

**STORAGE NAME:** h0377.ccc.doc  
**DATE:** February 12, 2002

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY THE  
COUNCIL FOR COMPETITIVE COMMERCE  
ANALYSIS**

**BILL #:** HB 377  
**RELATING TO:** Department of State  
**SPONSOR(S):** Representative(s) Clarke  
**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) TOURISM YEAS 4 NAYS 0
- (2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 15 NAYS 0
- (3) COMPETITIVE COMMERCE COUNCIL
- (4)
- (5)

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I. SUMMARY:

The bill amends s. 265.285, F.S., relating to the Florida Arts Council, to require appointment of the membership by the Governor, President of the Senate, and Speaker of the House of Representatives instead of by the Secretary of State. Eleven members are to be appointed by the Governor to serve for 4-year terms of appointment. The President and Speaker each appoint two members who will serve 2-year terms of appointment. Council members can only serve two consecutive terms of appointment. After being off the Council for one year, however, a person may be reappointed. Suggestions are made regarding the qualifications of the persons appointed to the Council to ensure expertise in the areas of responsibility of the Council. The bill changes the requirement that every area of the state be represented on the Council to a requirement that the appointments recognize a need for geographical representation. The appointments are to be made in consultation with the Secretary of State.

All Council members serving on July 1, 2002, are to serve the remainder of their respective terms. When the membership falls below the statutorily required number of 15, the Governor will fill the first vacancy. After this, subsequent appointments to fill vacancies will be alternated among the President of the Senate, Speaker of the House of Representatives, and the Governor. Additional conforming and technical revisions are made to the section

The bill also amends s. 265.286(4), F.S., to expand the funding categories in the challenge grant program. The bill provides three levels of application, with varying match requirements: local, regional, or state impact.

The effective date of the bill is July 1, 2002.

The bill has no fiscal impact.

**On January 29, 2002, the House Transportation & Economic Development Appropriations Committee adopted an amendment that changes the appointment process for the membership of the Florida Arts Council. The traveling amendment will allow the Governor to appoint seven members, the President of the Senate to appoint four members, and the Speaker of the House to appoint four members.**

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 265.285, F.S., created the Florida Arts Council (Council) in 1980 for the purposes of advising and assisting the Secretary of State in all matters concerning the award of grants under the Fine Arts Act; advising on the department's programs pertaining to the arts; and advising on ways to stimulate and encourage the study, presentation and participation in the arts and cultural heritage by Floridians and the state institutions. The Council assists the Division of Cultural Affairs in the carrying out of its responsibilities by planning for the creation of new programs, evaluating existing ones, and determining grant distribution. Grant Review Panels, composed of artists, arts-related professionals and community cultural leaders, are appointed by the Secretary of State, evaluate requests for funds and make recommendations to the Florida Arts Council for their review and recommendation to the Secretary of State.

The Council consists of 15 members each of whom is appointed for a 4-year term of office by the Secretary of State. In making the appointments, the Secretary is required to give due consideration to geographical representation so that every area of the state will have a voice on the Council. Members serve without pay and meet quarterly at locations throughout the state.

Florida's constitution was amended November 1998 removing the position of Secretary of State from the elected cabinet, effective January 7, 2003. [Revision No. 8 (1998), s. 24 (a), Art. XII, State Constitution] Thereafter, the Governor will appoint the Secretary of State.

Section 265.286(4), F.S., authorizes the Division of Cultural Affairs to develop and conduct a challenge grant program available to cultural institutions or groups of institutions that have regional or statewide impact. These grants cannot be less than \$10,000 and matching moneys must be at least a basis of 3 to 1, with the institution providing the higher amount in the ratio. The purpose of the grant program is to support significant projects designed as a new initiative, or a program of an innovative or unique nature and is not intended for continuation programming. Grants are awarded on a competitive basis considering the extent of organizational impact, proposed project quality and feasibility, impact of funding, and ability to match. A peer review panel evaluates applications and makes funding recommendations to the Florida Arts Council. The Council reviews panel reports and advises the Secretary of State on grant program funding allocations. The Legislature appropriated \$300,000 in FY 2001-02 for the challenge grant program.

According to the Division of Cultural Affairs, there has been an indication of a growing need for funding opportunities for projects of great value at the local level where resources are not available to meet the 3 to 1 cash match requirements as well as difficulty for those projects that are of a regional or greater scope but have support needs far beyond the current program funding limitations. Additionally, the Division has had recurring contacts from organizations around the state seeking matching funds to take advantage of private sector funding sources and investment programs.

**C. EFFECT OF PROPOSED CHANGES:**

The bill removes the Secretary of State's authority to appoint the members of the Florida Arts Council and gives that authority to the Governor, Speaker of the House of Representatives, and President of the Senate, collectively. The authority is transferred because the Secretary of State becomes an appointed, rather than an elected, position on January 7, 2003.

This bill amends s. 265.285, F.S., to provide that 11 members are to be appointed to the Council by the Governor to serve for 4-year terms of appointment. The President and Speaker each appoint two members who will serve 2-year terms of appointment. Council members can only serve two consecutive terms of appointment. After being off the Council for one year, however, a person may be reappointed.

All Council members serving on July 1, 2002, are to serve the remainder of their respective terms. When the membership falls below the statutorily required number of 15, the Governor will fill the first vacancy. After this, subsequent appointments to fill vacancies will be alternated among the President of the Senate, Speaker of the House of Representatives, and the Governor.

Suggestions are made regarding the qualifications of the persons appointed to the Council to ensure expertise in the areas of responsibility of the Council. The bill changes the requirement that every area of the state be represented on the Council to a requirement that the appointments recognize a need for geographical representation. The appointments are to be made in consultation with the Secretary of State.

The bill also amends s. 265.286(4), F.S., to expand the funding categories in the challenge grant program. Three levels of application are provided, local, regional, or state impact, with varying match requirements. The match levels are as follows: local project is 1:1; regional project is 2:1; and state or capital project is 3:1. The state or capital projects category encompasses two types of activity: larger grants for cultural projects of statewide significance and grants designed to leverage new funding sources and encourage community-wide capital project initiatives in partnership with local community foundations or similar nonprofit fiduciary entities.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Amends s. 265.285, F.S., relating to the Florida Arts Council, to require appointment of the membership by the Governor, President of the Senate, and Speaker of the House of Representatives instead of by the Secretary of State. Eleven members are to be appointed by the Governor to serve for 4-year terms of appointment. The President and Speaker each appoint two members who will serve 2-year terms of appointment. Council members can only serve two consecutive terms of appointment. After being off the Council for one year, however, a person may be reappointed.

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All Council members serving on July 1, 2002, are to serve the remainder of their respective terms. When the membership falls below the statutorily required number of 15, the Governor will fill the first vacancy. After this, subsequent appointments to fill vacancies will be alternated among the President of the Senate, Speaker of the House of Representatives, and the Governor.

Other technical changes are made to reflect that the appointing authority is responsible for the decision on removal of a member from the Council for failure to attend meetings or for misconduct or malfeasance in office, neglect of duty, or other reasons specified in the section.

Finally, the section replaces the word "decoration" with the word "enhancement" in the Council's promotion responsibilities regarding the interiors of the Capitol Building and other public buildings.

**Section 2.** Amends s. 265.286(4), to expand the eligible categories for funding under the challenge grant program and to provide for varying match requirements.

**Section 3.** Provides an effective date of July 1, 2002.

### III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None. The 2001-2002 General Appropriations Act provided an appropriation of \$300,000 for Challenge Grants. The bill expands the eligibility criteria for Challenge Grants, but does not increase the funding available. Any increase in participation in Challenge Grants would be contingent upon the appropriation of funds by the Legislature.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

If a public entity governed by a local government chooses to participate in the challenge grant program under the expanded criteria and match requirements of the bill, then state money, if appropriated, would be available to help projects eligible to be funded through this program. Additionally, more resources might be available to such programs through the ability to leverage new funding sources through community-wide capital project initiatives.

2. Expenditures:

If a public entity governed by a local government chooses to participate in the challenge grant program as amended by the bill, then there will be a required match ranging from \$1 of state funding to \$1 dollar of match up to \$1 of state funding to \$3 of match.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill's expanded eligibility criteria, varying match, and authority to leverage new funding sources are intended to foster greater private sector participation, thereby increasing the number of projects funded by the challenge grant program.

D. FISCAL COMMENTS:

According to the Department of State, there is no fiscal impact. As stated above, there is, however, a potential for a positive impact on local governments and private sector by the proposed changes in the challenge grant program.

The bill expands the eligibility criteria for Challenge Grants, but does not increase the funding available. Any increase in participation in Challenge Grants would be contingent upon the appropriation of funds by the Legislature.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 29, 2002, the House Transportation & Economic Development Appropriations Committee adopted an amendment that changes the appointment process for the membership of the Florida Arts Council. The amendment allows the Governor to appoint seven members, the President of the Senate to appoint four members, and the Speaker of the House to appoint four members.

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VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Judy C. McDonald

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Staff Director:

Judy C. McDonald

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AS REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT  
APPROPRIATIONS:

Prepared by:

Kurt Hamon

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Staff Director:

Eliza Hawkins

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AS FURTHER REVISED BY THE COUNCIL FOR COMPETITIVE COMMERCE

Prepared by:

Rebecca R. Everhart

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Staff Director:

Matt Carter

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