

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1166
 SPONSOR: Senator Sebesta
 SUBJECT: Cultural Endowment Program
 DATE: March 9, 2001 REVISED: 03/14/01 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>AGG</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Under the Cultural Endowment Program, the Division of Cultural Affairs, in the Department of State, awards cultural grants to Florida artists and arts organizations in order to guarantee sufficient operating resources for sponsoring organizations. A sponsoring organization must establish a cultural endowment program fund or funds which administers and invests endowment funds. In order to receive a state grant of \$240,000, donations of \$360,000 must be raised. Each individual endowment must have a total value of \$600,000. Preservation of the \$600,000 capital endowment is the primary investment constraint upon the trustee, while maximizing current income through the use of investment-quality *fixed income* instruments. The requirement that endowment funds be invested in only fixed-income instruments is eliminated by the bill, substituting instead authority to invest these funds in investment-quality *financial* instruments.

This bill amends section 265.606, Florida Statutes.

II. Present Situation:

Section 20.10, F.S., creates the Department of State. The Secretary of State is designated as the head of the department.¹ There are seven divisions in the department:

1. Division of Administration.
2. Division of Corporations.
3. Division of Cultural Affairs.
4. Division of Elections.
5. Division of Historical Resources.

¹Section 20.10(1), F.S.

6. Division of Library and Information Services.
7. Division of Licensing.

The department has approximately 758 FTEs and an annual budget of about \$148 million.

The Secretary of State functions as the Chief Cultural Officer of the State.² In this position, the secretary is encouraged to

. . . initiate and develop relationships between the state and foreign cultural officers, their representatives, and other foreign governmental officials in order to promote Florida as the center of American creativity.

In this position, the Secretary of State is delegated power and authority to:

- < Disseminate any information pertaining to the State of Florida which promotes the state's cultural assets.
- < Plan and carry out activities designed to cause improved cultural and governmental programs and exchanges with foreign countries.
- < Plan and implement cultural and social activities for visiting foreign heads of state, diplomats, dignitaries, and exchange groups.
- < Encourage and cooperate with other public and private organizations or groups in their efforts to promote the cultural advantages of Florida.
- < Establish and maintain the list prescribed in s. 55.605(2)(g), F.S., relating to recognition of foreign money judgments.
- < Serve as liaison with all foreign consular and ambassadorial corps, as well as international organizations.
- < Provide, arrange, and make expenditures for the achievement of any or all of the purposes of s. 15.18, F.S.
- < Promulgate rules for entering into contracts which are primarily for promotional services and events.

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.

Sections 265.601-265.607, F.S., may be cited as the "Cultural Endowment Program." Section 265.602, F.S., provides legislative intent for the program:

The Legislature recognizes the critical need for significant additional funding which is currently being experienced by local cultural organizations in this state. Furthermore, the Legislature recognizes that this supplemental funding should be available on a recurring basis, and should be primarily utilized for the day-to-day expenses incurred by cultural

²Section 15.18, F.S.

groups. It is, therefore, the intent of the Legislature to create an endowment matching fund program which will guarantee sufficient operating resources for those organizations which participate.

Section 265.606, F.S., establishes eligibility requirements for receipt of state matching funds. In order to be eligible, a local sponsoring organization³ must:

1. Establish a cultural endowment program fund or funds, which administers and invests.
2. Deposit into the appropriate program fund account the required matching funds which have been collected from new public and private donations and gifts having a total annual value of at least \$360, for each individual endowment.
3. Be designated a cultural sponsoring organization by the Department of State, if recommended by the Florida Arts Council to the Secretary of State.

Under s. 265.606(3), F.S., each individual endowment in the program must have a total value of \$600,000. Of this amount, \$360,000 must be raised by the sponsoring organization. The remaining \$240,000 in matching funds is contributed by the state. A sponsoring organization that receives a matching fund endowment is eligible to apply for additional matching fund endowments; however, additional endowments shall not be awarded to a sponsoring organization more frequently than once every 36 months. An endowment program fund may be established for each endowment, or two or more endowments may be combined in one program fund.

After the Secretary of State has determined that a sponsoring organization has complied with the statutory and rule criteria, appropriate state matching funds may be transferred to the organization. The secretary is required to ensure that the local group has made prudent arrangements for the trusteeship of the entire endowment. Expenditures from the endowment are subject to the following requirements under s. 265.606(4), F.S. That subsection permits an organization to expend funds only for operating costs incurred while engaged in programs directly related to cultural activities. The subsection also requires submission of an annual report that explains how endowment program funds were used.

Section 265.606(5), F.S., provides for the reversion of the \$240,000 state matching fund to the General Revenue Fund under specified circumstances. Specifically, the matching funds revert to the state if the recipient sponsoring organization:

1. Ceases operations.
2. Files for bankruptcy protection.
3. Willfully expends a portion of the endowment principal of any individual endowment.

Section 265.606(6), F.S., makes preservation of the \$600,000 capital endowment the primary investment constraint upon the trustee. Under this subsection, the investment objectives of the

³Section 265.603(5), F.S., means a cultural organization which: (a) is designated as not for profit pursuant to s. 501(c)(3) or (4) of the Internal Revenue Code of 1954; (b) is described in, and allowed to receive contributions pursuant to, the provisions of s. 170 of the Internal Revenue Code of 1954; (c) is a corporation not for profit incorporated pursuant to chapter 617; and (d) is primarily and directly responsible for conducting, creating, producing, presenting, staging, or sponsoring a cultural exhibit, performance, or event. This provisions includes museums owned and operated by political subdivisions of the state, except those constituted pursuant to s. 240.317, F.S.

trustee are to preserve the principal amount of each endowment while maximizing current income through the use of investment-quality fixed income instruments. The market value of \$600,000 for each individual endowment in a local cultural endowment program fund must be maintained.

An annual post audit of each local cultural sponsoring organization receiving an endowment is required by s. 265.606(7), F.S.

For the current fiscal year, \$1,920,000 was appropriated in the budget for matching funds. These funds are non-recurring, general revenue dollars. As of the date of this analysis, no appropriation has been established.

III. Effect of Proposed Changes:

The bill modifies the statutory primary investment constraint upon the trustee of the \$600,000 capital endowment. The bill would eliminate the requirement that a trustee invest only in investment quality fixed-income instruments. Instead, it would authorize the trustee to invest in investment-quality financial instruments, which is broader.

The act takes effect July 1, 2001.

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:

By expanding the type of investment-quality instruments that endowment funds may be invested in, a cultural sponsoring organization could receive a higher rate of return on its investments. Conversely, it also could receive a lower rate of return.

The bill does not change the requirement that the market value of \$600,000 for each individual endowment in a cultural endowment fund be maintained.

C. Government Sector Impact:

The bill retains the primary investment constraint upon the trustee to preserve the \$600,000 capital value of the endowment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Governmental Oversight & Productivity:

Strikes the term “investment-quality” and inserts “investment-grade” instead.

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