

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB TED 09-06 Department of State
SPONSOR(S): Transportation & Economic Development Appropriations Committee
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Transportation & Economic Development Appropriations Committee		Perez	Creamer
1)	_____	_____	_____	_____
2)	_____	_____	_____	_____
3)	_____	_____	_____	_____
4)	_____	_____	_____	_____
5)	_____	_____	_____	_____

SUMMARY ANALYSIS

The bill makes revisions relating to the Department of State, Division of Cultural Affairs' Historical and Cultural grant programs. The bill creates a consolidated grant program and provides definitions for clarification. The bill also deletes obsolete and redundant references to programs.

The bill also makes changes to the Florida Secured Transaction Registry by terminating the current vendor contract for these responsibilities and requiring the Department to perform these duties.

This bill provides an effective date of July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Cultural Affairs

Section 265.281, F.S., defines the Florida Fine Arts Act. Current law provides that under this act, the state will provide support for, and gain national and international recognition of, the efforts, works, and performances of Florida artists and art agencies. Furthermore, it is the intent of the Legislature to foster, through the programs, the development of a receptive climate for the fine arts; to enrich culturally and benefit the citizens of this state in their daily lives; to make Florida visits and vacations all the more appealing to the world; and to attract to Florida residency additional outstanding creators in the fields of fine arts through appropriate programs of publicity, education, coordination, grants, and activities, such as sponsorship of art lectures and exhibitions and central compilation and dissemination of information on the progress of the fine arts in Florida.

Section 265.284, F.S., provides that the Secretary of State is the chief cultural officer of the state, and the Division of Cultural Affairs is designated as the state arts administrative agency. This division has direct administrative authority and responsibility for all of the programs authorized by the Florida Fine Arts Act. The division is also authorized to accept and administer state and federal funds provided for the fine arts, the grants, and any program authorized by this act and to enter into contracts with any person, firm, performing arts company, educational institution, arts organization, corporation, or governmental agency to carry out its functions under this act.

The division is also authorized to:

- Accept and administer moneys appropriated by the Legislature, and moneys received from the Federal Government or from other public or private sources, for the development of nationally recognized Florida performing arts groups through a state touring program. The division is required to develop and establish a selection procedure which ensures maximum opportunity for selection of and participation by Florida performing arts groups in the state touring program;
- Sponsor performances and exhibits; promote and encourage the study and appreciation of fine arts; and collect, publish, and print pamphlets, papers, newsletters, and other materials relating to fine arts programs available throughout the state;

- Conduct and support cultural programs and cultural exchanges in conjunction with the appropriate state agencies, including the acceptance of funding, technical assistance, and other forms of support for such purposes; and
- Adopt rules pursuant to ss. 120.536(1) and 120.54, F. S., to implement provisions of law.

Section 265.285, F.S., creates and defines the Florida Arts Council and its membership and duties. The Florida Arts Council is created within the Department of State as an advisory body that reviews and makes recommendations for the award of grants. The Council consists of 15 members as follows:

- Seven members appointed by the Governor;
- Four members by the President of the Senate; and
- Four members shall be appointed by the Speaker of the House of Representatives.

The appointments are made in coordination with the Secretary of State and are required to recognize the need for geographical representation. Council members appointed by the Governor serve a term of four years beginning on January 1 of the year of appointment. Council members appointed by the President of the Senate and the Speaker of the House of Representatives serve a term of two years beginning on January 1 of the year of appointment. A member of the council who serves two 4-year terms or two 2-year terms is not eligible for reappointment for 1 year following the expiration of the member's second term. A member whose term has expired shall continue to serve on the council until such time as a replacement is appointed. Any vacancy on the council is to be filled for the remainder of the unexpired term in the same manner as for the original appointment. Members appointed have a substantial history of community service in the performing or visual arts. In addition, it is desirable that members have successfully served on boards of cultural institutions such as museums and performing arts centers or are recognized as patrons of the arts.

The Secretary of State may appoint review panels representing various artistic disciplines to assist the Florida Arts Council in the grant review process. Review panel members serve for 1-year terms. Each panel includes practicing artists or other persons actively involved in the specific discipline for which the panel is to review grants. The panel reviews grant applications and make recommendations to the council concerning the relative merits of the applicants. *(The division shall, by rule, establish criteria for reviewing grant applications to ensure compliance with applicable federal and state laws relating to discrimination and conflicts of interest.)*

The specific duties of the Council include:

- Advising the Secretary of State in all matters pertaining to art;
- Encouraging the participation in and appreciation of the arts to meet the needs and aspirations of persons in all parts of the state;
- Advising the Secretary of State in all matters concerning the awarding of grants;
- Promoting the enhancement and beautification of the interiors of the Capitol Building and other public buildings; and
- Reviewing applications for grants for the acquisition, renovation, or construction of cultural facilities and make recommendations for award;

The grant programs that the Division of Cultural Affairs currently administers are located throughout Chapter 265, F. S. Some grant programs are not specified separately in statute. Additionally, grant programs have been added to the statute requiring cultural affairs to administer programs which do not fit into the definition of "fine arts" (such as Science Museums) but which do fall under a more general heading of cultural programs.

Subject to the recommendation of the Florida Arts Council and to the approval of the Secretary of State, the division is authorized to expend appropriated state and federal funds for art grants. The division shall establish by rule criteria for the award of grants, including criteria relating to artistic quality, creativity, potential public exposure and benefit, ability to properly administer grant funds, and such other matters deemed necessary and appropriate to further the purposes of this act. The division is required to expend funds in accordance with state law and to supplement the financial support of:

- Programs which have substantial artistic and cultural significance, giving emphasis to American creativity and the maintenance and encouragement of professional excellence; and
- Programs meeting professional standards or standards of authenticity, irrespective of origin, which programs are of significant merit and which, without such assistance, would otherwise be unavailable to the citizens of this state;

Grants are made by contract with any nonprofit corporation, local or state governmental entity, or artist engaged in or concerned with the arts. Of the total amount of funds available from all sources for art grants, 70 percent of such funds shall be awarded on a 50-percent matching basis. Up to 30 percent of such funds available may be awarded on a nonmatching basis, including individual fellowships.

In administering grants, contracts, and funds appropriated for arts programs, the division may release moneys in advance on a quarterly basis. By the end of the contract period, the grantee or contractee is required to furnish, to the division, a complete and accurate accounting of how all state funds were expended.

The division is authorized to develop and conduct a challenge grant program available to cultural institutions or groups of institutions that have local, regional, or statewide impact. Challenge grants are to be made for not less than \$10,000; and matching moneys must be on at least a basis of 1 to 1 for local projects, 2 to 1 for regional projects, and 3 to 1 for state or capital projects, with the institution providing the higher amount in the ratio. The division establishes by rule the specific eligibility and matching criteria for such grants. Separate funding for this program is provided by the Legislature.

The division may not award any new grant which will, in whole or in part, inure to the personal benefit of any council or review panel member during that member's term of office if the council or panel member participated in the vote of the council or panel recommending the award.

The division provides for separate consideration of grant applications of state-supported institutions from those of private institutions and individuals.

The Division currently administers eighteen arts and cultural grant programs funded through ten appropriation categories:

- Arts Grants
- Arts in Education
- Science Museums
- Youth & Children's Museums
- Local Arts Agencies
- State Service Organizations
- Challenge Grants
- Cultural Institutions
- State Touring
- Historical Museums
- Underserved Arts Community Assistance
- Individual Artists Fellowships
- Artists Enhancements
- Culture Builds Florida
- Quarterly Assistance
- Cultural Endowment

- Cultural Facilities
- Regional Cultural Facilities

(Note: Florida Humanities Council is an appropriation category listed in the Division's budget but is a pass through grant and not a program in statute nor does it require rules for administering.)

The Division's grant programs are currently funded through ten appropriation categories. Organizations may apply for and receive funding for multiple grants through the competitive grant process.

Currently, the Legislature only reviews the list of priority grant programs—Cultural Facilities, Regional Cultural Facilities, Cultural Endowment and Challenge Grants.

Annually, the Division receives 1,000- 1,100 applications for staff review. Eligible applications are presented to grant review panels. Approximately 800 grants are funded and managed each year. The majority of these applications are submitted and managed through an on-line grants management system (OASIS).

Eligible cultural organizations have the option of applying for grants as follows:

- Cultural Facilities (award amounts not to exceed \$500,000)
- Regional Cultural Facilities (award amounts not to exceed \$2,500,000).

Only two organizations have qualified for funding for the Regional Cultural Facilities since the creation of the program in 2002.

References to the Cultural Institutions Trust Fund remain in law even though the source of revenue was deleted in 2003 (SB 16A).

Division of Corporations

Currently s. 679.527, F.S., authorizes the Department of State to select and contract with a private vendor to populate and maintain the Florida Secured Transaction Registry. This contract is due to expire in 2011. The vendor's responsibilities include accepting financing statement filings, indexing those filings on the Florida Secured Transaction Registry, and certifying copies of filed documents.

Proposed Changes

Cultural Affairs

PCB 09-06 amends section 265.281, F.S., to rename sections 265.281-265.709 the Florida Arts and Culture Act. In addition, the bill amends section 265.283, F.S., renaming the Florida Arts Council to the Florida Council on Arts and Culture, reflecting the changes to the Legislative Intent section where "fine arts" has been broadened to "arts and culture".

The bill also provides a list of disciplines that fulfill the necessary community service required for Council membership and is expanded to include media arts, visual arts, and museums.

Definitions are amended for the following terms:

- Local arts agency
- Historical museum
- Science museum
- Youth and children's museum
- State service organization
- Arts in education grants
- Cultural support grants
- Touring program grants

- Underserved Arts Community Assistance Program grants
- Culture Builds Florida grants

This bill amends section 265.284, F.S., clarifying programs and duties of the department. This bill also amends section 265.285, F.S., renaming the Florida Arts Council to the Florida Council on Arts and Culture.

This bill amends section 265.286, F.S., and outlines the division grant programs which have been reduced to six programs to include:

1. Cultural and Museum Grants
 - Statewide Arts Grants
 - Science Museums
 - Youth & Children's Museums
 - Cultural Institutions
 - Local Arts Agencies
 - State Service Organizations
 - Historical Museums
2. Culture Builds Florida
 - Arts in Education
 - Underserved Arts Communities Assistance Program
3. Cultural Endowment
4. State Touring
5. Individual Artists Fellowships
6. Cultural Facilities

The bill requires the Secretary of State to submit in advance of each Legislative Session, but not prior to July 1, 2010 to allow time for rule amendments and drafting new grant guidelines, a list of grant applications recommended for funding by a peer review process arranged in order of priority for the following categories:

- Priority List 1 – Cultural and Museum Grants (general program support)
- Priority List 2 – Culture Builds Florida (specific projects)

Cultural Endowments and Cultural Facilities appropriation requests will be submitted to the Legislature as they have been in the past (priority lists). Funding requests for State Touring and Individual Artists Fellowships will also be funded according to existing rules, (not lists submitted to legislature).

Division of Corporations

This bill amends section 679.527, F.S., to terminate the contract currently in place to perform the administrative and operational functions of the filing office in regard to the Florida Secured Transaction Registry. Beginning on July 1, 2009 the department shall perform the duties as filing officer. The department will require a 60 day lead time in order to bring the functions of accepting financing statement filings, indexing the filings on the Florida Secured Transaction Registry, and certifying copies of filed documents in-house and make it fully operational.

B. SECTION DIRECTORY:

Section 1 amends section 265.281, F.S., renaming the Florida Fine Arts Act of 1980 as the Florida Arts and Culture Act.

Section 2 amends section 265.282, F.S., revising legislative intent to include the promotion of activities involving arts and culture; providing legislative support for museums and nonprofit organizations.

Section 3 amends section 265.283, F.S., revising and providing definitions.

Section 4 amends section 265.284, F.S., revising the responsibilities of the Division of Cultural Affairs to administer funds, sponsor events encouraging art and cultural programs, and enter into certain contracts and agreements; providing rulemaking authority.

Section 5 amends section 265.285, F.S., renaming the Florida Arts Council as the Florida Council on Arts and Culture; revising membership criteria; providing for the council to meet at the request of the division; deleting provisions relating to the appointment and responsibilities of review panels; revising duties of the council.

Section 6 amends section 265.286, F.S., authorizing the Secretary of State to appoint review panels representing arts and cultural disciplines and programs to assist the council in the grant review process; providing terms and responsibilities of panel members; requiring that the council review grant application lists; requiring the secretary to review the council's recommendations and submit approved lists to the Legislature at a certain time; establishing procedures for the awarding and funding of grants; providing funding authority to the division for certain programs and areas; requiring the division to establish rules for eligibility criteria, grant programs, and the panel review process; providing purposes for which the division shall award grants; establishing eligibility requirements for grantees; limiting grant awards to one recipient per grant cycle; providing exceptions; providing a formula for the distribution of matching and nonmatching funds and permitting certain in-kind funds; deleting provisions relating to grant criteria and the division's authority to expend appropriated funds for such grants.

Section 7 amends section 679.527, F.S., providing for the termination of a contract for administrative and operational functions for the Florida Secured Transaction Registry upon a certain date; providing that the department shall perform the duties of filing officer and filing office.

Sections 8-12 amends sections 255.043, 265.2865, 265.32, 265.606, 265.701, F.S.; conforming provisions; providing effective dates.

Sections 13 amends s. 679.5011, F. S., to terminate the current vendor contract for the Florida Secured Transaction Registry, requiring the department to perform the duties.

Section 14 repeals sections 265.2861, 265.2862, 265.289, 265.608, 265.609, 265.702, and 265.708, F.S., relating to the Cultural Institutions Program and trust fund, general support program for cultural institutions, audit information and admission fees for state theater contract organizations, science museums and grants, youth and children's museums and grants, regional cultural facilities, and historical museum grants.

Section 15 provides an effective date of July 1, 2009, except as otherwise expressly provided in this act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

There are likely to be costs involved in making changes to the on-line grant management system (OASIS) to accommodate a consolidated grants program. These costs are indeterminate by the agency and cannot be estimated until rules and guidelines are finalized.

The changes to the Florida Secured Transaction Registry will generate \$1.7 million in additional revenue for the State General Revenue Fund. The Division of Corporations will need a recurring appropriation of 11 FTE's with \$453,156 in salaries and benefits and \$111,884 in expense to carry out this function. This will net the state \$1.167 million dollars in total savings. These calculations are based on FY 2007-08 revenues and expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The agency has determined that the consolidated grant program will limit the number of grants local governments apply for. Although the funding level has not been reduced, the actual grants awarded are limited.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.