

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 1632

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Rouson

SUBJECT: Cultural Affairs

DATE: February 10, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ponder	McVaney	GO	Fav/CS
2.			CM	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1632 designates the Secretary of State as “Florida’s Chief Arts and Cultural Officer” rather than the chief cultural officer. The bill also renames the Division of Cultural Affairs within the Department of State as the Division of Arts and Culture and makes conforming changes.

The bill will have an indeterminate effect on the government sector. See Section V., Fiscal Impact Statement.

The bill takes effect on July 1, 2020.

II. Present Situation:

Department of State

The Department of State (department), created in s. 20.10, F.S., is composed of six divisions: Elections, Historical Resources, Corporations, Library and Information Services, Cultural Affairs and Administration. The head of the department is the Secretary of State (Secretary).¹ The Secretary is appointed by the Governor, subject to confirmation by the Senate, and serves at the pleasure of the Governor. The Secretary performs functions conferred by the State Constitution upon the custodian of records.

¹ Section 20.10, F.S.

The Division of Cultural Affairs

The Division of Cultural Affairs is Florida's designated state arts agency. The division promotes arts and culture as essential to the quality of life for all Floridians. To promote excellence and encourage access to cultural opportunities, the division provides funding, programs and resources, including grants for: arts in education, local arts agencies, state service organizations, museums, theater, dance, folk arts, literature, media arts, multidisciplinary, music, sponsor/presenter, and visual arts programs and projects. The Division of Cultural Affairs also administers the Museum of Florida History and has its offices in the historic Brokaw-McDougall House.²

Section 15.18, F.S., provides that the Divisions of Cultural Affairs, Historical Resources, and Library and Information Services of the Department of State promote programs having substantial cultural, artistic, and indirect economic significance that emphasize American creativity. The Secretary of State, as the head administrator of these divisions, is designated as "Florida's Chief Cultural Officer." The Secretary of State is encouraged to initiate and develop relationships between the state and foreign governmental officials in order to promote Florida as the center of American creativity. The Secretary of State shall coordinate international activities as they relate to international and cultural relations with the Florida International Affairs Commission. To accomplish these purposes, the secretary has the power and authority to do the following:

- 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;
- Serve as the liaison with all foreign consular and ambassadorial corps, as well as international organizations, that are consistent with the purposes of expanding international and cultural relations; and
- Provide, arrange, and make expenditures for the achievement of any or all of the purposes specified in this section.

Florida Arts and Cultural Act

The Florida Arts and Cultural Act (the Act) is set forth in ss. 265.281-265.709, F.S. The Legislative intent of the Act is to provide state support for, and to gain national and international recognition of, the efforts, works, and performances of Florida artists, art agencies, museums and nonprofit organizations.³ The Act defines the term "division" to mean the Division of Cultural

² Florida Department of State, Division of Cultural Affairs, About Us, Mission, available at <https://dos.myflorida.com/cultural/about-us/mission/> (last visited on February 5, 2020).

³ Section 285.282, F.S.

Affairs of the Department of State.⁴ The division is charged with directly administering and overseeing all programs authorized by the Act. The division must:

- Accept and administer state and federal funds appropriated by the Legislature or funds received from other public or private sources.
- Advance funds for grants on a quarterly basis.
- Enter into agreements for awarding grants or other contracts.
- Consult with and advise other individuals, groups, organizations or state agencies and officials, particularly the Governor and the Cabinet, concerning the acquisition by gift or purchase of fine art works, the appropriate use and display of state-owned art treasures for maximum public benefit, and the suitability of any structures or fixtures, including framing, primarily intended for ornamental or decorative purposes in the interior of public buildings.
- Accept on behalf of the state donations of money, property, art objects, and antiquities.⁵
- Sponsor performances and exhibits; promote and encourage the study and appreciation of arts and culture; and collect, publish, and print pamphlets, papers, newsletters, and other materials related to arts and cultural programs available throughout the state.
- Conduct and support cultural programs and cultural exchanges by coordinating with the appropriate state agencies and other organizations.
- Accept funding and other forms of support for the purposes in this act.
- Notwithstanding s. 287.022 or s. 287.025(1)(e), enter into contracts to insure museum collections, artifacts, relics, and fine arts to which it holds title or which are on loan to the division.
- Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.⁶

Section 265.2865, F.S., establishes the Florida Artists Hall of Fame which recognizes persons, living or deceased, who have made significant contributions to the arts in Florida either as performing or practicing artists in individual disciplines. The Florida Artists Hall of Fame Wall is located on the Plaza level in the rotunda of the Capital building.⁷ The Florida Council on Arts and Culture accepts nominations annually for persons to be recommended as members of the Florida Artists Hall of Fame and then makes recommendations to the Secretary of those person who were born in Florida or adopted Florida as their home state and base of operation and made a significant contribution to the enhancement of the arts in this state.⁸ The Secretary must name no more than four members to the Florida Artists Hall of Fame in any one year.⁹ The department is authorized to adopt rules to implement the provisions of the Cultural Endowment Program.¹⁰

⁴ Section 285.283(4), F.S.

⁵ Such donations of money and any cash income may be received from the disposal of any donations of property, art objects, or antiquities, which shall be deposited into the Grants and Donations Trust Fund and are hereby appropriated for use by the division for the purposes authorized in the Act.

⁶ Section 265.284(3)(a) – (j), F.S.

⁷ *Florida Artists Hall of Fame*, <https://dos.myflorida.com/cultural/programs/florida-artists-hall-of-fame/> (last visited February 3, 2020).

⁸ Section 265.2865(3), F.S.

⁹ Section 265.2863(4), F.S.

¹⁰ Section 265.605(1), F.S.

Cultural Facilities – Grants for Acquisition

The division is permitted to accept and administer moneys appropriated to it for providing grants to counties, municipalities, and qualifying nonprofit corporations for the acquisition, renovation, or construction of cultural facilities.¹¹ A county, municipality or qualified corporation¹² may apply for a grant of state funds for the acquisition, renovation, or construction of a cultural facility.¹³ The Florida Council on Arts and Culture must review each application for a grant and must annually submit to the Secretary for approval lists of all applications recommended by the council for award of grants, arranged in order of priority.¹⁴

Any contract administered under s. 265.701, F.S., must require the recordation of a restrictive covenant by the grantee and property owner or purchase of a bond as prescribed by rule to ensure that the facility continues to be used as a cultural facility for a period of 10 years following the grant award.¹⁵

Division of Historical Resources

The Division of Historical Resources is responsible for preserving and promoting Florida's historical, archaeological, and folk culture resources. The Division Director's Office oversees a Historic Preservation Grants program to help preserve and maintain Florida's historic buildings and archaeological sites, coordinates outreach programs, such as the State Historical Markers program and Florida Folklife program which identifies and promotes the state's traditional culture. The division director serves as the State Historic Preservation Officer, acting as the liaison with the national historic preservation program conducted by the National Park Service.¹⁶

The Division of Historical Resources is comprised of the Bureau of Historic Preservation (BHP) and the Bureau of Archaeological Research (BAR). The BHP manages the Florida Main Street Program, and under federal and state laws, oversees the National Register of Historic Places program for Florida, maintains an inventory of the state's historical resources in the Florida Master Site File, assists applicants in federal tax benefit and local government ad valorem tax relief programs for historic buildings, and reviews the impact that development projects may have on significant historic resources. The BAR is responsible for the state's archaeological programs, including surveys and excavations throughout the state, maintenance of records on historical resources that have been recorded, and assistance to consultants and planners in protecting sites.¹⁷

¹¹ Section 265.701(1), F.S.

¹² For the purposes of this section, a "qualified corporation" is a corporation which is designated a not-for-profit corporation pursuant to s. 501(c)(3) or (4) of the Internal Revenue Code of 1954, and which is described in, and allowed to receive contributions pursuant to the provisions of, s. 170 of the Internal Revenue Code of 1954, and which is a corporation not for profit incorporated pursuant to chapter 617.

¹³ Section 265.701(2), F.S.

¹⁴ Section 265.701(3), F.S.

¹⁵ Section 265.701(4), F.S.

¹⁶ Florida Department of State, Division of Historical Resources, About, Program Areas, available at <https://dos.myflorida.com/historical/about/> (last visited on February 4, 2020).

¹⁷ *Id.*

Division of Library and Information Services

The Division of Library and Information Services manages the State Library and Archives, supports public libraries, directs record management services, and is the designated information resource provider for the state of Florida.¹⁸

The division may receive gifts of money, books, or other property and may purchase books, periodicals, furniture, and equipment it deems necessary to carry out its mission. The Division may also give aid and assistance to all school, state, academic, free, and public libraries, and to all communities in the state which may establish libraries. The division is required to maintain a library for state officials and employees and provide research and informational services for all state agencies. The division must also provide library services to blind and physically handicapped persons within the state.¹⁹

Secretary of State – Florida’s Chief Cultural Officer

The Divisions of Cultural Affairs, Historical Resources, and Library and Information Services of the Department promote programs having substantial cultural, artistic, and indirect economic significance that emphasize American creativity.²⁰ The Secretary is designated as “Florida's Chief Cultural Officer” and is encouraged to initiate and develop relationships between the state and foreign governmental officials in order to promote Florida as the center of American creativity.²¹ As Florida’s Chief Cultural Officer, the Secretary must coordinate international activities with Enterprise Florida, Inc., and any other organization the Secretary deems to be appropriate.²² To accomplish these purposes, the secretary has the power and authority to do the following:

- Disseminate any information pertaining to the state 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;
- Serve as the liaison with all foreign consular and ambassadorial corps, as well as international organizations, that are consistent with the purposes of expanding international and cultural relations; and
- Provide, arrange, and make expenditures for the achievement of any or all of the purposes specified in this section.²³

¹⁸ Florida Department of State, Division of Library and Information Services, available at <https://dos.myflorida.com/library-archives/> (last visited on February 4, 2020).

¹⁹ Section 257.04, F.S.

²⁰ Section 15.18, F.S.

²¹ *Id.*

²² *Id.*

²³ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 15.18, F.S., to provide that the Secretary of State will be known as “Florida’s Chief Arts and Cultural Officer” instead of the chief cultural officer.

Section 2 amends s. 20.10, F.S., to rename the Division of Cultural Affairs as the Division of Arts and Culture.

Sections 3 and 5 amend ss. 265.283 and 265.2865, F.S., respectively, to update references to the division.

Section 4 amends s. 265.284, F.S., to provide that the Secretary will be known as the “Chief Arts and Cultural Officer” instead of the chief cultural officer.

Section 6 and 8 amend ss. 265.603(2) and 265.7025(2), F.S., respectively, to update the definition of “[d]ivision” to mean the Division of Arts and Culture of the Department of State.

Section 7 amends s. 265.701, F.S., to update references to the division.

Sections 9 and 10 amend ss. 265.704 and 468.401, F.S., to update references to the division.

Section 11 provides the act takes effect on July 1, 2020.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The department will experience an indeterminate negative fiscal impact associated with the rebranding and re-naming of its Division of Cultural Affairs to the Division of Arts and Culture.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 15.18, 20.10, 265.283, 265.284, 265.2865, 265.603, 265.701, 265.7025, 265.704, and 468.401.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on February 10, 2020:

The committee substitute removes the repeal of ss. 265.601, 265.602, 265.603 and 265.605, F.S., and updates the definition of the term “division” in s. 265.603, F.S.

B. Amendments:

None.