

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 2114

SPONSOR: Senator Clary

SUBJECT: Historic Preservation

DATE: April 6, 2001

REVISED: 04/10/01 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

The bill amends Chapter 267, F.S., relating to historical resources, to accomplish the following:

- < Combine Florida National Register Review Board and Historic Preservation Advisory Council into a new advisory body, the Florida Historical Commission; reduce membership; provide member selection by Governor, Senate President, and Speaker; and specify commission duties to be similar to combined entities with the exception of review of certain grants. Initial costs savings of \$7,100 in FY 01-02.
- < Provide for establishment and use of grant review panels to assist in review of museum grants and non-special category historic preservation grants-in-aid.
- < Define special category grants-in-aid and require review by Florida Historical Commission.
- < Reorganize chapter to make it easier to locate provisions relating to: powers and duties of the Division of Historical Resources (division); historical museum grants; Great Floridians Program; State Historical Marker Program; State Historical Marker Council (reduced membership); and, objects of historical or archaeological value.
- < Bring law into compliance with National Historic Preservation Act of 1966, as amended.
- < Authorize division to exercise right of trademark and service mark for two publication titles.
- < Amend s. 267.13, F.S., to redefine the restitution the court may order for certain actions relating to archaeological sites or specimens.
- < Add public policy statements regarding archaeological sites and objects of antiquity.
- < Effective July 1, 2001, require contract with University of West Florida (UWF) for management of state-owned properties managed by the Historic Pensacola Preservation Board of Trustees (HPPB); transfer records, personnel, certain property, and appropriations, allocations and other funds to UWF; provide powers and duties

associated with transfer; provide certain bid and surplus property exemptions; provide eligibility for matching state funds; authorize Department of State to contract with UWF to be a regional office. FY 01-02 budget request for board is \$1.05 million.

- < Effective July 1, 2001, transfer HPPB direct-support organization (DSO) to serve as University of West Florida DSO to assist in historic preservation activities and historic preservation education initiatives; provide for expanded membership; delineate responsibilities.

The bill amends the following sections of the Florida Statutes: 267.031, 267.061, 267.0612, 267.0617, 267.062, 267.072, 267.081, 267.13, 267.14, 267.0018, 607.1901, and 872.05.

The bill creates the following sections of the Florida Statutes: 267.0619, 267.073, 267.074, 267.0743, 267.115 and 267.173.

The bill repeals the following sections of the Florida Statutes: 266.00001, 266.0011, 266.0012, 266.0013, 266.0014, 266.0015, 266.00155, 266.0016 and 266.0017.

## II. Present Situation:

The Department of State (DOS) is headed by the Secretary of State. The DOS has approximately 758 FTEs and an annual budget of about \$150 million. 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.

**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 about 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.

**Historic Pensacola Preservation Board of Trustees** - Additionally, the Historic Pensacola Preservation Board is under the DOS. This board is created within the DOS to preserve, maintain, and operate objects of historical or antiquarian interest of the City of Pensacola and Escambia County. There are about 14 FTEs supporting this program in the DOS.

Under chs. 266 and 267, F.S., the duties and responsibilities of the DOS in the area of historical preservation are delineated. Chapter 266, F.S., pertains to the historic preservation boards and the department's role with the boards. The primary chapter of law in which all aspects of the state's responsibilities in historic preservation are contained in ch. 267, F.S. Specifically, these are directed to the Division of Historical Resources of the department to carry out on behalf of the state.

Not only are Florida's historic preservation initiatives governed by state law but also by the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470). The federal law sets forth the requirements for state historic preservation programs, both structure and responsibilities. It also provides for both direct grants and for matching grants to the states with funds appropriated annually by Congress. A state historic preservation program must be approved by the Secretary of the Interior. One requirement of the program is the designation of a State Historic Preservation Officer by the Governor to administer the programs for the state. Another is the requirement for a state historic preservation review board and for citizen input into the state's historic preservation efforts (Florida's National Register Review Board and the state's Historic Preservation Advisory Council). Additionally, the responsibilities of the State Historic Preservation Officer are delineated in the federal law as well as the requirement for a comprehensive statewide historic preservation plan. The requirements of the federal law and the means to address those requirements are found throughout ch. 267, F.S.

Chapter 267, F.S., sets forth the state policy for historic preservation, addresses the requirements of the federal law, and charges the Division of Historical Resources with encouraging the identification, evaluation, protection, preservation, collection, conservation and interpretation of and public access to information about Florida's historic sites, properties and objects related to Florida history and to archaeological and folk cultural heritage. The division is required to administer public information programs, the statewide historic preservation plan, the operation of historic sites and properties, and state and federal grants for historic preservation. Additionally, the law requires the maintenance and operation of Florida's state historic museums, the administration of museum grants, promotion of various archaeological research and preservation programs, including a historic marker program.

There are several statutorily required advisory councils appointed by the Secretary of State: Historic Preservation Advisory Council, State Historical Marker Council, Florida Folklife Council, and Grove Advisory Council. Although not statutorily required, the Secretary appoints an Ad Hoc Historic Museum Grants Advisory Committee to assist in the statutory museum grants responsibilities.

**Current Statutory Structure of Chapter 267, F.S.** - The current law is not consistent in places with the National Historic Preservation Act. Additionally, as structured, the law combines

multiple topics (programs, grants, councils, etc.) under one section with no readily identifiable break between areas making it difficult to locate needed information.

**Department of State: Historic Preservation Boards and Regional Offices** - Prior to 1997, ch. 266, F.S., authorized Historic Preservation Boards in St. Augustine, Tallahassee, Palm Beach County, Tampa-Hillsborough, the Florida Keys, Broward County, and Pensacola, along with their respective direct-support organizations. In 1997, all but the Pensacola board were repealed. The state properties in the Florida Keys and Tallahassee were to be managed under contract between the Department of State and private not-for-profit organizations. The department entered into a contract with the City of St. Augustine to manage the properties in that area. The Broward County board had been nonexistent for several years. The Department of State was directed to establish regional offices with expanded jurisdictions in which to provide historic preservation services in the areas of Palm Beach County, Tampa-Hillsborough County, and St. Augustine. Authority was given for the establishment of other regional offices, if needed.

Chapter 2000-258, Laws of Florida, required the Division of Historical Resources of the Department of State and the Historic Pensacola Preservation Board of Trustees (board), 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 sites, objects, and landmarks of historical significance to West Florida and the state. Among other things, the plan was required to address the needs of the area, recommendations concerning long-term management of resources under the board, and recommended statutory changes and budgetary considerations. The plan was presented to the President of the Senate and the Speaker of the House of Representatives on February 1, 2001.

**Historic Pensacola Preservation Board of Trustees and Historic Pensacola, Inc.** - Part II of ch. 266, F.S., creates the Historic Pensacola Preservation Board of Trustees (board) within the Department of State (department). The department monitors the effectiveness of all programs of the board and oversees the board to ensure that it complies with state laws and rules. The board is the governing body in the Pensacola and Escambia County area for historic properties and is delegated powers by the department. The purposes and functions of the 7-member board include the following:

- < restoring, preserving, maintaining, reconstructing, reproducing, and operating for the use, benefit, education, recreation, enjoyment, and general welfare of the people of this state and nation certain ancient or historic landmarks, sites, buildings, etc., and other objects of historical or antiquarian interest of the City of Pensacola and Escambia County; and
- < researching, preparing, publishing, and procuring for the use and benefit of the general public books, reports, articles, pamphlets, brochures, documents, maps, photographs, films, sound recordings, etc., in furtherance of the protection and preservation of and the dissemination of information about historic sites and properties, persons, places, events, objects, etc., pertaining to Florida history to be used by the board or made available by the board for others.

The board manages 25 state-owned properties in Pensacola and Escambia County.

Section 266.0016, F.S., delineates some of the powers delegated to the board by the department. These include hiring a manager and staff; adopting a seal; contracting authority, including making and entering into all contracts necessary to perform its duties; establish a process for suing and being sued; establishing an office in or near Pensacola; acquiring, holding, leasing, and disposing of personal property; planning buildings and improvements, demolishing existing structures, and constructing, reconstructing, altering, repairing, and improving its facilities; contracting with consultants; drafting a historical plan of development for the City of Pensacola and Escambia County; cooperating and coordinating all its activities with any statewide commission and participating in any overall statewide plan of historic development; cooperating with national projects of historical development; and, researching, preparing publishing and procuring materials to meet its second purpose stated above. Other delegated powers described relate to:

- < engaging in any lawful business or activity to establish, maintain, and operate the facilities under the board, such as selling craft products and merchandise relating to historical and antiquarian Pensacola and surrounding territory, and rental or leasing of property;
- < fixing and collecting charges for admission to facilities owned and maintained by the board;
- < authorizing the 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,
- < permitting the acceptance of tour vouchers issued by tour organizations or travel agents for payment of admissions.

Section 266.0018, F.S., provides that the board may authorize a direct-support organization (DSO) to assist the board in carrying out its purposes by raising money; submitting requests for and receiving grants from the Federal Government, the state or its political subdivisions, private foundations, and individuals; receiving, holding, investing, and administering property; and making expenditures to or for the benefit of the board. The sole purpose of the DSO is to support the board. Moneys may be held in a separate depository account in the name of the DSO and subject to the provisions of the contract with the board. These moneys include such things as membership fees, private donations, income derived from fundraising activities, and grants applied for and received by the DSO. Moneys received from admissions to and rentals of facilities and properties managed by the board are deposited by the DSO into an account. The DSO is required by s. 266.0018(7), F.S., to provide for board review and approval an annual financial and compliance audit of its financial accounts and records prepared by an independent certified public accountant in accordance with board rules. Upon approval, the board is to certify the audit to the Auditor General for review.

The DSO, incorporated as Historic Pensacola, Inc., owns property, has its own accounts, and has entered into contracts and grant agreements. Staff support for the DSO is provided by the board.

### **III. Effect of Proposed Changes:**

The bill amends ch. 267, F.S., relating to the state's and Department of State's role and responsibilities in the area of historic preservation, to accomplish the following:

- < Provide greater clarity and readability of the law by reorganizing the chapter to place related provisions together in one section, to place distinct programs in separate, easily identifiable sections of law, and to clarify responsibilities for grant review;
- < Correct discrepancies between the law and the National Historic Preservation Act of 1966, as amended;
- < Consolidate the Historic Preservation Advisory Council and the Florida National Register Review Board, which are appointed by the Secretary of State, into a newly created Florida Historical Commission with a much smaller membership (21 to 11) that is appointed by the Governor, President of the Senate and Speaker of the House of Representatives, and which has very specific advisory responsibilities in the chapter which reduce or eliminate the need for various other advisory entities;
- < Permit the use of grant review panels, chaired by a member of the commission, to assist in application review and recommendation for museum grants and non-special category historic preservation grants-in aid in order to maximize the expertise of individuals and to better utilize the time of the commission; and,
- < Authorize the exercise of trademark and service mark for two publication titles.

Additionally in the changes to ch. 267, F.S., the bill addresses protection and preservation of archaeological sites and objects of antiquity in two ways. First, it strengthens public policy statements regarding such protection and preservation. In response to problems regarding the damaging or robbing of such sites and objects, the bill changes the value elements that a court is to consider when ordering restitution and defines the value components to be considered. Finally, ss. 607.1901(2)(h) and 872.05(2)(e), F.S., are amended to correct cross-references to ch. 267, F.S. All of these changes take effect January 1, 2002.

Effective July 1, 2001, the bill repeals all language relating to historic preservation boards in ch. 266, F.S., with the exception of s. 266.0018, F.S., relating to the direct-support organization for the Historic Pensacola Preservation Board of Trustees, which is amended, transferred, and renumbered as s. 267.1732, F.S. The direct-support organization, as amended, serves the University of West Florida in its historic preservation efforts and initiatives, part of which is the management of state-owned properties previously managed by the Historic Pensacola Preservation Board of Trustees. Effective July 1, 2001, ch. 267, F.S., is amended to require the Department of State to contract with the University of West Florida for the management of the state-owned properties managed by the Historic Pensacola Preservation Board of Trustees prior to July 1, 2001, and authorizes contracting with the university to serve as a regional office for West Florida. Goals for contracting with the university, use of proceeds derived from those properties, and transfers of property, funds, records, and personnel for the purpose of advancing historic preservation are provided. Both broad and specific powers and duties of the university and its direct-support organization are delineated. Specific exemptions from ss. 273.055 (surplus property) and 287.057 (competitive bid), F.S., are given to the university for historic preservation purposes. Language is added stating that the university and its direct-support organization are eligible to match state funds in the Trust Fund for Major Gifts under s. 240.2605, F.S.

Finally, the bill preserves the validity of any judicial or administrative action pending as of July 1, 2001, and provides that the Department of State shall be substituted for the Historic Pensacola Preservation Board of Trustees as the party of interest on that date.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The bill requires the transfer of all records, personnel, property (other than real property held under lease by the Department of State from the Board of Trustees of the Internal Improvement Fund), and unexpended balances of appropriations, allocations, or other funds of the Historic Pensacola Preservation Board to the University of West Florida.

The fiscal amounts noted are based on the assumption that the amount for the Historical Pensacola Preservation Board of Trustees is the amount that will be transferred to the University of West Florida. The General Revenue impact for FY 2001-2002 is \$1,047,825, which includes \$396,000 in fixed capital outlay, \$64,338 in risk management, \$507,029 in salaries and benefits, \$27,154 in expenses, and \$53,304 in OPS. The money, although reduced from the Department of State's budget, is needed for the properties to be managed via contract between the Department of State and the University of West Florida. According to the Department of State, the Florida Historical Commission will result in a reduction of \$7,100 in expense money required for FY 2001-2002 from the Operating Trust Fund.

<b>Expenditures:</b>	2000-01	2000-02
Division of Historical Resources (Reduction related to Florida Historical Commission)		
 Operating Trust Fund Expenses	 (\$7,100)	
 Historic Pensacola Preservation Board (Transfer to University of West Florida; contract with Department of State for management of properties)		
 General Revenue		
Salaries and Benefits	\$ 507,029	
Expenses	27,154	
OPS	53,304	
Risk Management	64,338	
Fixed Capital Outlay	396,000	
TOTAL GENERAL REVENUE	\$1,047,825	
Number of FTE: 14		

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Governmental Oversight & Productivity Committee:  
 Authorizes legislative appointees to serve as the legislative historic preservation advisory body to the Senate President and Speaker of the House of Representatives with respect to the collection and preservation of the historic records of the Legislature.