

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 427 w/CS Cultural & Historical Preservation
SPONSOR(S): Detert, Allen and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1914 (S)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Commerce</u>	<u>16 Y, 0 N w/CS</u>	<u>McDonald</u>	<u>Billmeier</u>
2) <u>Appropriations</u>	<u>40 Y, 4 N</u>	<u>Hawkins</u>	<u>Baker</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Prior to 1988, funding for cultural and historical grants programs came primarily from General Revenue and a small percentage from federal grants. From 1988 through 1995, changes were made in law that increased the number of grant programs, as well as those that would receive funding from the Corporations Trust Fund in the Department of State. On October 1, 2001, an additional \$2 million was authorized for cultural grants based on revenues collected through the processing of judgment liens under s. 55.209, F.S. Chapter 2003-401, Laws of Florida, repealed the Corporations Trust Fund and directed all of the funds be deposited into General Revenue.

The bill amends the requirement in s. 15.09 (4), F.S., that all funds collected by the Division of Corporations be deposited in General Revenue to require certain reinstatement fees, late fees, and penalties be deposited into the Cultural Institutions Trust Fund to fund cultural program grants, historic preservation grants, and historical museum grants. Additionally, the bill provides that any funds deposited that are above the amounts specified for the cultural, historic preservation, and historical museum grants will be used to fund the Cultural Endowment Program. If funds should fall below the amount specified to fund the cultural, historic preservation, and historical museum grants, the amount of funds available will be reduced proportionally.

Specifically, the bill provides a dedicated funding source with the amount of monies to be provided to the various categories of grants as follows:

- \$2 million for the purpose of funding historic preservation grants under s. 267.0617, F.S.
- \$1.75 million for the purpose of funding historical museum grants under s. 267.0619, F.S.
- \$14.3 million for the purpose of funding cultural grants under ss. 265.286, 265.2861, 265.608, and 265.609, F.S.
- Any remaining funds will be used to provide state matching funds for the Cultural Endowment Program under ss. 265.601-265.606, F.S.

The bill will reduce the amount of funding being deposited into General Revenue by an estimated \$21 million. See the funding source analysis from the Department of State on page 6 and comments in the Fiscal Analysis.

The effective date of the bill is July 1, 2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0427c.ap.doc
DATE: March 9, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|-----------------------------------------|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

Present Situation:

CULTURAL GRANTS

The Division of Cultural Affairs in the Department of State has as its purpose the improvement of the quality of life in Florida by promoting programs with cultural and artistic significance that have economic impact on the state. Primarily, the division is responsible for managing Florida’s cultural grant programs. The division is assisted in carrying out its duties by advisory groups. The Florida Arts Council, a 15-member advisory board appointed by the Governor, President of the Senate, and Speaker of the House of Representatives, advises the Secretary of State on the distribution of grant awards. The Secretary appoints “Grant Review Panels,” composed of artists, arts-related professionals and community cultural leaders, to evaluate requests for funds and make recommendations to the Florida Arts Councils. The grants can be divided into fixed capital grants, often referred to as the “list”, and program grants. The fixed capital programs consist of the cultural facilities grants under s. 265.701, F.S., and the regional cultural facilities grants under s. 265.702, F.S. Another list program that is not fixed capital is the *Cultural Endowment Program*, under ss. 265.601-265.606, F.S., which provides a state match of \$240,000 to a qualifying organization with a match of \$360,000 for the establishment of an endowment, the interest from which is to be used for operation costs. Currently, 35 qualified organizations are on a waiting list for the Cultural Endowment Program. All other grants are program grants governed by ss. 265.286, 265.2861, 265.608, and 265.609, F.S. These program grants are briefly described below:

International Cultural Exchange (s. 265.286, F.S.) – Provides assistance for international cultural exchange projects of outstanding artistic and cultural merit. Projects may originate in Florida for export or originate in another country for import by a Florida sponsor.

Challenge Grant Program (s. 265.286, F.S.) – Supports significant projects designed as a new initiative, or a program of an innovative or unique nature and is not intended for continuation programming. The grant is available to cultural institutions or groups of institutions that have local, regional, or statewide impact.

Statewide Arts Grants (s. 265.2861, F.S.) – *Quarterly Assistance Grants* promote professional development for arts organizations within five specified funding categories. *Underserved Arts Communities Assistance Grants* foster the development of arts organizations that are considered underserved in terms of their rural geography, minority composition, or lack of access to arts information or other program-based resources. *Discipline-based Arts Grants (dance, folk arts, interdisciplinary, literature, media arts, multidisciplinary,*

music, sponsor/presenter, theater, and visual arts) foster excellence and diversity in the arts for all Floridians. Through general program support and specific grants, the program is dedicated to funding not-for-profit proposals that promote excellence in the arts and make such excellence accessible for community-wide audiences. *Individual Artist Fellowships* (\$5,000 per fellowship) recognize practicing, professional, creative Florida artists and provide support for those artists of exceptional talent and demonstrated ability to improve their artistic skills and advance their careers.

Arts in Education Grant (s. 265.2861, F.S.) – Makes life-long learning and quality educational opportunities in the visual, performing, and literary arts available for Florida’s citizens and visitors. Grants are offered under funding components such as Artists Residencies, Partnerships, and School-based Arts Education.

State Touring Grant (s. 265.2861, F.S.) – Brings the state’s finest performing arts groups to as many Florida communities as possible by providing fee support to the presenters of touring companies selected. Priority consideration is given to presenters serving small counties (75,000 and less population) in the funding of fee support grants.

Local Arts Agency/State Service Organization Grant (s. 265.2861, F.S.) – Provides general program support to assist in developing their services and programs for local communities (LAAs) or for disciplinary and special needs constituencies (SSOs).

Cultural Institutions Program Grants (s. 265.2861, F.S.) – Recognizes Florida’s cultural institutions that have displayed a sustained commitment to cultural excellence and have made superior cultural contributions to the state. Grants awarded consider sustained level of artistic/cultural excellence, fiscal stability, governance and management, programs and exhibitions, audience and community support, public outreach programs, and educational programs.

Science Museum Program (s. 265.608, F.S.) – Provides support to public or private nonprofit institutions operating for the primary purpose of sponsoring, producing, and exhibiting programs for the observation and study of various types of natural science and science technology.

Youth and Children’s Museum Program (s. 265.609, F.S.) – Provides support to public or private nonprofit institutions operating for the primary purpose of sponsoring, producing, and exhibiting multidisciplinary, participatory programs oriented toward visitors ages 6 months through 15 years and their families, teachers and caregivers.

HISTORICAL GRANTS:

The Division of Historical Resources in the Department of State is charged with encouraging identification, evaluation, protection, preservation, collection, conservation and interpretation of and public access to information about Florida’s historic sites, properties and objects related to Florida history and to archaeological and folk cultural heritage. The responsibilities related to historic preservation are not only governed by state law but also by the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470). The division administers public information programs, the statewide historic preservation plan, the operation of historic sites and properties, and state and federal grants for historic preservation. Its duties also include the maintenance and operation of Florida’s Folklife Program and administration of various archaeological research and preservation programs.

The Florida Historical Commission, appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives, performs very specific advisory duties related to historic preservation in the state and to the actions and activities of the division. The Commission is responsible for evaluating, making recommendations on, and placing in priority ranking proposals for awards of *special category historic preservation grants-in-aid* administered by the division. These are

submitted to the Secretary of State for submission to the Governor and the Legislature. These particular fixed capital grants are to assist major archaeological excavations, large restoration projects at historic structures, and major museum exhibit projects involving the development and presentation of information on the history of Florida. This year there are two special category grants lists: a roll-over list of unfunded projects for FY 03-04 and a new list of projects for FY 04-05.

The Secretary of State appoints grant review panels, chaired by a member of the Florida Historical Commission, to review and rank other historic preservation grants-in-aid and historical museum grants. A description of those types of grants follows:

Historic Preservation Grants (s. 267.0617, F.S.) – The grants program consists of three sub-categories: acquisition and development, survey and planning, and community education. The program purpose is to assist and encourage the identification, excavation, protection, rehabilitation and public knowledge of historic and archaeological properties in the state. Departments or agencies of the state, universities, cities, counties, and other units of local government, not-for-profit corporations, institutions, organizations, and other non-profit entities are eligible to apply for a grant. Federal funding augments the state funding provided for these grants.

Historical Museum Grants (s. 267.0619, F.S.) –The purpose of the grants program is to provide funding for the development of education exhibits relating to the history of Florida and to assist Florida history museums with basic operational costs. There are two separate grants under this program:

a. *General Operating Support Museum Grants* – Underwrites technical, curatorial, administrative, and educational costs associated with daily management of museum facilities. Nonprofit Florida history museums that are not agencies of the state are eligible.

b. *Public Educational Exhibit Museum Grants* – Provides grants to support development and presentation of exhibitions through text, graphic, or audiovisual elements; artifacts; and educational components. Units of local government, departments or agencies of the state, and public or private profit or non-profit corporations, partnerships, or other organizations are eligible to apply for these grants.

FUNDING HISTORY OF CULTURAL AND HISTORICAL GRANTS:

Prior to 1988, funding for cultural grants programs came from General Revenue and a small percentage from federal grants. Chapter 88-137, Laws of Florida, established the Cultural Institutions Trust Fund within the Department of State, Division of Cultural Affairs and created s. 265.2861, F.S. The law authorized an amount of \$10 from each corporate annual report fee to be transferred from the Corporations Trust Fund to the Cultural Institutions Trust Fund for the support of cultural institutions. Additional authority was granted by the Legislature for the Cultural Institutions Trust Fund through s. 607.1901, F.S.

- In 1990, a portion of fees collected from fictitious name filings was authorized to be transferred to the Cultural Institutions Trust Fund.
- In 1991, an additional transfer of penalty fees assessed on “foreign” (out-of-state) corporations was authorized to be transferred to the Cultural Institutions Trust Fund.
- Beginning October 1, 2001, an additional \$2 million was authorized based on revenues collected through the processing of judgment liens under s. 55.209, F.S.

Specifically, the Corporations Trust Fund transfers on the \$10 corporate annual report fee was to be \$8 million each fiscal year to fund programs under s. 265.2861, F.S., and the additional \$2 million was also to be used as provided in s. 265.2861, F.S. The additional \$2 million was used for one year only to

fund mid-level cultural grants. The Corporations Trust Fund also transferred \$250,000 each fiscal year to fund grants for Youth and Children's Museums and \$550,000 to fund grants for Science Museums.¹

As previously stated, early funding for historical preservation grants and historical museum grants was primarily General Revenue with some Federal funding. The one exception was the dedication of funding from charity racing days to historical preservation which began in FY 1983-84. Over the ten years that this was active, the Division of Historical Resources received a total of \$256,220. The history of funding for these two grant programs through the Corporations Trust Fund (CTF) is as follows:

- Chapter 89-259, LOF, transferred no less than \$550,000 from the CTF to the Museum of Florida History Trust Fund for museum grants (later Historical Resources Operating Trust Fund).
- Chapter 90-267, LOF, required that no less than \$1.5 million and no more than \$2 million be transferred from the funds deposited to the CTF from fictitious name filings to the Historic Preservation Trust Fund (later Historical Resources Operating Trust Fund).
- Chapter 95-242, LOF, required the transfer of \$1.5 million each fiscal year from the CTF to the Museum of Florida Trust Fund for the funding of museum grants and required the transfer of \$2 million each fiscal year from the CTF to the Historic Preservation Trust Fund for funding historic preservation grants (later Historical Resources Operating Trust Fund).

In the 2003 Legislative Session, the Corporations Trust Fund was repealed and all funds were required to be sent to General Revenue. Other sections of law relating to the use of these funds were modified.²

RECOMMENDATIONS FOR CHANGE IN CURRENT FUNDING POLICY:

On November 4, 2003, the Florida Arts Council, the Florida Historical Commission, and the Florida Folklife Council acting as the statutory bodies charged with the preservation, stewardship and development of Florida's arts, culture and historic resources agreed to the following:

- Reinstate a dedicated revenue source that funds the programs in Chapters 265 and 267, F.S.
- Restore arts, cultural and historical state program grant appropriations to FY 2002-2003 levels at an amount of \$18,561,742.
- Secure funding to fund previously approved priority lists submitted by the Divisions of Cultural Affairs and Historical Resources.

ECONOMIC IMPACT OF CULTURAL AND HISTORICAL PROGRAMS FUNDED BY STATE:

Studies have shown the positive impact of the arts and historic preservation on the economy of both the state and local communities. Below are some statistics indicating the economic impact of cultural and historical programs. (The dedicated funding source which this bill addresses represents a very small fraction of the total spent by the arts and cultural industry. The economic impact referred to here is the impact from the total industry spending statewide whether from private or public sources.)

- In 2000-2001, a total of \$1.2 billion was spent by the Florida arts and cultural industry. Including multiplier effects, the Florida arts and cultural industry during that time created \$2.9 billion of gross state product, resulting in \$877.8 million in income (primarily payrolls) and 28,302 full-time equivalent jobs.³

¹ See s. 607.1901(2)(d), (e), and (f), 2002 Florida Statutes. Chapter 89-359, LOF, required an annual transfer of no less than \$550,000 from the Corporations Trust Fund (CTF) to the Science Museum Trust Fund to fund Science Museums. Chapter 90-267, LOF, required that a minimum of \$250,000 annually be transferred from CTF to the Youth and Children's Museum Trust Fund. Later, these two trust funds were repealed and the funding went to the Cultural Institutions Trust Fund.

² See Chapter 2003-401, LOF.

³ Dr. William Stronge, Economic Impact of Florida's Arts and Cultural Industry, January 2004, p. 2

- Historic preservation in Florida impacts the state approximately \$4.2 billion annually. These impacts can be seen in job creation, income generated, increased gross state product, increased state and local tax collections, and increased in-state wealth.⁴
- In 2000, more than \$657 million in state and local taxes were generated from spending on historic preservation activities and more than 123,000 jobs were generated.⁵
- In 2001, an estimated 7 million out-of-state cultural tourists visited Florida's cultural facilities or attended cultural events as a primary activity they enjoyed. They spent \$4.5 billion, adding \$9.3 billion to the state's gross regional product and creating 103,713 full-time equivalent jobs with a payroll of \$2.6 billion.⁶
- In 2000, more than \$3.7 billion was spent in Florida by tourists who visited historic sites. This in turn meant 107,607 jobs, more than \$2.3 billion in income, approximately \$4.6 billion in gross state product, over \$1 billion in taxes (including \$583 million in state and local taxes), and over \$4 billion in in-state wealth creation.⁷
- According to a 2003 study by the Travel Industry Association of America, historical/cultural tourist trips are more likely than average to last seven nights or longer and such tourists spend more, on average, than traveling households overall.⁸

FUNDING SOURCE INFORMATION – DEPARTMENT OF STATE, DIVISION OF CORPORATIONS

According to the Division of Corporations of the Department of State, the sections of law cited in the bill affect the following:

- Reinstatement fee for for-profit corporations – s. 607.0122(13), F.S.
- All fees owed by for-profit corporations upon reinstatement (such as annual report fees) – s. 607.1422(1), F.S.
- Consequences for foreign corporations transacting business in the state prior to obtaining authorization – s. 607.1502(4), F.S.
- For-profit corporations annual report late fee – s. 607.193(2)(b), F.S.
- Consequences for foreign limited liability companies transacting business in the state prior to obtaining authorization – s. 608.502, F.S.
- Reinstatement fee for not-for-profit corporations – s. 617.0122(13), F.S.
- All fees owed by not-for-profit corporations upon reinstatement – s. 617.1422(1), F.S.
- Reinstatement of not-for-profit corporations chartered by a county that failed to file for reinstatement with the Department of State in 1992, includes reinstatement fee plus annual report fees back to 1992 – s. 617.1623(1), F.S.

These reinstatement fees, late fees, and penalties have generated the following amount of revenue from July 1, 1998 to June 30, 2003:

- FY 98-99 -- \$19,506,224.10
- FY 99-00 -- \$18,925,589.42
- FY 00-01 -- \$24,449,422.80
- FY 01-02 -- \$22,604,991.98
- FY 02-03 -- \$21,205,292.84

⁴ Economic Impacts of Historic Preservation in Florida, prepared by University of Florida and Rutgers University, September 2002, p. 7.

⁵ *Ibid.*, p. 5.

⁶ Dr. William Stronge, Economic Impact of Florida's Arts and Cultural Industry, January 2004, p. 3.

⁷ Economic Impacts of Historic Preservation in Florida, prepared by University of Florida and Rutgers University, September 2002, pp. 5-7 and 13.

⁸ The Historic/Cultural Traveler, 2003 Edition, prepared by Travel Industry Association of America, Washington, D.C., p. 3

Effects of Proposed Changes:

The bill amends the requirement in s. 15.09 (4), F.S., that all funds collected by the Division of Corporations be deposited in General Revenue, to require certain reinstatement fees, late fees, and penalties collected be deposited into the Cultural Institutions Trust Fund to fund cultural program grants, historic preservation grants, and historical museum grants. Additionally, the bill provides that any funds deposited that are above the amounts specified for the cultural, historic preservation, and historical museum grants will be used to fund the Cultural Endowment Program. If funds should fall below the amount specified to fund the cultural, historic preservation, and historical museum grants, the amount of funds available will be reduced proportionally.

Specifically, the bill provides a dedicated funding source with the amount of monies to be provided to the various categories of grants as follows:

- *\$2 million for the purpose of funding historic preservation grants under s. 267.0617, F.S.*
These historic preservation grants, matched by federal funds under the National Historic Preservation Act, fund projects that encourage the identification, excavation, protection, rehabilitation and public knowledge of historic and archaeological properties in Florida.
- *\$1.75 million for the purpose of funding historical museum grants under s. 267.0619, F.S.*
These grants provide funding for the development of education exhibits relating to the history of Florida and to assist Florida history museums with basic operational costs.
- *\$14.3 million for the purpose of funding cultural grants under ss. 265.286, 265.2861, 265.608, and 265.609, F.S.*
These grants provide funding for all cultural programs ranging from visual to performing arts to children's museums and youth and science museums.
- *Any remaining funds will be used to provide state matching funds for the Cultural Endowment Program under ss. 265.601-265.606, F.S..*
Participating organizations are assisted in generating financial resources for general operating expenses from interest earned on the \$600,000 grant principal.

The grant review and selection process is not changed by the bill. The current process governing the cultural grants, the historical grants, and the Cultural Endowment Program can be found in Chapters 265 and 267, F.S.

C. SECTION DIRECTORY:

Section 1. Amends s. 15.09(4), F.S., to provide an exception to the requirement that all funds collected by the Division of Corporations of the Department of State must be deposited in General Revenue; provides that certain reinstatement, late fees, and penalties collected be deposited in the Cultural Institutions Trust Fund of the Department of State for the purpose of funding certain cultural grants, historical museum grants, and historic preservation matching grants at specified levels; provides that any additional funds be used to fund the Cultural Endowment Program; and, finally, provides a procedure for funding specified programs if proceeds collected fall below the amounts specified for disbursement according to the legislation.

Section 2. Provides an effective date of July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

For FY 04-05, the loss to General Revenue is expected to be (\$21) million in recurring funds.

2. Expenditures:

For FY 04-05, the recurring expenditures are estimated to be as follows:

Cultural Grants	\$14.30M
Historic Preservation Grants	\$ 2.00M
Historical Museum Grants	\$ 1.75M
Cultural Endowment	<u>\$ 2.95M</u>
TOTAL	\$21.00M

The Department of State currently has a recurring General Revenue appropriation of \$849,385 for administration of the cultural and historic operating grants. This funding was converted to General Revenue in conjunction with the passage of SB 16A during Special Session A of the 2003 Legislature which removed the dedicated trust fund source for the Cultural Institutions Trust Fund. Administrative expenses were previously funded out of the dedicated trust fund source. Including the dedicated funding in the base, the provisions of this bill provide \$21,849,385 in dedicated funding for cultural and historical programs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See "Fiscal Comments".

2. Expenditures:

See "Fiscal Comments".

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There would be a positive economic impact on the private sector, both the arts, museum, and historical grant recipients, as well as the businesses that could be impacted by increased visitation to and participation in cultural and historical programs.

D. FISCAL COMMENTS:

The estimates provided above were provided by the Department of State. The actual total dollar amount could be slightly more or less than the \$21 million projected. Over the last five years funds collected from the specified categories have been as follows: \$19,506,224.10 in FY 98-99; \$18,925,589.42 in FY 99-00; \$24,449,422.80 in FY 2000-01; \$22,604,991.98 in FY 01-02; and \$21,205,292.84 in FY 02-03. Additionally, the Department of State indicated that the provision of a dedicated source of funding could potentially result in an administrative cost savings by providing the department with the ability to implement multiyear review processes and reduce the travel and related administrative costs of the various review panels used in the determination of grant eligibility and award.

The provision of a dedicated source of revenue as provided by the bill will have a potential positive fiscal impact on local governments. Many local governments receive funding through the cultural and historical program grants to be funded through HB 427 for local cultural programs, museums, and historical programs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require expenditure of funds by local governments, does not reduce the authority to raise revenue, nor reduce the percentage of state tax shared with local governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Committee on Commerce Meeting of February 3, 2004

On February 3, 2004, the Committee on Commerce adopted two amendments and reported the bill favorably with a committee substitute. The Committee Substitute differs from the original bill as follows:

- Adds a reference to s. 608.502, F.S., relating to consequences for foreign limited liability companies doing business in the state without prior authorization, which was inadvertently omitted and is part of the funding source that is included in estimates for the bill.
- Adds one statutory citation for cultural grants funding, s. 265.286, F.S., which was inadvertently omitted. This section references grants for international cultural exchange and for challenge grants. The total funding amount for cultural grants cited in the bill includes these programs.