

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: CS/SB 1720

SPONSOR: Governmental Oversight & Productivity Committee and Senator Margolis

SUBJECT: Regional Cultural Facilities

DATE: April 19, 2004 REVISED: _____

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

I. Summary:

The bill revises requirements for a regional cultural facility grant award by the Division of Cultural Affairs of the Department of State provided in s. 265.702, F.S. Under current law, a regional cultural facility may not be awarded more than \$10 million over 5 years; this bill changes the limit to \$10 million over 10 years. This bill also allows the total cost of an approved cultural facility project to be adjusted upward as much as 25 percent to accommodate unexpected costs, aesthetics, or design changes. Further, the bill removes the current 3 year restriction on use of a cultural facility grant award to repay advances by local governments.

This bill also changes the method of valuing endowments created pursuant to the Cultural Endowment Program to provide that such endowments are to be valued at minimum net cost, rather than at market value.

The bill amends the following sections of the Florida Statutes: 265.702 and 265.606.

II. Present Situation:

From 1988 to 2002, the only state funding for cultural facilities through the Division of Cultural Affairs (division) of the Department of State (department) was moneys appropriated to it for providing grants to counties, municipalities, and qualifying nonprofit corporations for the acquisition, renovation, or construction of “cultural facilities.”¹

¹ Section 265.701, F.S.; see, also, *Guidelines for Cultural Facilities Grants*, Department of State, defines “cultural facility” as a building which houses an organization whose primary function is the programming, production, presentation, exhibition or any combination of the above functions of any of the cultural disciplines, such as: music, dance, theatre, creative writing, literature, painting, sculpture, folk arts, photography, crafts, media arts, and historical and science museums.

The funding for such facilities was limited to a maximum grant amount of \$5,000 that could be requested in any year; a maximum of \$1.5 million within 5 consecutive fiscal years; and a requirement that a facility or applicant reaching the 5 year cap had to wait at least one year before re-applying.

In 2002, s. 265.702, F.S., relating to regional cultural facilities was created and took effect July 1, 2002.² This provided a second type of funding mechanism for cultural facilities that mirrored many provisions of the original cultural facilities grant language in s. 265.701, F.S., but was directed to facilities of regional impact for which the assistance available, if appropriated, would be significantly greater than that for other cultural facilities. This section provides that the division may accept and administer moneys that are appropriated to it for providing grants to counties, municipalities, and qualified corporations for the acquisition, renovation, or construction of regional cultural facilities.³ In order to be eligible, the cultural facility must:

- < Be a fixed facility that is primarily engaged in cultural programs;
- < Have educational programs of excellence and facilities, space, and staff dedicated to the development and delivery of such cultural programs;
- < Present cultural programs or exhibits that are of national or international renown or reputation;
- < Have, within a 150-mile radius of the facility, a service area that includes regular attendees, clients, or program participants; and
- < Have a documented proposed acquisition, renovation, or construction cost of at least \$50 million.

A state grant awarded under this program must be matched by a contribution from the county, municipality, or nonprofit corporation in an amount equal to \$2 for each \$1 awarded. 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; directly related to the facility's acquisition, renovation, or construction; and, not be in the form of a lease.

Documented expenditures made for project purposes during the 3 years immediately preceding the award of a grant may be used as in-kind match.

The Florida Arts Council must review each grant application and submit annually to the Secretary of State for approval a list of all applications received and its recommendations, arranged in order of priority. The division may allocate grants only for regional cultural facilities that are approved by the Secretary or for which funds are appropriated by the Legislature.

Unlike the funding for the cultural institutions grants, the regional cultural facilities grant program provides that the annual amount of a grant 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

² See, ch. 2002-267, L.O.F.

³ Section 265.702(2), F.S., defines a "qualified corporation" as 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 ch. 617, F.S.

\$10 million or 10 percent of the total costs of a regional cultural facility. The total cost of a regional cultural facility is required to 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.

Funding of \$2.5 million each was requested in FY 2003-04, but not appropriated, for the City of Tampa/Tampa Museum of Art – New Museum Facility (ranked #1) and the Miami-Dade County Performing Arts Center/PAVGM: Stage Compensating Lift/Vari-Lite System (ranked #2). These requests are on the FY 2004-05 Regional Cultural Facilities Program Rollover Priority List. According to the department, these organizations also submitted application to the Cultural Facilities Program for the same project.⁴

III. Effect of Proposed Changes:

The bill revises requirements for a regional cultural facility grant award by the Division of Cultural Affairs of the Department of State provided in s. 265.702, F.S. The bill does not change the total annual maximum grant award to a facility nor does it change the total maximum for grants awarded to a facility over a set period of time; however, it does change the maximum number of years from 5 to 10 over which the \$10 million maximum can be reached and what constitutes total cost of a regional cultural facility.

The bill changes requirements of total cost, one of the criteria upon which annual and total maximum grant awards are calculated. Currently, total cost of a facility is calculated on the primary scope of the original proposal submitted and prohibits inclusion of costs of additions that change the scope of the facility, such as additional facilities or significant design alterations. The bill deletes the current prohibition and allows for adjustments to the total project cost by changes in scope to reflect unexpected costs, incorporation of alternatives elected for reasons of aesthetics or cost or modifications of design provided the changes do not exceed 25 percent of the original total cost proposed and do not change the basic nature of the project.

The bill allows for the use of grant funds to repay funds the county, municipality, or qualified corporation for construction costs incurred for the regional cultural facility from the time of commencement to the time the grant funds are made available. Currently, a facility can only use years of documented expenditures made for project purposes during the 3 years immediately preceding the award of a grant as in-kind match.

Finally, the bill changes the method of valuing endowments created pursuant to the Cultural Endowment Program to provide that such endowments are to be valued at minimum net cost, rather than at market value.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁴ Information obtained from the Department of State's website relating to regional cultural facilities – www.florida-arts.org/grants/regionalcultural/index.htm.

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:

According to the department's fiscal analysis, extending the timeframe for additional funding eligibility, from 5 years to 10 years, would limit funding opportunities for subsequent phases. In addition, the department states that if an organization received the maximum \$2.5 million allowed per year, the \$10 million cap would be reached in 4 years and no further applications, therefore, could be made for 6 additional years.

C. Government Sector Impact:

According to fiscal information provided by the Department of State (department), rule amendment would be required in the second half of FY 2004-05. Also, according to the department, s. 265.702(8), F.S., created by the bill, will require increased monitoring related to expenditures and reporting resulting in the OPS request in the amount of \$14,440.00.

Additionally, the following comments, which could impact both revenues and expenditures of local governments, were made in the fiscal analysis of the bill by the department:

- < Local government applicants could be put at a minor disadvantage under the priority weight being added to the review criteria on reliability of proposed match being realized. Many local governments, particularly municipalities, are precluded from fully committing their own funds until all other project funds have been secured. The first application would not likely be affected in scoring but failure to begin work on the project in a timely manner after the first grant is awarded would affect future applications.
- < Extending the timeframe for additional funding eligibility would limit funding opportunities for subsequent phases. If an organization received the \$2.5 million maximum allowed each year, the overall maximum of \$10 million would be reached in 4 years and no further applications [for grant funding] could be made for 6 additional years.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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