

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 505 Abrogating Offensive Place Names
SPONSOR(S): Representative Joyner
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 444

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	_____	<u>Morris</u>	<u>Cutchins</u>
2) <u>Local Government & Veterans' Affairs</u>	_____	_____	_____
3) <u>State Administration</u>	_____	_____	_____
4) <u>Trans. & Economic Development Approp.</u>	_____	_____	_____
5) <u>Appropriations</u>	_____	_____	_____

SUMMARY ANALYSIS

This bill requires the Florida Historical Commission and the Division of Historic Resources of the Department of State to aid state agencies and local governments in identifying geographic sites that have offensive or derogatory place names and to find replacement names. The division is required to select replacement names and to file a formal request with the United States Board on Geographic Names to render a decision on the proposed name change so that new names will be reflected on official maps. Further, the division is required to notify specified state agencies as to name changes to ensure that markers, maps, and informational literature reflect the changes.

The bill also requires political subdivisions that own or manage public land, water, or structures in Florida to identify any geographic sites under its jurisdiction which contain offensive or derogatory place names and inform the commission of those sites. The political subdivision shall at the same time recommend a replacement name.

The bill requires replacement of offensive or derogatory place name markers or maps only when the entity updates a map or replaces a sign, interpretive marker, or any other marker because of wear or vandalism, not upon identification and alternative naming.

According to an economic impact analysis performed by the Department of State, the bill would cost the department in fiscal year 04-05 approximately \$50,689.57.

This bill creates section 267.0625, of the Florida Statutes:

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0505.lgv.doc
DATE: March 12, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

The *Tallahassee Democrat* reported on November 17, 2003, that a rural Florida bridge in Hendry County bore the offensive name of a character in Mark Twain’s “The Adventures of Huckleberry Finn.” This place name was found by a search on the U.S. Board of Geographic Names, though the pejorative term was replaced with the word “Negro.” The *Tallahassee Democrat* also reported that there are 13 places in Florida with names like “Negro Cove, Negro Island, and Negro Camp Island,” according to Roger Payne, executive secretary of the U.S. Board of Geographic Names.

A few states have their own naming boards, Florida is not among them. However, the United States Board on Geographic Names (BGN) is an interagency board established by federal law to standardize geographic name spellings for use in U.S. Government publications.

The bill states Legislature findings that certain place names for geographic sites are offensive or derogatory to the state’s people, history, and heritage and should be replaced by names that reflect the state’s people, history, and heritage without resorting to offensive stereotypes, slurs, names, words, or phrases.

The bill provides definitions for three terms including, “commission,” which is defined as the Florida Historical Commission within the Department of State. The term “geographic site” is defined to mean a location or structure in Florida that includes, but is not limited to, rivers, bodies of water, roads, bridges, buildings, geographic features, and parks. The term “offensive or derogatory place name” means a name deemed offensive on the basis of race, religion, creed, gender, sexual orientation, or national origin.

Under the provisions of the bill, the Florida Historical Commission is assigned the responsibility for assisting the Division of Historical Resources in consulting with state agencies and political subdivisions in order to identify and inventory all public lands, waters, structures, and other geographic sites having offensive or derogatory place names, and to recommend replacement names that reflect the state’s diversity and culture.

The bill also requires each state agency that owns or manages public land, waters, or structures in Florida to identify geographic sites under its jurisdiction which contain offensive or derogatory place names and inform the commission of those geographic sites by October 1, 2004.

The bill also requires each political subdivision that owns or manages public land, waters, or structures in Florida to identify any geographic sites under its jurisdiction which contain offensive or derogatory place names by October 1, 2004, and inform the commission of those sites. The political subdivision shall at the same time recommend a replacement name. Pursuant to s. 177.142, F.S., local governing bodies are currently authorized to change, by ordinance, the name of a subdivision, street, or other

name appearing on a recorded plat, map, or an unrecorded map maintained by the clerk of the circuit court.

The division is required to compile the reports it receives and send a copy to the commission. The commission is required to recommend to the division, by January 1, 2005, a new name for each geographic site to replace the offensive or derogatory place name. The division is required to choose a new name for the geographic site by March 1, 2005.

The division is required to ensure that whenever an agency updates a map or replaces a sign, interpretative marker, or any other marker because of wear or vandalism, the offensive or derogatory place name is removed and replaced with the name chosen by the division.

The bill also requires the division to notify specific agencies that compile information for, or develops maps or markers for the state, of the name change so that it may be reflected on subsequent editions of any maps, informational literature, or markers produced by those entities. Further, the bill requires the division to place a formal request with the U.S. Board on Geographic Names to render a decision on the proposed name change so that the new name will be reflected on official maps.

The bill requires replacement of offensive or derogatory place name markers or maps only when the entity updates a map or replaces a sign, interpretive marker, or any other marker because of wear or vandalism, not upon identification and alternative naming.

The bill contains an exception that it does not apply to a geographic place name that is the same as the name of a historic person or event or that is not a pejorative place name.

The bill has an effective date of July 1, 2004.

C. SECTION DIRECTORY:

Section 1 creates s. 267.0625, F.S., relating to the abrogation of offensive and derogatory geographic place names.

This section provides that the Legislature finds that certain place names for geographic sites offensive or derogatory to the state's people, history, and heritage. The section provides that if the commission finds that these offensive or derogatory, such names should be replaced by names that reflect the state's people, history, and heritage without resorting to offensive stereotypes, slurs, names, words, or phrases.

Section 1 provides definitions for implementation. The following terms are defined: (1) commission; (2) geographic site; and (3) offensive or derogatory place name.

This section also provides the duties, responsibilities, and obligations of the Florida Historical Commission, Division of Historical Resources, and all political subdivisions and each state agency that owns or manages public lands, waters, or structures in Florida.

Section 1 also specifies filing and reporting dates for governmental entities involved with identifying and renaming offensive place names.

Section 2 provides that this act shall take effect on July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to an economic impact analysis performed by the Department of State, the bill would cost the department in fiscal year 04-05 approximately \$50,689.57.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

No significant impact.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

The bill provides that the Legislature finds certain place names for geographic sites offensive or derogatory to the state's people, history, and heritage. The bill, however, does not specifically identify those offensive or derogatory place names, a method that would establish clear legislative intent. Instead, identification of offensive and derogatory place names is delegated to an agency. A statute that provides legislative authorization must be complete in itself,¹ must declare the legislative policy and standard,² and must operate to limit the delegated power.³ As currently written, this bill could be challenged as an invalid delegation of legislative authority because the stated legislative policy or standard could be determined to be so subjective that it does not limit the delegated power.

B. RULE-MAKING AUTHORITY:

As the Department of State is an agency as defined in s. 120.52(1), F.S., action by the department under this act would be either by rule or order, either of which could be challenged pursuant to the provisions of the Administrative Procedure Act.

¹ *Spencer v. Hunt*, 147 So.2d 282, 286 (Fla.1993); *accord Florida Beverage Corp. v. Wynne*, 306 So.2d 200, 202 (Fla. 1st DCA 1975); *Lewis v. Florida State Bd. of Health*, 143 So.2d 867, 875 (Fla. 1st DCA 1962), *cert. denied*, 149 So.2d 41 (Fla. 1963).

² *Chiles v. Children A, B, C, D, E, & F*, 589 So.2d 260, 268 (Fla. 1991).

³ *Palm Beach Jockey Club, Inc.*, 28 So.2d 335; *accord Amare v. Daytona Beach Shores*, 181 So.2d 722, 724 (Fla. 1st DCA 1966); *City Council of N. Miami Beach v. Trebor Constr. Corp.*, 254 So.2d 51, 53 (Fla. 3d DCA 1971), *cert. denied*, 260 So.2d 514 (Fla. 1972); *Permenter v. Younan*, 31 So.2d 387, 389 (Fla. 1947).

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES