

House Bill No. 1305

An act relating to the Department of State; creating s. 257.015, F.S.; providing definitions; amending s. 257.02, F.S.; increasing membership on the State Library Council; revising criteria for membership; revising provisions with respect to the selection process for members; providing for officers of the council; amending s. 257.031, F.S.; deleting references to the State Library Council and provisions for officers of the council; providing additional responsibilities of the State Librarian; amending s. 257.12, F.S.; designating the Division of Library and Information Services as the state library administrative agency; amending s. 257.192, F.S.; correcting terminology; creating s. 257.43, F.S.; providing for the establishment of a citizen support organization to provide assistance, funding, and promotional support for the library, archives, and records management programs of the Division of Library and Information Services; providing for use of administrative services and property; requiring an annual audit; amending s. 265.284, F.S.; designating the Division of Cultural Affairs as the state arts administrative agency; deleting obsolete language; amending s. 265.2865, F.S.; deleting obsolete language; amending s. 265.606, F.S.; requiring local sponsoring organizations to submit an annual postaudit to the division under certain circumstances; amending s. 265.701, F.S.; providing contract requirements to ensure continued use as a cultural facility for a specified period following a grant award; providing for repayment of grant funds to the department under specified circumstances; amending s. 265.702, F.S.; providing contract requirements to ensure continued use as a regional cultural facility for a specified period following a grant award; providing for repayment of grant funds to the department under specified circumstances; creating s. 265.703, F.S.; providing for the establishment of a citizen support organization to provide assistance, funding, and promotional support for the cultural and arts programs of the Division of Cultural Affairs; providing for use of administrative services and property; requiring an annual audit; amending s. 267.031, F.S.; authorizing the Division of Historical Resources to establish an endowment under the Florida Historical Resources Act; removing a requirement for the establishment of historic preservation regional offices in specific locations; requiring the establishment of at least three historic preservation regional offices; creating citizen advisory boards for regional offices in lieu of citizen support organizations; providing purpose and for appointment of members of the advisory boards; amending s. 267.0612, F.S.; revising provisions with respect to service as a member of the Florida Historical Commission; amending s. 267.0617, F.S.; providing for appointment of a grant review panel chair under the Historic Preservation Grant Program; amending s. 267.0619, F.S.; providing for appointment of a grant review panel chair under the Historical Museum Grants program; amending s. 267.0731, F.S.; revising provisions with respect to nominations

under the Great Floridians Program; amending s. 267.13, F.S.; providing for the adoption of rules by the Division of Historical Resources to implement provisions governing prohibited practices and penalties therefor; amending s. 267.16, F.S.; removing a duty of the Division of Historical Resources with respect to Florida Folklife Programs; amending s. 267.173, F.S.; conforming a reference; amending s. 267.174, F.S.; revising dates for the first meeting of the Discovery of Florida Quincentennial Commemoration Commission, completion of the initial draft of the master plan, and submission of the completed master plan; repealing s. 15.0913, F.S., which requires the Department of State to file all Uniform Commercial Code documents within a specified time after receipt of such documents by the Bureau of Uniform Commercial Code of the Division of Corporations; repealing s. 265.51, F.S., relating to the authority of the Department of State to make agreements to indemnify specified items against loss or damage; repealing s. 265.52, F.S., relating to items eligible for indemnity agreements of the Department of State; repealing s. 265.53, F.S., relating to application for indemnity agreement by a nonprofit agency, institution, or government in the state attempting to obtain indemnification for eligible items it proposes to borrow from a person, organization, institution, or government not in the state; repealing s. 265.54, F.S., relating to review by the Department of State of applications for indemnity agreements and limits of indemnity; repealing s. 265.55, F.S., relating to the processing by the Division of Risk Management of the Department of Financial Services of claims for losses covered by an indemnity agreement; repealing s. 265.56, F.S., relating to an annual report to the Legislature by the Department of State with respect to current and pending claims under indemnity agreements and the value of contracts entered into by the department which are outstanding at the close of the fiscal year; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 257.015, Florida Statutes, is created to read:

257.015 Definitions.—As used in this chapter, the term:

(1) “Department” means the Department of State.

(2) “Division” means the Division of Library and Information Services of the Department of State.

(3) “Secretary” means the Secretary of State.

(4) “State librarian” means the person appointed by the secretary as the director of the Division of Library and Information Services pursuant to s. 257.031.

Section 2. Subsections (1) and (3) of section 257.02, Florida Statutes, are amended, and subsection (4) is added to said section, to read:

257.02 State Library Council.—

(1) There shall be a State Library Council to advise and assist the Division of Library and Information Services on its programs and activities. The council shall consist of ~~nine seven~~ members who shall be appointed by the Secretary of State. Of the nine members at least one member of the council must represent a Florida library professional association, at least one must represent a Florida archive professional association, at least one must represent a Florida records management professional association, be a person who is 60 years of age or older; and at least one member of the council must be a person who is not, and has never been, employed in a library or in teaching library science courses. Members shall be appointed for 4-year terms. A vacancy on the council shall be filled for the period of the unexpired term. No person may be appointed to serve more than two consecutive terms as a member of the council. The Secretary of State may remove from office any council member for malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or pleading guilty or nolo contendere to, or being found guilty of, a felony. ~~In addition to, and at the request of, the members of the council appointed by the Secretary of State, the president-elect of the Florida Library Association may serve as a member of the council in a nonvoting capacity during his or her term as president-elect.~~

(3) The Secretary of State may, in making appointments, consult Florida's library, archival, or records management community the Florida Library Association and related statewide associations and organizations for suggestions as to persons having special knowledge and interest concerning libraries.

(4) The officers of the State Library Council shall be a chair, elected from the members thereof, and the State Librarian, who shall serve without voting rights as secretary of the council.

Section 3. Section 257.031, Florida Statutes, is amended to read:

257.031 State Librarian Organization of council; appointment and duties of State Librarian.—

(1) ~~The officers of the State Library Council shall be a chair, elected from the members thereof, and the State Librarian, who shall serve without voting rights as secretary of the council.~~ The State Librarian shall be appointed by the Secretary of State, shall have completed a library school program accredited by the American Library Association, and shall serve as the director of the Division of Library and Information Services of the Department of State. The Secretary of State may, in making the appointment of State Librarian, consult the members of the State Library Council.

(2) The State Librarian shall:

- (a) Keep a record of the proceedings of the State Library Council;
- (b) Keep an accurate account of the financial transactions of the division;

(c) Have charge of the work of the division in organizing new libraries and improving those already established; ~~and~~

(d) In general, perform such duties as may, from time to time, be assigned to him or her by the Secretary of State; ~~and~~.

(e) Manage operations of the programs assigned by law to the division.

Section 4. Section 257.12, Florida Statutes, is amended to read:

257.12 Division of Library and Information Services authorized to accept and expend federal funds.—

(1) The Division of Library and Information Services of the Department of State is designated as the state library administrative agency authorized to accept, receive, administer, and expend any moneys, materials, or any other aid granted, appropriated, or made available by the United States or any of its agencies for the purpose of giving aid to libraries and providing educational library service in the state.

(2) The division is authorized to file any accounts required by federal law or regulation with reference to receiving and administering all such moneys, materials, and other aid for said purposes; provided, however, that the acceptance of such moneys, materials, and other aid shall not deprive the state from complete control and supervision of its library.

Section 5. Section 257.192, Florida Statutes, is amended to read:

257.192 Program grants.—The Division of Library and Information Services is authorized to accept and administer appropriations for library program grants and to make such grants in accordance with the Florida long-range ~~plan program~~ for library services.

Section 6. Section 257.43, Florida Statutes, is created to read:

257.43 Citizen support organization; use of state administrative services and property; audit.—

(1) CITIZEN SUPPORT ORGANIZATION.—The division may support the establishment of a citizen support organization to provide assistance, funding, and promotional support for the library, archives, and records management programs of the division. For the purposes of this section, a “citizen support organization” means an organization which is:

(a) A Florida corporation not for profit incorporated under the provisions of chapter 617 and approved by the Department of State.

(b) Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the division or individual program units of the division.

(c) Determined by the division to be consistent with the goals of the division and in the best interests of the state.

(d) Approved in writing by the division to operate for the direct or indirect benefit of the division. Such approval shall be given in a letter of agreement from the division.

(2) USE OF ADMINISTRATIVE SERVICES AND PROPERTY.—

(a) The division may fix and collect charges for the rental of facilities and properties managed by the division and may permit, without charge, appropriate use of administrative services, property, and facilities of the division by a citizen support organization, subject to the provisions of this section. Such use must be directly in keeping with the approved purposes of the citizen support organization and may not be made at times or places that would unreasonably interfere with opportunities for the general public to use such facilities for established purposes. Any moneys received from rentals of facilities and properties managed by the division may be held in the operating trust fund of the division or in a separate depository account in the name of the citizen support organization and subject to the provisions of the letter of agreement with the division. The letter of agreement shall provide that any funds held in the separate depository account in the name of the citizen support organization shall revert to the division if the citizen support organization is no longer approved by the division to operate in the best interests of the state.

(b) The division may prescribe by rule any condition with which a citizen support organization shall comply in order to use division administrative services, property, or facilities.

(c) The division shall not permit the use of any administrative services, property, or facilities of the state by a citizen support organization which does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

(3) ANNUAL AUDIT.—The citizen support organization shall provide for an annual financial audit in accordance with s. 215.981.

Section 7. Subsection (1) and paragraph (d) of subsection (3) of section 265.284, Florida Statutes, are amended, subsection (7) is renumbered as subsection (6), and present subsection (6) of said section is amended, to read:

265.284 Chief cultural officer; director of division; powers and duties.—

(1) The Secretary of State is the shall be chief cultural officer of the state, and the Division of Cultural Affairs is designated as the state arts administrative agency.

(3) The Division of Cultural Affairs shall have direct administrative authority and responsibility for all of the programs authorized by this act. In furtherance thereof, the division shall have the authority to:

(d) On request, or at its own initiative, consult with and advise other individuals, groups, organizations, or state agencies and officials, particu-

larly 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 public buildings.

~~(6) Subject to funding by the Legislature, there are created the State Orchestra Program, State Dance Program, and State Opera Program, each to be administered as part of, and under the direct supervision of, the Division of Cultural Affairs.~~

Section 8. Subsection (4) of section 265.2865, Florida Statutes, is amended to read:

265.2865 Florida Artists Hall of Fame.—

~~(4) In the first year, the Secretary of State shall name no more than 12 members to the Florida Artists Hall of Fame. Thereafter, The Secretary of State shall name no more than four members to the Florida Artists Hall of Fame in any one 1 year.~~

Section 9. Paragraph (c) is added to subsection (4) of section 265.606, Florida Statutes, to read:

265.606 Cultural Endowment Program; administration; qualifying criteria; matching fund program levels; distribution.—

(4) Once the secretary has determined that the sponsoring organization has complied with the criteria imposed by this section, he or she may authorize the transfer of the appropriate state matching funds to the organization. However, the secretary shall ensure that the local group has made prudent arrangements for the trusteeship of the entire endowment, and such trusteeship is hereby created. The sponsoring organization may then expend moneys in the endowment program fund, subject to the following requirements:

(c) Any contract administered under this section shall require the local sponsoring organization to submit to the division an annual postaudit of its financial accounts conducted by an independent certified public accountant.

Section 10. Subsection (4) of section 265.701, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to said section, to read:

265.701 Cultural facilities; grants for acquisition, renovation, or construction; funding; approval; allocation.—

(4) Any contract administered under this section shall require the recodation of a restrictive covenant by the grantee and property owner or the 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. If the facility ceases to be used as a cultural facility during the 10 years following the grant award, the grant funds shall be repaid to the department according to an amortization schedule set forth in rule.

Section 11. Subsection (8) of section 265.702, Florida Statutes, is renumbered as subsection (9), and a new subsection (8) is added to said section, to read:

265.702 Regional cultural facilities; grants for acquisition, renovation, or construction; funding; approval; allocation.—

(8) Any contract administered under this section shall require the recording of a restrictive covenant by the grantee and property owner or the purchase of a bond as prescribed by rule to ensure that the facility continues to be used as a regional cultural facility for a period of 10 years following the grant award. If the facility ceases to be used as a regional cultural facility during the 10 years following the grant award, the grant funds shall be repaid to the department according to an amortization schedule set forth in rule.

Section 12. Section 265.703, Florida Statutes, is created to read:

265.703 Citizen support organization; use of state administrative services and property; audit.—

(1) CITIZEN SUPPORT ORGANIZATION.—The division may support the establishment of a citizen support organization to provide assistance, funding, and promotional support for the cultural and arts programs of the division. For the purposes of this section, a “citizen support organization” means an organization which is:

(a) A Florida corporation not for profit incorporated under the provisions of chapter 617 and approved by the Department of State.

(b) Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the division or individual program units of the division.

(c) Determined by the division to be consistent with the goals of the division and in the best interests of the state.

(d) Approved in writing by the division to operate for the direct or indirect benefit of the division. Such approval shall be given in a letter of agreement from the division.

(2) USE OF ADMINISTRATIVE SERVICES AND PROPERTY.—

(a) The division may fix and collect charges for the rental of facilities and properties managed by the division and may permit, without charge, appropriate use of administrative services, property, and facilities of the division by a citizen support organization, subject to the provisions of this section. Such use must be directly in keeping with the approved purposes of the citizen support organization and may not be made at times or places that would unreasonably interfere with opportunities for the general public to

use such facilities for established purposes. Any moneys received from rentals of facilities and properties managed by the division may be held in the operating trust fund of the division or in a separate depository account in the name of the citizen support organization and subject to the provisions of the letter of agreement with the division. The letter of agreement shall provide that any funds held in the separate depository account in the name of the citizen support organization shall revert to the division if the citizen support organization is no longer approved by the division to operate in the best interests of the state.

(b) The division may prescribe by rule any condition with which a citizen support organization shall comply in order to use division administrative services, property, or facilities.

(c) The division shall not permit the use of any administrative services, property, or facilities of the state by a citizen support organization which does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

(3) ANNUAL AUDIT.—The citizen support organization shall provide for an annual financial audit in accordance with s. 215.981.

Section 13. Subsection (3) and paragraph (m) of subsection (5) of section 267.031, Florida Statutes, are amended to read:

267.031 Division of Historical Resources; powers and duties.—

(3) The division may accept gifts, grants, bequests, loans, and endowments for purposes not inconsistent with its responsibilities under this chapter. The division may also establish an endowment that is consistent with the responsibilities of this chapter.

(5) It is the responsibility of the division to:

(m) Establish regional offices for the purpose of assisting the division in the delivery of historic preservation services to the counties and municipalities of the state and to the citizens of the State of Florida. Historic preservation regional offices shall be established in at least three St. Augustine, Tampa, Palm Beach County, and in other areas of the state which the division deems appropriate. For each regional office established, the division shall establish a citizen advisory board to provide assistance, advice, and recommendations to the regional office support organization in accordance with s. 267.17. The members board of directors of each citizen advisory board support organization shall be appointed by the Secretary of State.

Section 14. Paragraph (a) of subsection (1) and subsection (2) of section 267.0612, Florida Statutes, are amended to read:

267.0612 Florida Historical Commission; creation; membership; powers and duties.—In order to enhance public participation and involvement in the preservation and protection of the state's historic and archaeological sites and properties, there is created within the Department of State the "Florida Historical Commission." The commission shall serve in an advisory

capacity to the director of the Division of Historical Resources to assist the director in carrying out the purposes, duties, and responsibilities of the division, as specified in this chapter.

(1)(a) The commission shall be composed of 11 members. Seven members shall be appointed by the Governor in consultation with the Secretary of State, two members shall be appointed by the President of the Senate, and two members shall be appointed by the Speaker of the House of Representatives. Of the seven members appointed by the Governor, one member must be a licensed architect who has expertise in historic preservation and architectural history; one member must be a professional historian in the field of American history; one member must be a professional architectural historian; one member must be an archaeologist specializing in the field of prehistory; and one member must be an archaeologist specializing in the historic period. The remaining two members appointed by the Governor and the two members appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, must be representatives of the general public with demonstrated interest in the preservation of Florida's historical and archaeological heritage. At least one member of the commission shall be a resident of a county that has a population of 75,000 or fewer less.

(2) Commission members appointed by the President of the Senate and the Speaker of the House of Representatives shall be appointed for 2-year terms. Additionally, these commission members shall serve as the legislative historic preservation advisory body to the Speaker of the House of Representatives and the President of the Senate with respect to the collection and preservation of the historic records of both houses of the Legislature. Commission members appointed by the Governor shall be appointed to 4-year terms. A member whose term has expired shall continue to serve on the commission until such time as a replacement is appointed. Vacancies shall be filled for the remainder of the term and by the original appointing authority.

Section 15. Subsection (3) of section 267.0617, Florida Statutes, is amended to read:

267.0617 Historic Preservation Grant Program.—

(3) All grants of state funds to assist in the preservation of historic properties shall be made from the Historical Resources Operating Trust Fund and may be awarded only pursuant to applications for such assistance made to the Division of Historical Resources. The Florida Historical Commission shall review each application for a special category historic preservation grant-in-aid. Special category historic preservation grants-in-aid are those reviewed and recommended by the Secretary of State for submission for legislative funding consideration. Grant review panels appointed by the Secretary of State and chaired by a member of the Florida Historical Commission or a designee appointed by the commission's presiding officer shall review each application for other historic preservation grants-in-aid. The reviewing body shall submit annually to the Secretary of State for approval lists of all applications that are recommended by the reviewing body for the award of grants, arranged in order of priority.

Section 16. Subsection (3) of section 267.0619, Florida Statutes, is amended to read:

267.0619 Historical Museum Grants.—

(3) An application for a grant must be made to the division on a form provided by the division. The division shall adopt rules prescribing categories of grants, application requirements, criteria and procedures for the review and evaluation of applications, and other procedures necessary for the administration of the program, subject to the requirements of this section. Grant review panels appointed by the Secretary of State and chaired by a member of the Florida Historical Commission or a designee appointed by the commission's presiding officer shall review each application for a museum grant-in-aid. The review panel shall submit to the Secretary of State for approval lists of all applications that are recommended by the panel for the award of grants, arranged in order of priority. The division may award a grant to a Florida history museum only if the award has been approved by the Secretary of State.

Section 17. Paragraphs (b) and (c) of subsection (1) of section 267.0731, Florida Statutes, are amended to read:

267.0731 Great Floridians Program.—The division shall establish and administer a program, to be entitled the Great Floridians Program, which shall be designed to recognize and record the achievements of Floridians, living and deceased, who have made major contributions to the progress and welfare of this state.

(1) The division shall nominate present or former citizens of this state, living or deceased, who during their lives have made major contributions to the progress of the nation or this state and its citizens. Nominations shall be submitted to the Secretary of State who shall select from those nominated not less than two persons each year who shall be honored with the designation "Great Floridian," provided no person whose contributions have been through elected or appointed public service shall be selected while holding any such office.

(b) In formulating its nominations, the division shall also seek the assistance of the organization ~~Museum of Florida History Foundation, Inc., or its successor,~~ acting in the capacity as a citizen support organization of the division, pursuant to s. 267.17 and approved to act on behalf of the Museum of Florida History.

(c) Annually, the division shall convene an ad hoc committee composed of representatives of the Governor, each member of the Florida Cabinet, the President of the Senate, the Speaker of the House of Representatives, and the organization described in paragraph (b) ~~Museum of Florida History Foundation, Inc.~~ This committee shall meet at least twice. The committee shall nominate not fewer than two persons whose names shall be submitted to the Secretary of State with the recommendation that they be honored with the designation "Great Floridian."

Section 18. Paragraph (e) is added to subsection (2) of section 267.13, Florida Statutes, to read:

267.13 Prohibited practices; penalties.—

(2)

(e) The division shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

Section 19. Subsections (4) and (5) of section 267.16, Florida Statutes, are renumbered as subsections (3) and (4), respectively, and subsection (3) of said section is amended to read:

267.16 Florida Folklife Programs.—It is the duty and responsibility of the division to:

~~(3) Use the facilities at the Stephen Foster State Folk Culture Center as the primary location of the annual Florida Folk Festival.~~

Section 20. Subsection (5) of section 267.173, Florida Statutes, is amended to read:

267.173 Historic preservation in West Florida; goals; contracts for historic preservation; powers and duties.—

(5) The Division of Historical Resources in the Department of State may contract with the University of West Florida to serve as the regional office for the West Florida region of the state from the Apalachicola River to the western boundaries of the state. In lieu of the establishment of a citizen advisory board support organization as required by s. 267.031(5)(m), the University of West Florida may use an existing direct-support organization of the university provided that the membership of the direct-support organization is representative of the area of the state to be served and provides the needed expertise in the area of historic preservation.

Section 21. Paragraph (d) of subsection (5) and paragraph (c) of subsection (7) of section 267.174, Florida Statutes, are amended to read:

267.174 Discovery of Florida Quincentennial Commemoration Commission.—

(5) OFFICERS; BYLAWS; MEETINGS.—

(d) The initial meeting of the commission shall be held no later than January 31, ~~2007~~ 2006. Subsequent meetings shall be held upon the call of the chair or vice chair acting in the absence of the chair, and in accordance with the commission's bylaws.

(7) DUTIES; MASTER PLAN.—

(c) The commission shall establish a timetable and budget for completion for all parts of the master plan which shall be made a part of the plan. An initial draft of the plan shall be completed and submitted to the Governor,

the President of the Senate, the Speaker of the House of Representatives, and the Secretary of State by January 2008 ~~2007~~ with the completed master plan submitted to such officials by January ~~2009~~ 2008.

Section 22. Sections 15.0913, 265.51, 265.52, 265.53, 265.54, 265.55, and 265.56, Florida Statutes, are repealed.

Section 23. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 24. This act shall take effect July 1, 2005.

Approved by the Governor June 10, 2005.

Filed in Office Secretary of State June 10, 2005.