

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1602

SPONSOR: Governmental Oversight and Productivity Committee and Senator Silver

SUBJECT: Regional Cultural Facilities

DATE: March 21, 2000 REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION       |
|----|---------|----------------|-----------|--------------|
| 1. | Rhea    | Wilson         | GO        | Favorable/CS |
| 2. | _____   | _____          | CA        | _____        |
| 3. | _____   | _____          | _____     | _____        |
| 4. | _____   | _____          | _____     | _____        |
| 5. | _____   | _____          | _____     | _____        |

## I. Summary:

This committee substitute authorizes the Division of Cultural Affairs of the Department of State to accept and administer funds to provide grants for acquiring, renovating, or constructing regional cultural facilities. It establishes eligibility requirements for these grants and designates the Florida Arts Council as the body that reviews grant applications. The council is required to submit an annual list of applicants and recommended grant recipients to the Secretary of State.

The committee substitute establishes standards for matching state funds, as well as limits the maximum amounts of a grant which may be awarded in a single year and over a 5-year period. It also grants the division rulemaking authority.

The committee substitute creates section 265.702, Florida Statutes.

## II. Present Situation:

The Department of State (DOS), which is created in s. 20.10, F.S., is headed by the Secretary of State. There are seven divisions in the DOS, including the Division of Cultural Affairs.<sup>1</sup> The Division of Cultural Affairs is made up of the Office of the Director and the Bureau of Grants Services. The Division awards, administers, monitors, and evaluates cultural grant programs of the Department of State, as well as plans and implements programs designed to gain national and international recognition on behalf of Florida artists and arts organizations. The Division also disseminates arts-related information and fosters the development of a receptive climate for the arts in Florida. There are 19 FTEs in the division. Funding for FY 1999-2000 was \$12,819,980 in General Revenue and \$15,959,986 in Trust Funds, for a total of \$28,779,966.

<sup>1</sup>The seven divisions in the DOS are the: (1) Office of the Secretary/Division of Administration; (2) Division of Elections; (3) Division of Historical Resources; (4) Division of Corporations; (5) Division of Library and Information Services; (6) Division of Licensing; and the (7) Division of Cultural Affairs.

The Florida Arts Council is created in s. 265.285, F.S. The council is created in the DOS as an advisory body consisting of 15 members appointed by the Secretary of State. Additionally, the Secretary of State is authorized to appoint review panels representing various artistic disciplines to assist the council in the grant review process. The duties of the council include:

- ▶ Advising the Secretary of State in all matters pertaining to art, specifically with respect to any programs operated by the department.
- ▶ Stimulating and encouraging the study and presentation of the arts and public interest in them in Florida.
- ▶ Encouraging public interest in the cultural heritage of the state.
- ▶ Advising the Secretary of State in all matters concerning the awarding of grants for the arts.
- ▶ Reviewing applications for grants for the acquisition, renovation, or construction of cultural facilities and recommend a priority for the receipt of such grants, as provided in s. 265.701, F.S.

The division is authorized to adopt rules that establish criteria for reviewing grant applications to ensure compliance with applicable federal and state laws.

Section 265.701, F.S., authorizes the Division of Cultural Affairs to accept and administer moneys appropriated to it for providing grants to counties, municipalities, and qualifying non-profit corporations for the acquisition, renovation, or construction of cultural facilities. The section authorizes counties, municipalities, and qualified corporations to apply for a grant of state funds for this purpose. A “qualified corporation” is defined as:

. . . a corporation which is designated a not-for-profit corporation pursuant to s. 501(c)(3) or (4) of the Internal Revenue Code of 1954, and which is described in, and allowed to receive contributions pursuant to the provisions of, s. 170 of the Internal Revenue Code of 1954, and which is a corporation not for profit incorporated pursuant to chapter 617. . . .

A state grant must be matched by a contribution from the county, municipality, or nonprofit corporation in an amount to be determined by the Department of State.

The council is required to review each application for a grant for a cultural facility under the section. The council is required to submit to the Secretary of State for approval each year lists of applications that are recommended by the council for the award of grants arranged in order of priority. The division is authorized to allocate grants only for projects that are approved or for which funds are appropriated by the Legislature. Projects that are approved and recommended by the Secretary of State that are not funded by the Legislature must be retained on the list for the following grant cycle.

The division is authorized to adopt rules prescribing the criteria applied in the grant review process.

### **III. Effect of Proposed Changes:**

The committee substitute creates section 265.702, F.S. It authorizes the Division of Cultural Affairs to accept and administer moneys that are appropriated to it for providing grants to

counties, municipalities, or a qualified corporation, in order to acquire, renovate, or construct *regional* cultural facilities. The term “regional cultural facility” is defined to mean:

- (a) A facility described in s. 265.26<sup>2</sup> or s. 265.2901;<sup>3</sup> or
- (b) An existing or proposed fixed facility that is primarily engaged in cultural programs and that:
  1. Has educational programs of excellence and facilities, space, and staff dedicated to the development and delivery of such cultural programs;
  2. Presents cultural programs or exhibits in the arts which are of national or international renown or reputation;
  3. Has, within a 150-mile radius of the facility, a service area that includes regular attendees, clients, or program participants; and
  4. Has a documented proposed acquisition, renovation, or construction cost of at least \$50 million.

The committee substitute authorizes a county, municipality, or qualified corporation to apply for a grant of state funds to acquire, renovate or construct regional cultural facilities. The committee substitute defines a “qualified corporation” to mean:

. . . a corporation that is designated as a not-for-profit corporation pursuant to s. 501(c)(3) or s. 501(c)(4) of the Internal Revenue Code, that is described in and allowed to receive contributions under s. 170 of the Internal Revenue Code, and that is a corporation not for profit incorporated under chapter 617.

Any entity that owns an interest in the land upon which a regional cultural facility is located or is to be located is required to be either a county, municipality or qualified corporation.

A state grant awarded under the section must be matched by a contribution from the county, municipality, or nonprofit corporation in an amount equal to \$2 for each \$1 awarded under the section. The committee substitute provides that in-kind contributions of goods or services may be counted toward 50 percent of the required match. Any such in-kind contribution, however:

- ▶ Must be documented and valued at the fair-market value to the facility;
- ▶ Must directly relate to the facility’s acquisition, renovation, or construction; and
- ▶ Must not be in the form of a lease.

The committee substitute authorizes documented expenditures made for project purposes during the 3 years immediately preceding the award of a grant to be used.

Under the committee substitute, the annual amount of a grant under the section may not exceed the lesser of \$2.5 million or 10 percent of the total costs of the regional cultural facility. Further, the total amount of the grants awarded to a regional cultural facility in a 5-year period may not exceed the lesser of \$10 million or 10 percent of the total costs of a regional cultural facility. The

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<sup>2</sup>Section 265.26, F.S., refers to the Board of Trustees of the John and Mable Ringling Museum of Art.

<sup>3</sup>Section 265.2901, F.S., refers to the Coconut Grove Playhouse Trust Fund.

total cost of a regional cultural facility must be calculated with respect to the primary scope of the original proposal as submitted and is not permitted to include the cost of any additions that change the scope of the facility, such as additional facilities or significant design alterations.

The committee substitute authorizes the division to adopt rules prescribing the criteria to be applied to applications for grants, as well as for administration of the section.

The Florida Arts Council is required to review each application for a regional cultural facility grant. Under the committee substitute, the council submits a list to the Secretary of State each year of all applications received and a list of all projects that are recommended for approval, arranged in order of priority.

The committee substitute authorizes the division to allocate grants only for regional cultural facilities that are approved by the secretary or for which funds are appropriated by the Legislature. Facilities that are approved and recommended by the Secretary of State that are not funded by the Legislature are retained on the project list for the following grant cycle only.

| <b>COMPARISON OF CULTURAL FACILITIES PROGRAM<br/>WITH PROPOSED<br/>REGIONAL CULTURAL FACILITIES PROGRAM</b> |  |  |
|---|--|--|
| <b>ISSUE</b>  | Cultural Facilities Program<br>(Section 265.701, F.S.)   | Regional Cultural Facilities<br>Program<br>Proposed Section 265.702  |
| Funding Limits - Maximum Annual Grant   | \$500,000  | \$2,500,000  |
| Maximum Total Project Funding (in a 5-year period)  | \$1,500,000  | \$10,000,000   |
| Match Requirement - Minimum Ratio   | \$2 local to \$1 state   | Same   |
| Match Requirement - Prior Expenditures Credit   | Within last 5 years  | Within last 3 years  |
| Match Requirement - Donated Property, Goods, Services (In-kind)   | 50% of local share   | Same   |
| Program Requirements  | Broad definition; programs of any "cultural" discipline including science and history museums.                 | Defined to include only programming in the "arts."   |
| Program Requirements - Scope of Programs  | No specific requirements; need for programs and local impact are elements of the competitive scoring criteria. | <ol style="list-style-type: none"> <li>1. At least nationally recognized.</li> <li>2. Regular service area at least 150 mile radius of facility.</li> <li>3. Educational programs of excellence; space and staffing dedicated to development and delivery of such programs.</li> <li>4. Documented proposed costs of at least \$50 million.</li> </ol> |

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

A nonprofit corporation that acquires, renovates, or constructs a regional cultural facility could receive \$2.5 million or 10 percent of the total costs of the regional cultural facility, whichever is less, and up to \$10,000,000 or 10 percent of the total costs of a regional cultural facility, whichever is less, in a 5-year period.

**C. Government Sector Impact:**

A county or municipality that acquires, renovates, or constructs a regional cultural facility could receive \$2.5 million or 10 percent of the total costs of the regional cultural facility, whichever is less, and up to \$10,000,000 or 10 percent of the total costs of a regional cultural facility, whichever is less, in a 5-year period.

Recurring operational costs - According to the Department of State, the costs of incorporating this program in the Division's current operations are minimal. Program guideline publication and distribution will be an additional and recurring cost, estimated at no more than \$1,000.

Nonrecurring operational costs - According to the Department of State, there will be staff time and Florida Administrative Weekly costs involved in setting up rules and guidelines for the program, which are estimated at no more than \$2,500. Combining these activities with other similar functions should permit the costs to be absorbed in current expense and OPS appropriations.

Fixed Capital Outlay - According to the Department of State, funding for any projects associated with this new program effort is not part of the department's budget request for FY 00-01.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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