

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Governmental Operations Committee

BILL: SB 2404

INTRODUCER: Senator King

SUBJECT: Historic Preservation

DATE: April 13, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carrouth</u>	<u>Matthews</u>	<u>HE</u>	Favorable
2.	<u>McKay</u>	<u>Wilson</u>	<u>GO</u>	Favorable
3.	_____	_____	<u>HI</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill provides for the long-term historic preservation of state-owned historic properties in St. Augustine through a contract with the University of Florida (UF). The goal of the contract is to enhance existing educational programs in historic preservation, archaeology, and cultural resource management at UF, while simultaneously meeting the needs for historic preservation in St. Augustine.

Under the bill, UF would provide oversight for historic preservation of various state-owned properties currently subleased and managed by the City of St. Augustine. The existing contracts between the City of St. Augustine and the Board of Trustees for the Internal Improvement Trust Fund would be rescinded upon agreement by all the parties.

The University of Florida may authorize a direct-support organization (DSO), which the bill creates, to assist the university in establishing, maintaining, and operating state-owned facilities and properties currently under contract with the City of St. Augustine for the dual purpose of historic preservation and preservation education.

The university would be authorized to exchange, sell, or transfer any artifact, document, or other historic report when recommended by the DSO, contingent upon prior authorization from the Department of State.

This bill creates sections 267.1735 and 267.1736 and repeals section 267.171 of the Florida Statutes.

II. Present Situation:

Management of State-Owned Properties in St. Augustine

Section 287.171, F.S., requires the Department of State to contract with the City of St. Augustine for the management of the various state-owned properties presently managed by the Historic St. Augustine Preservation Board of Trustees. The contract must provide that the City of St. Augustine may use all proceeds derived from the management of state-owned properties for the purpose of maintaining the state-owned buildings and advancing historic preservation in the City of St. Augustine. The Department of State may transfer ownership of and responsibility for any artifacts, documents, equipment, and other forms of tangible personal property to the City of St. Augustine to assist the city in the transition of the management of state-owned properties.

Special Task Force on St. Augustine State-Owned Historic Properties

In 2006, the Florida Historical Commission established a task force to develop a proposal for the future of 37 state-owned historical properties in and around St. Augustine. The properties are currently leased to the City of St. Augustine based on an agreement developed in 1997 after the legislative sunset of the St. Augustine Historic Preservation Board. The city assumed the responsibility of managing the sites through its Department of Heritage Tourism. In the initial agreement, the state provided the city with a one time stipend of \$425,000 over two years to assist in the transition of management of valuable historic treasures. After that period, it was the city's responsibility to maintain and operate the properties.¹

The task force met in St. Augustine in September of 2006, toured all properties, took testimony from representatives of the city's historic preservation community, and then developed a report based on public input from a wide range of interested parties, including merchants who lease the properties.

The report indicated that the City of St. Augustine provides the only portrayal of civilian life in Spanish colonial St. Augustine balanced with the interpretation of colonial military life. The state-owned buildings are rapidly deteriorating and there are no professional historians, archaeologists, and architects to assist in maintaining the sites. The report encourages the state to transfer responsibility for the properties to a state university, as was done in Pensacola when the University of West Florida took responsibility for state-owned historical properties there in 2000.² The report identified the University of Florida and the University of West Florida as the institutions most qualified to implement the recommended plan, noting that UF would be the panel's first choice.³

III. Effect of Proposed Changes:

Oversight of Historic Preservation by the University of Florida

This bill provides for the long-term historic preservation of state-owned historic properties in St. Augustine through a contract with the University of Florida (UF). The goal of the contract is to enhance existing educational programs in historic preservation, archaeology, and cultural

¹ Press Release for release of Report of Recommendations by the Special Task Force on St. Augustine State-Owned Historic Properties, (December 1, 2006), located at http://www.ci-st-augustine.fl.us/pressreleases/10_06/task_force_recommend.html.

² Section 267.173, F.S., created by s. 17, ch. 2001-199, L.O.F.

³ Report of Special Task Force Recommendations, p. 4.

resource management at UF while simultaneously meeting the needs for historic preservation in St. Augustine.

Upon agreement by parties to the current contract, the university would enter into a contract with the Board of Trustees for the Internal Improvement Trust Fund to provide oversight for historic preservation of various state-owned properties currently subleased and managed by the City of St. Augustine. Upon execution of the new contract, the current contract would be rescinded.

The new agreement would require UF to use all proceeds derived from the management of the state-owned properties for advancing historic preservation. The Board of Trustees of the Internal Improvement Trust Fund may transfer ownership of any artifacts, documents, equipment, and other personal property to assist UF in the transition to its oversight role. All records, property, and unexpended balances of appropriations, allocations, or other funds associated with the state-owned properties would transfer to UF.

The University may contract with a direct-support organization (DSO), which the bill creates, to assist UF in implementing its role in historic preservation and education. Additionally, UF or its DSO may enter into contracts without competitive bidding for the protection of historic properties. Upon recommendation of the DSO, UF may sell or transfer any artifact, document, equipment, or other tangible personal property if the property is no longer appropriate for the purpose of advancing historic preservation. Any personal property that has intrinsic historic or archaeological value would require prior authorization of the Department of State to sell, exchange, or transfer.

Finally, donations to UF and the DSO relating to historic preservation would be eligible for matching under the University Major Gifts Program pursuant to s. 1011.94, F.S.

The Direct-Support Organization

The bill creates a direct-support organization (DSO), organized solely to assist UF in establishing, maintaining, and operating state-owned facilities in St. Augustine for historic preservation and education at the discretion of UF. The DSO must be incorporated under chapter 617, F.S., and be approved by the Department of State as a not-for-profit. A Board of Directors would govern the DSO. Board members must include a licensed architect who has expertise in historic preservation and architectural history; a professional historian in the field of American history; a professional archaeologist; and the UF president, or designee. The DSO must operate under a contract with UF. The contract must include:

- Approval by UF of the articles of incorporation and bylaws;
- Submission of an annual budget to UF;
- Certification by UF that the DSO is operating in compliance with the contract and the purposes of the act;
- Reversion of funds and property to UF upon dissolution of the DSO;
- Use of the state fiscal year; and
- Disclosure to donors that the DSO and UF are distinct entities.

The DSO, upon authorization by UF, would be authorized to perform the following functions:

- Renting or leasing for revenue of any real or personal property related to historic preservation if in the best interest of the state and in accordance with the contract between UF and the Board of Trustees of the Internal Improvement Trust Fund;
- Selling of craft products created through the operation and demonstration of historic museums and other facilities;
- Selling of merchandise relating to the historical period of St. Augustine and surrounding territory;
- Entering into agreements to accept credit card payments and establishing accounts for the deposit of receipts;
- Fixing and collecting charges for admission to any of the state-owned facilities under contract;
- Permitting the acceptance of tour vouchers;
- Adopting and enforcing reasonable rules to govern the conduct of the visiting public;
- Raising funds and submitting requests for grants;
- Receiving, holding, investing, and administering property;
- Expending funds for the benefit of the university; and
- Any other lawful business or activity to establish, maintain, and operate the state-owned facilities in accordance with the contract.

The university may authorize the DSO to use its property, facilities, personnel, and payroll processing. The university may adopt rules governing such use. However, property is defined to exclude money. It may be appropriate to define property to exclude tuition and fees in accordance with recent audits.⁴

The bill allows DSO funds to be held in a separate account but does not require separation of funds. Funds would include lease income, admissions income, membership fees, private donations, fundraising income, and grants. An annual financial audit must be conducted by the DSO in accordance with the provisions governing university DSO's in s. 1004.28, F.S.

A "backstop" provision in s. 267.1736(8), F.S., specifies that provisions governing university DSO's and not provided in this bill apply to the DSO.

The DSO is prohibited from discriminating for employment purposes on the basis of race, color, religion, sex, age, or national origin.

Contingent upon passage of this bill, s. 267.171, F.S., would be repealed.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁴ Auditor General Report #2006-052, Finding 3.

B. Public Records/Open Meetings Issues:

Section 267.1736(8) of the bill provides:

Provisions governing direct-support organizations in s. 1004.28 and not provided in this section shall apply to the direct-support organization.

Section 1004.28(5), F.S., provides an exemption from public records requirements for the identity of donors who desire to remain anonymous. Senate Bill 2406 creates a similar exemption for donors to the direct-support organization authorized by Senate Bill 2404. In addition to the exemption for donors provided in s. 1004.28(5), F.S., are protections for other records that s. 267.1736(8) of the bill would appear to incorporate and protect but which are not protected by the exemption created by Senate Bill 2406. Section 1004.28(5), F.S., provides that all records of a DSO other than the auditor's report, management letter, and any supplemental data requested by the State Board of Education, the university board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability are confidential and exempt from the provisions of s. 119.07(1), F.S. While the language in s. 1004.28(5), F.S., may appear to extend greater protection for records, the specific exemption for the direct-support organization in Senate Bill 2406 controls.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Private donors would be eligible to contribute toward the historic preservation education programs and initiatives of the university and have the benefit of their gifts qualify for a state match through the University Major Gifts Program.

While the City of St. Augustine may lose revenue generated from admissions fees to historic sites and other revenue-generating venues in the short-term, the city has incurred losses over the past ten years in attempting to maintain and restore historic landmarks and buildings.

C. Government Sector Impact:

The amount of recurring funds needed to preserve the state-owned properties is indeterminate at this time. The task force's recommended budget called for \$2.4 million

in recurring funds and an estimated \$7.8 million in non-recurring funds to perform all necessary maintenance that has been deferred for two decades.⁵

VI. Technical Deficiencies:

On page 6, lines 1-2, the bill incorrectly references the University Major Gifts Program as the Trust Fund for Major University Gifts.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁵ Report of the Special Task Force on St. Augustine State-owned Historic Properties, (December 1, 2006). Board of Governors Bill Analysis, (March 14, 2007).

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
