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DATE: April 20, 2001

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE
COUNCIL FOR READY INFRASTRUCTURE
ANALYSIS**

BILL #: CS/HB 987
RELATING TO: Grants Administered by the Division of Cultural Affairs
SPONSOR(S): Committee on Tourism and Representative(s) Rubio & others
TIED BILL(S): None

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

- (1) TOURISM YEAS 6 NAYS 0
 - (2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 14 NAYS 1
 - (3) COUNCIL FOR READY INFRASTRUCTURE YEAS 18 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

The bill provides a selection and funding process for providing grants for the renovation, construction, or acquisition of cultural facilities that are primarily engaged in cultural programs that have a regional service area; education programs of excellence and facilities, space and staff dedicated to delivery of cultural programs; and present cultural programs or exhibits of national or international renown or reputation. These facilities must have a documented proposed acquisition, renovation, or construction cost of at least \$50 million. For various reasons, these facilities do not qualify for existing grant programs under the Department of State (Department) or are not able to receive the level of benefits needed by the facilities. Potential grant recipients are limited to counties, municipalities, or qualified not-for-profit corporations.

The bill establishes guidelines for funding and match requirements. An annual grant may not exceed the lesser of \$2.5 million or 10 percent of the total project cost. Total state funding for a grant for a single project may not exceed the lesser of \$10 million in a 5-year period or 10 percent of the total project cost. The total cost of the facility must be calculated for the primary scope of the submitted proposal and is not to include the cost of additions. The grant recipient must match \$2 to every \$1 of state funding awarded through this program. State funds from other sources cannot count toward the match, and in-kind contributions may be counted toward 50 percent of the match. The Division of Cultural Affairs may adopt rules pertaining to grants for these facilities. The bill provides three levels of application, with varying match requirements, for the challenge grant program: local, regional, or state impact. Certain programs operated in state-owned cultural facilities are not eligible.

The bill does not contain a specific appropriation for grants to be funded. The Department indicated it would present the new grant as an additional funding request in future budget requests. Staffing and administrative costs related to the bill are minimal.

The bill has an effective date of July 1, 2001.

On April 20, 2001, the Council for Ready Infrastructure adopted two amendments to the bill. Please see Section VI of the analysis.

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:

In 1988, s. 265.701, F.S., created the Cultural Facilities Program of the Division of Cultural Affairs (Division) of the Department of State. The program provides for the Division 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. 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, is allowed to receive contributions pursuant to the provisions of s. 170 of the Internal Revenue Code, and is incorporated as a not-for-profit corporation pursuant to Chapter 617, F.S. The Florida Arts Council is required to review the applications and to make recommendations, in priority order, to the Secretary of State. The Division allocates grants only for approved projects or projects for which funds are appropriated by the Legislature. Approved projects not funded by the Legislature are retained on the project list for the following grant cycle. This section of law gives the Division the authority to adopt rules relating to criteria for recommendations for grant awards and for administration of the grants.

According to Division rules, a "cultural facility" means a building which houses an organization whose primary function is the programming, production, presentation, exhibition or any combination of the above functions of any of the cultural disciplines, such as: music, dance, theatre, creative writing, literature, painting, sculpture, folk arts, photography, crafts, public media, and historical and science museums.

The funding limitations are as follows:

- Maximum grant amount which may be requested is \$500,000;
- An applicant or facility cannot receive more than \$1.5 million within 5 consecutive fiscal years. Applicants or facilities reaching the cap during the 5-year period are required to wait at least one year before re-applying.

A match is required. For every one dollar the state provides for the project, the applicant must provide at least two dollars as match. Of the matching funds, at least 50 percent must be in cash. No state funds from other sources can be used as match.

Section 265.286(4), F.S., authorizes the Division of Cultural Affairs to develop and conduct a challenge grant program available to cultural institutions or groups of institutions that have regional or statewide impact. These grants cannot be less than \$10,000 and matching moneys must be at least a basis of 3 to 1, with the institution providing the higher amount in the ratio. The purpose of

the grant program is to support significant projects designed as a new initiative, or a program of an innovative or unique nature and is not intended for continuation programming. Grants are awarded on a competitive basis considering the extent of organizational impact, proposed project quality and feasibility, impact of funding, and ability to match. A peer review panel evaluates applications and makes funding recommendations to the Florida Arts Council. The Council reviews panel reports and advises the Secretary of State on grant program funding allocations. The Legislature appropriated \$300,000 in FY 2000-01 for the challenge grant program.

According to the Division of Cultural Affairs, there has been an indication of a growing need for funding opportunities for projects of great value at the local level where resources are not available to meet the 3 to 1 cash match requirements as well as difficulty for those projects that are of a regional or greater scope but have support needs far beyond the current program funding limitations. Additionally, the Division has had recurring contacts from organizations around the state seeking matching funds to take advantage of private sector funding sources and investment programs.

C. EFFECT OF PROPOSED CHANGES:

The bill creates s. 265.702, F.S. and provides a statutorily-based selection and funding process for providing grants for the renovation, construction, or acquisition of cultural facilities that are primarily engaged in cultural programs and that have a regional service area; education programs of excellence and facilities, space and staff dedicated to delivery of cultural programs; and, present cultural programs or exhibits of national or international renown or reputation. A regional cultural facility must have a documented proposed acquisition, renovation, or construction cost of at least \$50 million. These facilities, either because of the length of funding needs or the amount of funding needs above \$500,000, either do not qualify for existing grant programs under the Department of State (Department) or are not able to receive the level of benefits needed by the facilities. Potential grant recipients are limited to counties, municipalities, or qualified not-for-profit corporations.

As with other existing processes for cultural grants, the Florida Arts Council reviews applications for grants and makes recommendations for grant awards to the Secretary of State. The Division will assist in the administration of the grants that are funded by the Legislature.

The bill establishes guidelines for funding and match requirements. An annual grant may not exceed the lesser of \$2.5 million or 10 percent of the total project cost. Total state funding for a grant for a single project may not exceed the lesser of \$10 million in a 5-year period or 10 percent of the total project cost. The total project cost is required to be calculated on the primary scope of the original submitted proposal and is not to include the cost of additions that change the original scope of the facility. The grant recipient must match \$2 to every \$1 of state funding awarded through this program. State funds from other sources cannot count toward the match, and in-kind contributions may be counted toward 50 percent of the match. The Division may adopt rules pertaining to grants for these facilities and to the administration of the new section created by this bill.

The bill also amends s. 265.286(4), F.S., to expand the funding categories in the challenge grant program. Three levels of application are provided, local, regional, or state impact, with varying match requirements. The match levels are as follows: local project is 1:1; regional project is 2:1; and state or capital project is 3:1. The state or capital projects category encompasses two types of activity: larger grants for cultural projects of statewide significance and grants designed to leverage new funding sources and encourage community-wide capital project initiatives in partnership with local community foundations or similar nonprofit fiduciary entities. Certain programs operated in state-owned cultural facilities are not eligible.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 265.702, F.S., to provide a mechanism for selection of and funding of renovation, construction, or acquisition of cultural facilities that have regional service, education programs of excellence dedicated to cultural programs, and present cultural programs or exhibits of national or international renown or reputation.

Subsection (1) authorizes the Division to accept and administer funds to provide grants to counties, municipalities, or certain nonprofit corporations for acquiring, renovating, or constructing regional cultural facilities.

Subsection (2) states that only a county, municipality or qualified nonprofit corporation can qualify to apply for grants. A "qualified corporation" is defined as a not-for-profit corporation incorporated under Chapter 617, F.S., that is designated as not-for-profit under s. 501(c)(3) or (4) of the Internal Revenue Code and is also allowed to receive contributions under s. 170 of the Internal Revenue Code.

Subsection (3) requires that any entity owning an interest in the land on which a regional cultural facility is located must be a county, municipality or qualified corporation. The subsection also requires any state grant awarded to be matched on a ratio of \$2 from the entity receiving the award for every \$1 of money awarded.

Subsection (4) requires the Florida Arts Council to review applications for grants and submit the applications and recommendations of the Council, in priority order, to the Secretary of State. Grants are to be made based upon approval of the Secretary or upon legislative appropriation. Grant applications that are recommended by the Secretary but not funded by the Legislature stay on the project list for the following grant cycle only. Additional information is to be provided by the applicant.

Subsection (5) defines "regional cultural facility." Any existing or proposed fixed facility primarily engaged in cultural programs must have the following in order to be considered such a facility: a regional service area of a 150-mile radius of its location; education programs of excellence; present programs or exhibits of national or international renown or reputation; and a documented proposed acquisition, renovation, or construction cost of at least \$50 million.

Subsection (6) delineates requirements regarding matching funds.

Subsection (7) limits the maximum amount of a grant which may be awarded in a single year to the lesser of \$2.5 million or 10 percent of the total cost of the facility and limits the maximum of a grant over a 5-year period to the lesser of \$10 million or 10 percent of the total costs of a facility.

Subsection (8) provides for rulemaking by the Division.

Section 2. Amends s. 265.286(4), to expand the eligible categories for funding under the challenge grant program and to provide for varying match requirements. The section is also amended to make any program operated in a state-owned cultural facility that is not affiliated with the State University System ineligible for grant participation.

Section 3. Provides an effective date of July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Funding is not specified in the bill. Only the process for funding the grants is established. Certain minimum and maximum grant levels are established in the bill.

According to the Department, the grant program established in s. 265.702, F.S., and the changes to the challenge grant program in the amendments to s. 265.286(4), F.S., will have only a minimal effect on staffing and other administration responsibilities for the grants and will require no additional funding for these activities with the exception of a minimal amount for staff time and costs involved in setting up rules and guidelines for the program. The Department also indicated that it will present the regional cultural facilities grant program an additional funding request in its future budget requests as it does for other grant programs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

If a local government chooses to participate in the regional cultural facilities grants, then state money, if appropriated, would be available to help with the acquisition, construction, or renovation of such facilities. The maximum amount of a grant that may be awarded in a single year is limited to the lesser of \$2.5 million or 10 percent of the total cost of the facility and limits the maximum of a grant over a 5-year period to the lesser of \$10 million or 10 percent of the total costs of a facility. Restrictions on funding are provided in the bill.

If a public entity governed by a local government chooses to participate in the challenge grant program under the expanded criteria and match requirements of the bill, then state money, if appropriated, would be available to help projects eligible to be funded through this program. Additionally, more resources might be available to such programs through the ability to leverage new funding sources through community-wide capital project initiatives.

2. Expenditures:

If a local government chooses to participate in the regional cultural facilities grants, then the local government will be required to match each \$1 of state funding with \$2 of local match.

If a public entity governed by a local government chooses to participate in the challenge grant program as amended by the bill, then there will be a required match ranging from \$1 of state funding to \$1 dollar of match up to \$1 of state funding to \$3 of match.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If a "qualified corporation" as defined in the bill were to participate and to be approved for a grant, then state money, if appropriated, would be available to help with the acquisition, construction, or renovation of such facilities. The maximum amount of a grant that may be awarded in a single year is limited to the lesser of \$2.5 million or 10 percent of the total cost of the facility and limits the

maximum of a grant over a 5-year period to the lesser of \$10 million or 10 percent of the total costs of a facility. The qualified corporation would be required to match each \$1 of state funding with \$2 of funding from the corporation.

The expanded eligibility criteria, varying match, and ability to leverage new funding sources and encourage community-wide capital project initiatives in partnership with community foundations or similar nonprofit fiduciary entities in the challenge grant program provides the potential for greater private sector participation and the expansion of projects funded. Any increase in participation is based upon the appropriation of funds by the Legislature.

D. FISCAL COMMENTS:

Funding is not specified in the bill. Only the process for funding the grants is established. With regard to regional cultural facilities grants, maximum grant levels for single grants are established in the bill for a single year and for over a 5-year period.

According to the Department of State, the new grant program and the expansion of the challenge grant program will have only a minimal effect on staffing and other administration responsibilities for the grants and will require no additional funding for these activities with the exception of a minimal amount for staff time and costs involved in setting up rules and guidelines for the new program and any changes in rules needed for the challenge grant program. The Department also indicated that, if passed, it will present the regional cultural facilities grant program as an additional funding request in its future budget requests as it does for other grant programs.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The Division may adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., prescribing the criteria to be applied to applications for grants and rules providing for the administration of the newly created section on regional cultural facility grants.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 20, 2001, the Committee on Tourism passed the bill as a committee substitute. The following changes were made:

- Corrects the language relating to the use of in-kind match as a percentage of required local match for state dollars in the newly created section relating to regional cultural facilities;
- Provides that the regional cultural facilities grant process would apply to cultural programs versus only those primarily engaged in the arts;
- Expands the eligibility criteria for funding under the Challenge Grant Program and provide varying match requirements for those levels. Three levels of application are provided, local, regional, or state impact, with varying match requirements. The match levels are as follows: local project is 1:1; regional project is 2:1; and state or capital project is 3:1. The state or capital projects category encompasses two types of activity: larger grants for cultural projects of statewide significance and the second for providing grants designed to leverage new funding sources and encourage community-wide capital project initiatives in partnership with local community foundations or similar nonprofit fiduciary entities;
- Amends the Challenge Grant Program criteria in s. 265.286(4), F.S., to make any program operated in a state-owned cultural facility that is not affiliated with the State University System ineligible for grant participation; and
- Changes the title to an act relating to grants administered by the Division of Cultural Affairs.

On April 20, 2001, the Council for Ready Infrastructure adopted two amendments to the bill. These amendments:

- Decreased the radius of each facility's service area from 150 miles to 90 miles; and
- Reduced the required minimum proposed acquisition, renovation and construction cost of each facility from \$50 million to \$20 million.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Judy C. McDonald

Staff Director:

Judy C. McDonald

AS REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT
APPROPRIATIONS:

Prepared by:

Kurt W. Hamon

Staff Director:

Eliza Hawkins

AS FURTHER REVISED BY THE COUNCIL FOR READY INFRASTRUCTURE:

Prepared by:

C. Scott Jenkins

Council Director:

Thomas J. Randle

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