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DATE: April 27, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2000-258, Laws of Florida

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
FINAL ANALYSIS**

BILL #: CS/SB 1194 (First Engrossed)

RELATING TO: Department of State

SPONSOR(S): Committee on Governmental Productivity & Oversight and Senator Brown-Waite

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

Due to the adoption of Revision No. 8 to the State Constitution by the voters on Nov. 3, 1998, the Secretary of State will no longer be an elected constitutional officer or a member of the Cabinet after January 7, 2003. As a result, the Secretary of State created a Constitutional Transition Task Force and assigned it the responsibility of analyzing various statutory functions of the Department of State and to recommend which functions it should continue to perform. This bill is based upon those recommendations.

The bill maintains the Department of State and designates that the head of the department is the Secretary of State. The secretary is appointed by the Governor, is confirmed by the Senate, and serves at the pleasure of the Governor. The secretary also is designated as the custodian of state records.

The bill transfers sweepstake regulation to the Department of Agriculture and Consumer Services; provides that financial disclosure filings should be filed directly with the Ethics Commission; transfers responsibility for linkage institutes from the Department of Education to the Department of State; transfers sections of law relating to homeowners' associations from ch. 617, F.S., and places them in ch. 720, F.S.; and transfers game promotions to the Department of Agriculture and Consumer Services.

Except as otherwise provided, the effective date of the bill is July 1, 2000.

The bill would not have a significant fiscal impact on the state.

On April 28, 2000, the Senate adopted several amendments, including those related to the Ringling Museum and the Historic Pensacola Preservation Board of Trustees. On May 5, 2000, the House adopted several amendments, including the substance of HB 1861 (Florida National Guard), HB 2109 (Motor Fuel Marketing Program), and HB 1725 (Execution of Judgment Liens), to which the Senate concurred, and which is the text of this enrolled bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | 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. PRESENT SITUATION:

Constitutional and Statutory Duties

Article IV, s. 4 of the State Constitution of 1968, established a Cabinet comprised of six elected officials: Secretary of State, Attorney General, Comptroller, Treasurer, Commissioner of Agriculture, and the Commissioner of Education.

Article IV, s. 4(b) of the State Constitution, provides that the Secretary of State must keep the records of the official acts of the legislative and executive departments. Examples of official acts include, executive orders relating to emergencies in the state; reassignment of prosecutors to different circuits; clemency orders; and joint resolutions and memorials. The Secretary of State also receives numerous documents which are required to be filed with the secretary by statute. The duties of the Secretary of State are, however, far broader than just those of a custodian of state records.

As part of the constitutional duties of the office, the Secretary of State sits on a variety of boards and commissions, as well as other entities.¹ The Secretary of State also makes appointments to various councils, commissions, boards, foundations, review panels, and grant review panels.²

¹State Board of Education under Art. IX, s. 2 of the State Constitution, and s. 20.15, F.S.; Elections Canvassing Commission under s. 102.11, F.S.; Board of Directors of Enterprise Florida, Inc. under s. 288.901, F.S.; Enterprise Zone Interagency Coordinating Council under s. 290.009, F.S.; Board of Directors of Export Finance Corporation under s. 288.776, F.S.; Board of Trustees of the Internal Improvement Trust Fund under s. 253.02, F.S.; Governor's Committee on Interstate Cooperation under s. 13.05, F.S.; Political Party State Executive Committee under s. 103.091, F.S.; Presidential Candidate Selection Committee under s. 103.101, F.S.; and the Technology Council under s. 282.3091, F.S.

²Artists Hall of Fame under s. 265.2865, F.S.; Arts Council under s. 265.285, F.S.; Capitol curator under s. 272.135, F.S.; Civil Law Notaries under s. 118.10, F.S.; Folklife Council under s. 267.161, F.S.; Governor's Mansion Commission under s. 272.18, F.S.; Grove Advisory Council under s. 267.075, F.S.; Historic Preservation Advisory Council under s. 267.0612, F.S.; Historic preservation citizen-support organizations, boards of directors under s. 267.061, F.S.; Historical Marker Council under s. 267.061, F.S.; Board of Directors of the Intergovernmental Relations Foundation under s. 288.809, F.S.; Private Investigation, Recovery, and Security Advisory Council under s. 493.6104, F.S.; Science museum grant review panels under s. 265.608, F.S.; State Librarian under s. 257.031, F.S.; State Library Council under s. 257.02, F.S.; Commission on the Status of Women under s. 14.24, F.S.; Youth and Children's Museum grant review panels under s. 265.609, F.S.

In addition to the constitutional duties of the Secretary of State, the Legislature has designated the secretary as the head of the Department of State (DOS). See ch. 15, F.S. The DOS has approximately 758 FTEs and an annual budget of just under \$148 million. For FY 1999-2000 budget, General Revenue Funds for the Department of State were \$87,192,694 and Trust funds were \$60,798,058. Section 20.10(2), F.S., establishes seven divisions within the department:

- (1) Office of the Secretary/Division of Administration.
- (2) Division of Elections.
- (3) Division of Historical Resources.
- (4) Division of Corporations.
- (5) Division of Library and Information Services.
- (6) Division of Licensing.
- (7) Division of Cultural Affairs.

Additionally, the Historic Pensacola Preservation Board and the Ringling Museum of Art are under the DOS.

Office of the Secretary/Division of Administration. The Office of the Secretary is responsible for the executive functions of the DOS and cabinet duties. The Division of Administrative Services is responsible for planning, organizing, directing, coordinating and evaluating administrative and management support services for the department. The Division consists of three bureaus: (1) Human Resources; (2) General Services; and (3) Planning, Budget and Financial Services. There are 75 FTEs in this office.

The office issues commissions to notaries public appointed by the Governor, including international notaries. The DOS and the Executive Office of the Governor (EOG), however, have interrelated roles in this area. See, Art. IV, s. 7, State Constitution, ch. 117, F.S., and ss. 113.01, 113.051, and 113.06, F.S.

Additionally, an Office of International Affairs is created within the DOS. Under s. 15.18, F.S., the Secretary of State functions as the Chief Cultural Officer of the state. In this position, the secretary is encouraged to: "initiate and develop relationships between the state and foreign cultural officers, their representatives, and other foreign governmental officials in order to promote Florida as the center of American creativity."

In this position, the Secretary of State is delegated power and authority to:

- ▶ 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;
- ▶ Establish and maintain the list prescribed in s. 55.605(2)(g), F.S., relating to recognition of foreign money judgments;
- ▶ Serve as the liaison with all foreign consular and ambassadorial corps, as well as international organizations;
- ▶ Provide, arrange, and make expenditures for the achievement of any or all of the purposes of s. 15.18, F.S.; and

- ▶ Promulgate rules for entering into contracts which are primarily for promotional services and events.

Responsibilities of the office include the Consular and Diplomatic programs, Sister City/Sister State programs, and International Liaison.

The Secretary is also designated in ch. 15, F.S., as the chief protocol officer for the state.

For FY 1999-2000, funding for the Division of Administration included General Revenue funds of \$4,313,616 and Trust funds of \$1,655,759, for a total of \$5,969,375.

Division of Elections. This division is diverse and oversees many different functions. The division is comprised of the Director's office and four bureaus: (1) Election Records; (2) Notaries Public; (3) Administrative Code and Weekly; and (4) Information Management and Voting Systems. There are currently 44 FTEs in this division.

The Division of Elections administers and enforces the state election laws; files acts and papers of the Legislature and county ordinances; files all rules and regulations contained in the Florida Administrative Code; publishes and distributes proposed rules and regulations in the Florida Administrative Weekly for state agencies; issues formal advisory opinions; oversees the Florida Voter Registration Act; issues commissions to all elected and appointed officials; maintains financial disclosures for all constitutional and state officers and specified employees; and qualifies all federal and state candidates.

For FY 1999-2000, division funding was \$4,668,898 in General Revenue and \$1,488,835 in Trust funds, totaling \$6,157,733.

Division of Historical Resources. The Division of Historical Resources is responsible for the development, implementation, and coordination of programs relating to the identification, protection, preservation, interpretation of Florida history, folk heritage, and historical and archaeological sites throughout the state. The division includes: The Bureau of Archeological Research; Bureau of Historic Preservation; Museum of Florida History; and the Historic Pensacola Preservation Board of Trustees. There are 99 FTEs in the division.

The only permitting authority of the division relates to objects of historical or archaeological value which have been abandoned on state-owned lands or state-owned sovereignty submerged lands. Title to such objects is vested in the division. Chapter 267, F.S., the Florida Historical Resources Act, is the principal authority for the division. Chapter 266, F.S., authorizes the Historic Pensacola Preservation Board of Trustees. A number of specific duties are authorized in other sections of statute. For example, the division director is a member of the Land Acquisition and Management Advisory Council pursuant to s. 259.035, F.S., and a member of the Florida Greenways and Trails Council pursuant to s. 260.0142, F.S. Funding for FY 1999-2000 included General Revenue of \$21,036,688 and \$9,210,777 in Trust funds for a total of \$30,247,465.

Division of Corporations. This division of the Department of State is the central registrar of business entities and commercial registrations. In essence, the division provides a statewide registry and information resource for almost all business activity in Florida. The types of business entities that are registered include for-profit and nonprofit corporations; general, limited, and limited liability partnerships; limited liability companies, and business trusts. The bureaus within the division that provide filing and informational services are the

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Bureau of Commercial Recording and the Bureau of Commercial Information Services. There are 191 FTEs in the division.

The programs and activities of the division earn approximately \$142 million annually, of which over \$131 million are earmarked for the General Revenue Fund and a variety of Trust funds that support the cultural, historic and public access programs of the department (\$19 million). Funding for the division in FY 1999-2000 out of trust funds was \$12,430,413.

Division of Library and Information Services. The Division of Library and Information Services in the Florida Department of State provides library, records management, and archival services at the state and local level. The 120 FTEs of the division provide direct library services to state government, management services, technical assistance, education, financial aid, and cooperative services. Funding for FY 1999-2000 included \$41,673,239 in General Revenue and \$7,626,745 in Trust funds for a total of \$49,299,984.

Division of Licensing. The Division of Licensing consists of three bureaus: (1) the Bureau of License Issuance, which is responsible for the issuance or denial of licenses and game promotion registrations; (2) the Bureau of Regulation and Enforcement, which is responsible for conducting regulatory investigations, compliance inspections, and complaint investigations; and (3) the Bureau of Support Services, which coordinates and performs support services for the Division of Licensing. There are 136 FTEs in the division. The division budget of \$10,032,036 for FY 1999-2000 is totally funded by licensing fees and assessments.

Under ch. 493, F.S., it is the responsibility of the division to protect the public from unethical business practices on the part of persons providing private security, private investigative and recovery services to the public through licensure and regulation of the industries. Also, the division is responsible for the issuance of concealed weapon or firearm licenses.

Further, under s. 849.094, F.S., the division registers and regulates game promotions (sweepstakes) conducted in Florida. Game promotions in which the total announced value of prizes offered is greater than \$5,000 must register.

Division of Cultural Affairs. The Division of Cultural Affairs is made up of the Office of the Director and the Bureau of Grants Services. The Division awards, administers, monitors, and evaluates cultural grant programs of the Department of State, as well as plans and implements programs designed to gain national and international recognition on behalf of Florida artists and arts organizations. The Division also disseminates arts-related information and fosters the development of a receptive climate for the arts in Florida. There are 19 FTEs in the division. Funding for FY 1999-2000 was \$12,819,980 in General Revenue and \$15,959,986 in Trust funds, for a total of \$28,779,966.

Historic Pensacola Preservation Board of Trustees. Created under s. 266.0011, F.S., this board is placed within the DOS to preserve, maintain, and operate objects of historical or antiquarian interest of the City of Pensacola and Escambia County. There are 14 FTEs supporting this program. Funding for FY 1999-2000 totaled \$880,273 in General Revenue.

Ringling Museum of Art. Created under s. 265.26, F.S., the Ringling Museum of Art preserves, augments, and exhibits the art collections which John Ringling left to the State of Florida. The museum maintains the Ringling residence, the Asolo Theater, and the Ringling Museum of the Circus, which belong to the state, as well. There are 60 FTEs

supporting these programs. Funding for FY 1999-2000 included \$1,800,000 in General Revenue and \$2,393,507 in Trust funds, totaling \$4,193,507.

The Secretary of State issues commissions of public officers. Also, under s. 112.45, F.S., the secretary has duties related to suspension, removal, or reinstatement of public officers.

Sections 922.12 and 922.15, F.S., provide that after an execution is carried out by a warrant of the Governor, the superintendent of the state prison sends the death warrant and a signed statement of the execution to the Secretary of State. Further, after a death sentence has been executed pursuant to a warrant issued by the Supreme Court, the superintendent must send the warrant and a signed statement of the execution to the Secretary of State.

The secretary also functions as the statutory service agent for service of process issues certifications.

The Secretary of State's Constitutional Transition Task Force

On November 3, 1998, the voters of Florida approved Revision No. 8 to the State Constitution, which revised the composition of the Cabinet. The vote was 1,950,311 (55.5%) in favor and 1,562,234 (44.5%) opposed. In addition to numerous other changes, the revision eliminates the Secretary of State from the Cabinet, but provides for a custodian of state records who must receive certain filings. The revision will not take effect until January 7, 2003, but its provisions will govern qualifying for, and the holding of, primary elections in 2002.

The Secretary of State appointed a Constitutional Transition Task Force in the 1999 legislative interim with eleven members.³ Two members were recommended by the Governor,⁴ two by the Senate President,⁵ and two by the Speaker of the House of Representatives.⁶ The organizational meeting of the task force convened July 30, 1999, and the final meeting was held on December 10, 1999.

The purpose of the task force was to analyze various statutory functions of state government, including those currently performed by the Department of State, and to recommend which functions should be performed by the Department of State beginning January 2003, in light of Revision No. 8.

The task force made a number of findings after consideration of testimony from the public and of presentations and reports prepared by staff at the direction of the members. Specifically, the final report found:

³Members of the Constitutional Transition Task Force created by the Secretary of State were: former Speaker of the Florida House of Representatives and former President of the Florida Senate Mallory Horne, who was Chair of the task force; Dr. Bob Bradley, Associate Vice President for Research and Director, Institute of Science and Public Affairs, The Florida State University; former Secretary of State George Firestone; State Representative Dennis Jones; former Governor's General Counsel, Lamar Mathews, Esq.; Senator William Myers; State Representative Bill Posey; former Assistant Secretary of State, David Rancourt; former Assistant Secretary of State and Vice President, University Relations, The Florida State University, Beverly Spencer; Senator Ginny Brown-Waite; and Brian Yablonski, Deputy Director, Governor's Office of Planning & Budget.

⁴The Governor recommended Brian Yablonski and David Rancourt, both of the Executive Office of the Governor.

⁵The Senate President recommended Senator William Myers and Senator Ginny Brown-Waite.

⁶The Speaker of the House recommended Representative Dennis Jones and Representative Bill Posey.

Finding 1. Most state and foreign governments have a “Department of State” and a “Secretary of State.” In fact, these terms are well understood from common usage, both nationally and internationally, and are frequently used in major international treaties.

Finding 2. The Florida Department of State currently operates in a “synergetic” manner, with the activities of one division cooperating with, and dependent upon, the activities of another.⁷

Finding 3. The department has been in the forefront of information technology utilization. Examples include the *Sunbiz* web site of the Division of Corporations, the document management system in place at the Division of Licensing, and the real-time election results and the campaign contribution reports of candidates maintained on-line by the Division of Elections. Any transfers of functions away from the department might involve major expenditures for equipment, computer software and personnel, depending upon where such functions were being transferred.

Finding 4. Florida’s Department of State compares favorably with those similar roles performed by the United States Department of State, where applicable. There is an important role for the department in the area of international affairs, especially as it may impact the development and maintenance of international relations to lay the groundwork for economic development and foreign trade. That role should be strengthened and emphasized in the Department’s Mission Statement.

Finding 5. The various functions currently being undertaken by both the Executive Office of Governor and the Department of State for the commissioning of notaries public is confusing to the public, and should be placed under the jurisdiction of one office or the other. The Task Force considered two alternatives, and chose the model in which all functions would be under the jurisdiction of the Department of State (appointment, processing of applications and commissioner, and notary education). The alternative would leave appointment prerogative with the Governor, but transfer the educational responsibilities to the Department of State.

Finding 6. The Division of Licensing should remain part of the Department of State, and the firearms licensure programs currently performed by that division should not be transferred to the Florida Department of Law Enforcement or to the Department of Business and Professional Regulation. The former agency does not appear to have sufficient technology to continue the strong enforcement currently provided by the department, and the latter agency may have potentially conflicting regulatory responsibilities in these areas. Much of the public testimony presented to the task force was directed to and in support of this recommendation.

⁷Several examples of this “synergy” include: (a) the various divisions serve as a recognized repository of public records. The Division of Elections keeps all official acts of the governor and legislature, as well as elections records. The Division of Libraries and Information Services serves as the State Records Center and the State Archives. Corporate and business records are maintained by the Division of Corporation; (b) the grant-making process utilized by the Divisions of Library and Information Services, Cultural Affairs and Historical Resources allow for the best practices to be developed and utilized throughout the Department; (c) the international affairs program works hand-in-hand with the Division of Historical Resources in promoting Florida internationally and in developing relations that provide the underpinning for economic development and trade; (d) the extensive use of informational technology throughout the department, especially between the Division of Corporations and the Division of Licensing serves an important cooperative and dependent relationship within the department.

Finding 7. The privatization of public records and archives has only been recently undertaken by one state. There do not appear to be any advantages to converting away from public management of records and archives at the present time, while the effects of such conversion on the maintenance of public access are unknown.

Finding 8. The educational "linkage institutes," currently administered under the Department of Education, could be better utilized and strengthened if transferred to the Department of State, Office of International Affairs.

Based upon the foregoing findings, the draft final report of the task force made the following recommendations.

**SECRETARY OF STATE
CONSTITUTIONAL TRANSITION TASK FORCE
RECOMMENDATIONS**

RECOMMENDATION

RATIONALE

There should continue to be a Department of State.

Revision 8 to the state constitution, as approved in November 1998, only removed the secretary of state as a voting member of the cabinet, in the name of "cabinet reform." There is nothing about the wording or history of this amendment that can be reasonably construed as an abolition of the department itself. In addition, this is a commonly used and understood term in the general public and international community.

The head of the Department of State should be known as the *Secretary of State*.

This is the name of the head of the Department of State in almost all of the other states, and is the most commonly understood title among foreign nations with whom the United States maintains diplomatic relations.

The Secretary of State should be appointed.

While Revision 8 itself does not prevent the election of a department head, other existing constitutional provisions probably do so, unless the department head is one of the enumerated ones.

The Governor should make the appointment of the Secretary of State.

While Revision 8 itself did not address the manner of appointing the head of the Department of State, a frequently stated reason in support of its passage was a greater empowerment of the Office of the Governor. An appointment by the Governor is consistent with this goal.

The appointment of the Secretary should be subject to Senate confirmation.

The appointment of all other department heads requires confirmation by the Senate.

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Those functions in the Executive Office of the Governor related to commissioning of notaries functions should be transferred to the Department of State.

Regulation of sweepstakes should be transferred to the Department of Agriculture and Consumer Services.

Filings of financial disclosure by public officials should be transferred to the Ethics Commission.

Linkage institutes in the Department of Education should be transferred to the Department of State's Office of International Affairs.

With the enhancements, transfers and technical changes recommended, the Department of State should continue to perform its existing functions.

Responsibilities for various functions related to the commissioning of notaries are divided between the Executive Office of the Governor and the Department of State and would be administered more efficiently if only one entity were responsible.

The Department of Agriculture and Consumer Services already performs most of the statutory direct consumer protection enforcement functions. As an alternative, the Department of State should contractually outsource this function.

The Ethics Commission already has the enforcement procedures and personnel to respond to any non-compliance. Currently, duties pass back and forth between the two entities, with the Ethics Commission preparing the forms for compliance and developing a list of all persons required to file financial disclosure. The Division of Elections' duties include mailing the forms, receiving them for filing, and preparing for the Ethics Commission a list of those who have failed to file the required disclosures. The system would be more efficient and effective if the Ethics Commission implemented the entire procedure.

These statutory links between some of Florida's public post-secondary educational institutions and various "favorite" nations have not been operating effectively, if at all, and can be better utilized as part of the department's increased role in international affairs.

Recommended Enhancements Include:

- Strengthening the department's role in international affairs.
- Transferring provisions in ch. 617, F.S., relating to homeowner associations, because the Division of Corporations has nothing to do with enforcement of the provisions.
- Eliminating duplication in retention schedules for public records.
- Codifying the Museum Advisory Council.
- Making nomination procedures for the "Great Floridians" program consistent.

C. EFFECT OF PROPOSED CHANGES:

Florida National Guard (sec. 1) (refer to HB 1861)

According to the Department of Military Affairs (DMA), the Florida National Guard Foundation (Foundation) is a not for profit corporation that has functioned in direct support of the DMA and the Florida National Guard (FNG) since 1983. A primary purpose of the Foundation is assisting FNG members and their families in times of need.

This bill creates a direct-support organization for the DMA, which makes the relationship between the DMA and the Foundation an official one. The direct-support organization created is permitted to rely on existing DMA resources, but the not for profit corporation status enables the organization to continue to be as self-sufficient as possible.

Department of State (ss. 2-4, 30-38, 44-61, and 64)

Effective January 7, 2003, modifies s. 15.01, F.S., to strike a reference to the constitutional duties of the Secretary of State, and which requires the offices of the Secretary of State to be located in the Capitol.

Effective January 7, 2003, modifies the definition of "cabinet" which is found in s. 20.03(1), F.S., to reflect the changes made by Revision No. 8. Specifically, it deletes the Secretary of State from the definition of "cabinet."

Effective January 7, 2003, amends s. 20.10, F.S., to provide that the Secretary of State will be appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor. Further, it provides that the Secretary of State will perform the functions conferred by the State Constitution upon the custodian of state records.

Effective July 1, 2001, amends s. 112.3144, F.S., to provide that an officer who is required to file a full and public disclosure of his or her financial interests for any calendar or fiscal year must file that disclosure directly with the Florida Commission on Ethics. Also, effective July 1, 2001, conforming changes are made to s. 112.3145, F.S., to provide that statements of financial interests are to be filed with the Commission on Ethics.

Effective July 1, 2000, amends s. 257.36, F.S., to include "district" within the definition of "agency" and to eliminate a requirement that each agency submit to the Division of Library and Information Services a list or schedule of records that are not needed in the transaction of current business and that do not have administrative, legal, or fiscal significance to warrant further retention by the agency. It also eliminates a requirement that such records be transferred, at the discretion of the division, for further retention and preservation or destroyed by its approval. It provides that a public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by the division.

Effective July 1, 2000, changes the name of the Florida History Associates, Inc. to the Museum of Florida History Foundation, Inc. Further, it provides that the ad hoc committee that nominates persons for the "Great Floridian" designation nominate not fewer than two persons. It removes the requirement that such nominees be living citizens. It also amends the requirement that production of a film on the "Great Floridian" begin after being designated as such.

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Effective July 1, 2000, amends s. 288.8175, F.S., to provide that Florida Linkage Institutes are created within the Department of State, instead of the Department of Education.

Effective January 7, 2003, amends s. 403.7145, F.S., to include the Secretary within those offices in the Capitol that participate in the recycling program.

Effective July 1, 2000, transfers provisions related to homeowners' associations from ch. 617, F.S. (regarding Corporations Not For Profit), to a new ch. 720, F.S. This makes it clear that DOS has no regulatory power over these organizations.

Effective July 1, 2001, amends s. 894.094, F.S., to require operators of game promotions to file a copy of rules and regulations with the Department of Agriculture and Consumer Services instead of with the Department of State. The \$100 filing fee which was previously deposited in the Division of Licensing Trust Fund accompanies each filing to the DACS.

Directs DOS to issue a concealed weapons license if the applicant is not prohibited from purchasing or possessing a firearm under federal law.

Requires the Secretary to review the Florida Statutes, identify any provisions which relate to the performance of constitutional or cabinet duties of the Secretary of State, and recommend changes to those sections of law to the President of the Senate and the Speaker of the House of Representatives.

Execution of Judgment Liens (ss. 5-29) (refer to CS/HB 1725)

The bill amends various provisions relating to debtors and creditors, generally effective October 1, 2001. It establishes a statutory framework for perfecting and prioritizing claims of judgment liens on personal property by replacing the current system of county-by-county filing of judgment liens on leviable personal property and incorporating liens supporting underlying child support orders and tax liens, with a statewide centralized filing database by October 1, 2003, requires the Department of State to establish and maintain this database; and provides for appropriations from the Corporations Trust Fund.

It revises and expands provisions governing notice, rights, and hearing procedures relating to writs of garnishment.

It provides a statutory form and process for filing a Notice of Homestead and for filing a declaratory action within 45 days to determine the validity of a homestead claim on property to be sold or mortgaged or to foreclose on lien against said property.

Additionally, the bill revises the initial recording and re-recording period for a judgment lien on real property from 7 years to 10 years. The bill provides for the transfer of increased trust funds from the Corporations Trust Fund to the Cultural Institutions Trust Fund and the Grants and Donations Trust Fund.

Motor Fuel Marketing Program (ss. 39-43) (refer to HB 2109)

Section 526.303(7), F.S., is amended to change the definition of nonrefiner cost. Under the new definition the adjusted invoice price cannot be less than the rack price of the nonrefiner's supplier or the imputed rack price if the nonrefiner's supplier does not have a posted rack price. This will tie the figuring of nonrefiner cost to the price actually paid by the nonrefiner's supplier at the rack. In certain circumstances, the nonrefiner cost will be higher than under the present statute. For example, in those instances where the

nonrefiner's adjusted invoice price is less than the rack price, the nonrefiner cost will be computed from the rack price, a net increase in cost. Where the adjusted invoice price is greater than the rack price (as happens when computing the nonrefiner cost via imputed rack price pursuant to s. 526.303(8), F.S.), the nonrefiner cost will be computed from the adjusted invoice price, again a net increase. The change in nonrefiner cost will provide retailers, competitors and government an easily identifiable starting point when computing nonrefiner cost. This will potentially reduce complaints and law suits by making clearer the factors used by nonrefiners to set their retail price.

The DACS will provide both investigation and prosecution under the bill, instead of the Department of Legal Affairs. Further, the annual report required pursuant to s. 526.3135, F.S., will now expressly be the responsibility of the Division of Standards within DACS.

Historic Pensacola Preservation Board of Trustees (ss. 62 and 63) (refer to HB 2317)

The bill also amends s. 266.0016, F.S., to authorize the Historic Pensacola Preservation Board of Trustees to enter into agreements to accept credit card payments as compensation, establish accounts in credit card banks for the deposit of credit card sales invoices, and permit the acceptance of tour vouchers issued by tour organizations or travel agents for payment of admissions.

The bill requires the Division of Historical Resources of DOS and the Historic Pensacola Preservation Board of Trustees, in conjunction with representatives from West Florida counties, municipalities, and postsecondary educational institutions, to develop a regionally based plan for the protection, preservation, restoration and promotion of historically significant sites, objects and landmarks to West Florida and to the state. Some requirements of the plan are outlined. A copy of the plan is required to be submitted to the President of the Senate and Speaker of the House of Representatives by no later than January 1, 2001.

The bill may have a small fiscal impact on DOS and the Historic Pensacola Preservation Board of Trustees as it relates to the plan preparation.

Ringling Museum of Art (ss. 65-69)

The John and Mable Ringling Museum of Art is transferred from their board of trustees in the Department of State to the Florida State University. The bill creates the Florida State University Center for Cultural Arts, consisting of the Ringling Museum of Art (art museum, Ca' d'Zan, and Museum of the Circus) and the Florida State University Center for the Fine and Performing Arts (Asolo Theater and the Center for the Performing Arts). The university shall approve a direct support organization.

Except as otherwise provided, the bill provides for an effective date of July 1, 2000.

D. SECTION-BY-SECTION ANALYSIS:

Please see section II. C., Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

As the bill merges some functions related to public officer and employee filings of financial interests, which are currently located in the Commission on Ethics as well as DOS, there could be a yet undetermined decrease in costs. The bill transfers responsibility for game promotions from DOS to the Department of Agriculture and Consumer Services, transfers responsibility for linkage institutes from the Department of Education to DOS, and transfers enforcement of the motor fuels marketing program from the Department of Legal Affairs to DACS. These transfers would not have a significant fiscal impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require the counties or cities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that cities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with cities or counties.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 28, 2000, the Senate adopted several amendments, including those related to the Ringling Museum and the Historic Pensacola Preservation Board of Trustees. On May 5, 2000, the House adopted several amendments, including the substance of HB 1861 (Florida National Guard), HB 2109 (Motor Fuel Marketing Program), and HB 1725 (Execution of Judgment Liens), to which the Senate concurred, and which is the text of this enrolled bill.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Douglas Pile

Russell J. Cyphers, Jr.

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Douglas Pile

Russell J. Cyphers, Jr.