Information Network.¹⁹ Library cooperative grants and local matching funds must be expended on resource sharing activities and related training, provided services to all Florida Information Network member libraries.

¹² Section 257.36(b), F.S.

¹³ Section 257.36(6), F.S.

¹⁴ Section 257.36(5), F.S., defines "agency," for purposes of this section, to mean any state, county, district, or municipal officer, department, division, bureau, board, commission, or other separate unit of government created or established by law.

¹⁵ See s. 257.36(5), F.S.

¹⁶ Section 257.40, F.S.

¹⁷ Department of State, *Library Cooperative Grant Guidelines*, 2020-2021, at p. 5, <https://dos.myflorida.com/media/702617/cooperativegrantguidelines2020-2021.pdf> (last visited March 5, 2020).

¹⁸ Section 257.42, F.S.

¹⁹ See *supra* note 18 at p. 1.

Florida's five MLCs and their service areas for purpose of the Library Cooperative Grant Program are as follows:

- NEFLIN - Northeast Florida Library Information Network service area includes: Alachua, Baker, Bradford, Brevard, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Madison, Marion, Nassau, Putnam, Seminole, St. Johns, Sumter, Suwannee, Taylor, Union, and Volusia counties.
- PLAN - Panhandle Library Access Network service area includes: Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington counties.
- SEFLIN - Southeast Florida Library Information Network service area includes: Broward, Martin, Miami-Dade, and Palm Beach counties.
- SWFLN - Southwest Florida Library Network service area includes: Charlotte, Collier, Hendry, Lee, and Monroe counties.
- TBLC - Tampa Bay Library Consortium service area includes: Citrus, DeSoto, Glades, Hardee, Hernando, Highlands, Hillsborough, Indian River, Lake, Manatee, Okeechobee, Orange, Osceola, Pasco, Pinellas, Polk, Sarasota, and St. Lucie counties.²⁰

III. Effect of Proposed Changes:

Section 1 amends s. 257.22, F.S., to provide that the certification of funds by the division to the Chief Financial Officer be made *annually* – as opposed to by December 1 of each year.²¹ The Department of State indicates the division currently must provide two certifications to the Chief Financial Officer. The first is submitted by the statutory deadline of December 1 and contains estimated grant amounts. The second certification is submitted later and reflects the actual final grant amounts. Thus, the bill will allow the division to make one certification of funds.

Section 2 repeals s. 257.34, F.S., relating to the creation, duties, and responsibilities of the Florida International Archive and Repository. The division has adequate authority pursuant to s. 257.35, F.S., relating to the Florida State Archives, to continue to perform this function.

Section 3 amends s. 257.35, F.S., relating to the Florida State Archives, to eliminate the requirement that the division encourage and initiate efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government. According to the Department of State, these activities have not been undertaken by the department in the past.²²

Section 4 amends s. 257.36, F.S., relating to the records and information management program. The bill specifies that the requirement related to analyzing, developing, establishing, and coordinating standard procedures and techniques of record-making and recordkeeping, includes, but is not limited to, standards and guidelines for retention, storage, security, and disposal of records.

²⁰ *Id.* at p. 2.

²¹ See Department of State, *Senate Bill 1570 Agency Legislative Analysis* (January 22, 2020) (on file with the Senate Committee on Governmental Oversight and Accountability).

²² *Id.*

This section requires an agency's records management liaison officer to serve as the primary point of contact between the agency and the division for records management purposes and to conduct any records management functions assigned by the agency.

This section also clarifies, in certain instances, the division's specific responsibilities when records are stored by other agencies in a storage center operated by the division. This section repeals provisions related to preservation duplicates; the division will no longer be responsible for making and storing preservation duplicates of records. The Department of State indicates that the preservation of duplicates is no longer a function of the division.²³

Finally, this section amends provisions related to the destruction of records. Under current law, the division must notify, by certified mail, the agency that transferred the record to the division when the record is eligible for destruction. The agency has 90 days to respond to request continued retention of the record or authorize its destruction or disposal. Nonresponse passes the title of the record to the division. The bill repeals the requirement that the notice be sent by certified mail and the time period by which the agency must respond.

Section 5 amends s. 257.42, F.S., to remove the cap of \$400,000 on an annual library cooperative grant. Thus, the Legislature will have more discretion in making appropriations for library cooperative grants.

Section 6 amends s. 120.54, F.S., to correct a cross-reference.

Section 7 provides that the act takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²³ *Id.* See also s. 92.29, F.S., which provides that photographic reproductions or reproductions through electronic recordkeeping systems made by an agency in the regular course of business shall be admitted and received as evidence similar to the original record.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not alter existing, recurring appropriations for library cooperative grants. However, the bill changes how those appropriations may be used. A library cooperative may receive a grant in excess of \$400,000 annually if the bill is enacted.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 257.22, 257.35, 257.36, 257.42, and 120.54.

This bill repeals section 257.34 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.