

# 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 444

SPONSOR: Governmental Oversight & Productivity Committee and Senators Geller and Miller

SUBJECT: Abrogating Offensive or Derogatory Place Names

DATE: March 11, 2004      REVISED: \_\_\_\_\_

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

**I. Summary:**

This committee substitute (CS) requires the Division of Historic Resources to aid state agencies and local governments in identifying geographic sites that have offensive or derogatory place names and to find replacement names. “Offensive or derogatory place names” is defined to mean only racial, religious or ethnic slurs. The division is required to select replacement names and to file a formal request with the United States Board on Geographic Names to render a decision on the proposed name change so that new names will be reflected on official maps. Further, the division is required to notify specified state agencies as to name changes to ensure that markers, maps, and informational literature reflect the changes.

This CS creates section 267.0625 of the Florida Statutes.

**II. Present Situation:**

The *Tallahassee Democrat* reported on November 17, 2003, that a rural Florida bridge in Hendry County bore the offensive name of a character in Mark Twain’s “The Adventures of Huckleberry Finn.” This place name was found by a search on the U.S. Board of Geographic Names, though the pejorative term was replaced with the word “Negro.” In conversation with staff, Lester Baird, county manager in Hendry County, however, stated that the bridge is on State Road 80 and was not named by the county. Further, he notes that all county references to the pejorative name were removed from county maps and other descriptions. He also stated that the bridge was near a hammock which a man named “Jim” used to harvest timber from to build boats. According to Mr. Baird, the hammock, and not the bridge, was once called by a pejorative name but that the hammock was turned into farm land and the name is no longer in use.<sup>1</sup>

<sup>1</sup> Conversation with staff of the Committee on Governmental Oversight and Productivity, 1:30 p.m., February 23, 2004.

There are only a few provisions in the *Florida Statutes* relating to place names. Section 267.062(1), F.S., provides that, unless otherwise provided in law, no state building, road, bridge, park, recreational complex, or other similar facility is to be named for any living person. Subsection (2) of that section requires the Division of Historical Resources, after consultation with the Florida Historical Commission,<sup>2</sup> to recommend persons whose contributions to the state have been of such significance that the division may recommend that state buildings and facilities be named for them.

Additionally, s. 177.142, F.S., provides that

If the local governing body determines that a subdivision, street, or other name appearing on a recorded plat or map or an unrecorded map maintained by the clerk of the circuit court pursuant to s. 177.132<sup>3</sup> constitutes an ethnic or racial slur, the local governing body is authorized to change that name by ordinance. The clerk of the circuit court of the county shall place in the margin of the plat or map a notation that an ordinance has been passed changing the name, the date of the name change, and the book and page in the public records where the ordinance is recorded.

While a few states have their own naming boards, Florida is not among them. There is, however, a federal entity that compiles geographic names. The United States Board on Geographic Names (BGN) is an interagency board established by federal law to standardize geographic name spellings for use in U.S. Government publications.

According to information provided by the BGN, it was first established in 1890 by an executive order issued by President Benjamin Harrison. The Board was reestablished in its present form by Public Law 80-242 passed by Congress in 1947. Overall responsibility for the work of the Board is in the hands of the Secretary of the Interior. The work of the Board is funded out of the normal operating expenses of the agencies involved, and members of the BGN and its committees receive no additional remuneration for their service.

The work of the BGN is carried out primarily by two of its standing committees: the Domestic Names Committee (DNC) and the Foreign Names Committee (FNC). The DNC works closely with State geographic names boards and with interested agencies, groups, and individuals to standardize place name spellings within the 50 States and in U.S. possessions. The DNC does not actively name features but prescribes overall policy and assists in the resolution of geographic name disputes. Members of the DNC come from the Departments of Agriculture, Commerce, and the Interior, the Government Printing Office, the Library of Congress, and the U.S. Postal Service. Staff support for the DNC comes from the U.S. Geological Survey.

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<sup>2</sup> The Florida Historical Commission is created in s. 267.0612, F.S., to serve in an advisory capacity to the director of the Division of Historical Resources, in order to enhance public participation and involvement in the preservation and protection of the state's historic and archaeological sites and properties. The commission is composed of 11 members.

<sup>3</sup> Section 177.132, F.S., permits the clerk of the circuit court of a county to receive and copy, as unrecorded maps, otherwise unrecorded plats and maps which describe or illustrate the boundaries and subdivision of parcels of land for informational purposes only.

The National Geographic Names Database is a part of the Geographic Names Information System (GNIS) and represents the primary source for identifying official names. The system is maintained by the U.S. Geological Survey in cooperation with the U.S. Board on Geographic Names. Over 2.5 million name records are currently in the database. These records include the names of natural features, populated places, civil divisions, areas and regions, and cultural features such as mines, churches, schools, cemeteries, hospitals, dams, airports, and shopping centers. All names in the database, except for variant names, are considered official for Federal use, by either Board policy or decision or under the procedures of the organization responsible for its administrative names. Information associated with each record includes the following:

- written form of the official or primary name
- term identifying the kind of feature
- location and, in some cases, extent of the feature by geographic coordinates
- U.S. Geological Survey or other official base series map on which the feature can be located
- elevation of the feature when appropriate
- variant names and spellings for the same feature

Information in the database can be retrieved, analyzed, and organized to meet general and specialized needs.

It is the policy of the Federal Government that only official domestic geographic names are to be used on Federal maps and in other publications. An official name is one in which the written form of that name and its application to the appropriate place, feature, or area are approved by the U.S. Board on Geographic Names or the appropriate administrative agency. By law, the Board is responsible for all geographic names except those applying to offices or establishments of Federal agencies. Practically, however, the Board decides primarily on the names of natural features of the land, unincorporated localities, and populated places in the United States and its territories and outlying areas. Unless asked to do so, the Board does not rule on the names of cultural features such as roads, streets, shopping centers, churches, schools, hospitals, and airports.<sup>4</sup> Borderline cases exist; for example, the Board determines the official names of

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<sup>4</sup> Names Established by Other Authorities--Certain categories of names only rarely are the subject of decisions by the Board, generally because they fall within the purview of other authorities. The following categories of names generally are not the subject of decisions by the Board: (1) Facilities, offices, establishments, and bounded areas of administration of Federal agencies--Examples are Forest Service stations and ranger districts (Department of Agriculture, Forest Service); military bases and reservations (Department of Defense); Coast Guard lighthouses and lifesaving stations (Department of Transportation); and post offices (U.S. Postal Service). However, the names adopted by these agencies apply to the facilities themselves, but not necessarily to similar names of adjacent communities or geographic features. Such names may be the subject of Board decisions; (2) Facilities, offices, establishments, and bounded areas of administration of State and local governments--Examples are regional forest preserves, State parks, municipal buildings and parks, municipal airports, and public schools; (3) Indian reservations--Names of these generally are specified in an act of Congress, a treaty, or an Executive order; (4) Administrative geographic subdivisions (counties, cities, townships, and similar legally incorporated units)--These entities are created under State law, which typically prescribes procedures for establishing their names. Included are entities that generally have local self-government such as cities, towns, townships, boroughs, villages, and plantations (in Maine); districts, precincts, and similar entities established as administrative subdivisions of larger units; wards of cities; and municipios, barrios, and similar entities in Puerto Rico and the outlying areas. The Board frequently promulgates current information on such names but renders decisions only in rare instances of conflict or ambiguity between established sources; (5) Local transportation, communication, navigational, and water-management features--Names of highways, streets, bridges, ferries, tunnels, airports, radio and television towers, buoys, artificial fishing reefs, dams, ditches, and canals that are

reservoirs not formally named by Congress, but not the names of dams that form the reservoirs. The following statements define the Board's procedures for establishing and maintaining uniform geographic name usage for Federal maps and other publications.

The web site of the BGN provides a means to propose a new name or name change to place names at <http://geonames.usgs.gov/dgnp/dgnp.html>. The site also contains an electronic form for the process.<sup>5</sup>

### III. Effect of Proposed Changes:

**Section 1** of the CS provides that the Legislature makes a finding that certain place names for geographic sites are offensive or derogatory to the state's people, history, and heritage. The bill provides that the Legislature finds that these offensive or derogatory place names should be replaced by names that reflect the state's people, history, and heritage without resorting to offensive stereotypes, slurs, names, words, or phrases.

The CS provides definitions for implementation. The following terms are defined: (1) commission; (2) geographic site; and (3) offensive or derogatory place name.

The term "commission" is defined to be the Florida Historical Commission within the Department of State.

The term "geographic site" is defined to mean a location or publicly-owned structure in this state, and includes, but is not limited to, rivers and other navigable waters of the state, geographic features, and parks, or state or local roads, bridges, and publicly-owned buildings.

The term "offensive or derogatory place name" means a place name that is a racial, ethnic or religious slur.

The CS requires each state agency that owns or manages public land, waters, or structures in Florida to identify any geographic sites under its jurisdiction which contain offensive or derogatory place names and inform the division of those geographic sites by October 1, 2004.

The CS also requires each political subdivision that owns or manages public land, waters, or structures in Florida to identify any geographic sites under its jurisdiction which contain offensive or derogatory place names by October 1, 2004, and inform the commission of those sites. The political subdivision shall at the same time recommend a replacement name.

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constructed or administered by a government or quasi-government agency generally are named by the appropriate office. Only if a conflict arises does the Board become involved; (6) Structures and other manmade features on private property-- Examples are shopping malls, resorts, mines, oil rigs, churches, cemeteries, and stations, shops, and sidings of railroads and other public transit facilities. As in the case of post offices, a railroad station name does not automatically apply to the adjacent community, whose name may be the subject of a Board decision. A Board decision also may be called for when several property owners are involved or when a feature is no longer active (for example, an abandoned mine) if the correct name is in doubt. The Board may, however, decide to rule on such names if necessary to settle conflicts between different agencies. Independent of whether decisions are rendered, the Board may include such names in lists it issues from time to time, as part of its responsibility to promulgate standard names for U.S. Government use. (See Sec. 5 of Public Law 80-242).

<sup>5</sup> See, <http://erg.usgs.gov/dgn/DGNFORM2.html>

The division is required to compile the reports it receives and send a copy to the commission. The commission is instructed to advise the division in the replacement names for identified sites. The division is required to choose a new name for the geographic site by March 1, 2005.

The division is required to ensure that whenever an agency updates a map or replaces a sign, interpretative marker, or any other marker because of wear or vandalism, the offensive or derogatory place name is removed and replaced with the name chosen by the division.

The CS also requires the division to notify specific agencies that compile information for or develops maps or markers for the state of the name change so that it may be reflected on subsequent editions of any maps, informational literature, or markers produced by those entities. Further, the bill requires the division to place a formal request with the U.S. Board on Geographic Names to render a decision on the proposed name change so that the new name will be reflected on official maps. The division is also required to report to the Governor and the Legislature by no later than July 2, 2005, regarding implementation of the bill.

**Section 2** provides an effective date of July 1, 2004.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Article 18, Section VII of the Florida Constitution, excuses counties and municipalities from complying with laws requiring them to spend funds or to take an action unless certain conditions are met.

Subsection (d) exempts certain categories of laws from the enacting conditions contained in the constitutional provision, to include laws having insignificant fiscal impact, which means an amount not greater than the average statewide population for the applicable fiscal year times ten cents, which is \$1.7 million for FY 2004/05. The average fiscal impact, including any offsetting effects over the long term, is also considered.

The CS requires each political subdivision, which includes counties and municipalities, that owns or manages public land, waters, or structures in Florida to identify any geographic sites under its jurisdiction which contain offensive or derogatory place names by October 1, 2004, and inform the division of those sites.

However, because the fiscal impact on cities and counties is estimated to be insignificant, the bill is exempted from the mandate restriction.

##### **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:**

None.

**C. Government Sector Impact:**

According to an economic impact analysis performed by the Department of State, the bill would cost the department in fiscal year 04-05 approximately \$50,689.57.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

As the Department of State is an agency as defined in s. 120.52(1), F.S., action by the department under this act would be either by rule or order, either of which could be challenged pursuant to the provisions of the Administrative Procedure Act.

The CS requires replacement of offensive or derogatory place name markers or maps only when the entity updates a map or replaces a sign, interpretive marker, or any other marker because of wear or vandalism, not upon identification and alternative naming.

**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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