

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 716

INTRODUCER: Senator Rodriguez

SUBJECT: Florida Women’s Historical Marker Initiative

DATE: January 19, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limones-Borja</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ATD</u>	_____
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 716 creates the Florida Women’s Historical Marker Initiative (Initiative).

The bill establishes the Women’s Historical Marker Selection Committee (Committee) to select the women who will be recognized by the Initiative. The Committee will consist of 11 appointed members. The Committee is required to conduct its own research on the women to recognize and solicit input from the general public.

The bill sets the following criteria for women to be recognized for the markers:

- Must have been born in, resided in, or been employed in this state;
- Must have significantly contributed to the state of Florida, her county, or her specific community; and
- The contribution or achievement for which a woman is being recognized must have occurred more than 30 years before such recognition.

There must be at least one woman recognized from each of the state’s counties. The bill requires that a total of 100 markers placed, with 10 placed each year. The first 10 markers must be placed by December 31, 2025.

The bill may an indeterminate fiscal impact on the Department of State. The bill is not expected to impact local government revenues and expenditures.

The bill takes effect July 1, 2024.

II. Present Situation:

Department of State

The Department of State (DOS), created in s. 20.10, F.S., is composed of six divisions: Elections, Historical Resources, Corporations, Library and Information Services, Arts and Culture, and Administration. The head of the DOS is the Secretary of State (Secretary). The Secretary is appointed by and serves at the pleasure of the Governor, and is confirmed by the Senate. The Secretary performs functions conferred by the State Constitution upon the custodian of state records.¹ The Secretary also serves as the state protocol officer and, in consultation with the Governor and other governmental officials, develops, maintains, publishes, and distributes the state protocol manual.²

Florida Division of Historical Resources

The DOS's Division of Historical Resources (Division) is responsible for preserving and promoting Florida's historical, archaeological, and folk culture resources. The Division Director's Office oversees a Historic Preservation Grants program to help preserve and maintain Florida's historic buildings and archaeological sites and coordinates outreach programs. The Division Director also serves as the State Historic Preservation Officer, acting as the liaison with the national historic preservation program conducted by the National Park Service.³

The Division is comprised of the following Bureaus:

- Bureau of Historic Preservation;
- Bureau of Historical Museums; and
- Bureau of Archeological Research.⁴

Florida Historical Marker Program

The Florida Historical Marker Program is designed to raise public awareness of Florida's rich cultural history and to enhance the enjoyment of our historic sites by citizens and tourists. These markers tell stories of the places and people who created Florida, by identifying the churches, schools, archaeological sites, battlefields, and homes that represent Florida's past.⁵ The official Florida historic markers are markers awarded, approved, or administered by the Division.⁶ The Division makes the following distinctions:

- A "Florida Heritage Landmark" is a marker that recognizes resources for a region of the state or statewide that are usually more than fifty years old and are of exceptional significance in the areas of architecture, archaeology and history where the properties largely and visibly

¹ Section 20.10(1), F.S.

² Section 15.01(1), F.S.

³ Florida Department of State, Florida Division of Historical Resources, *About*, <https://dos.myflorida.com/historical/about/> (last visited Jan. 14, 2024).

⁴ *Id.*

⁵ Florida Department of State, Florida Division of Historical Resources, *Historical Markers*, <https://dos.fl.gov/historical/preservation/historical-markers/> (last visited Jan. 16, 2024).

⁶ Rule 1A-48.002(3), F.A.C.

retain the distinctive physical characteristics that were present during the historical period for which the property is being recognized.⁷

- A “Florida Heritage” marker is a marker that identifies people, events and places, including buildings, structures, objects and archaeological sites that do not meet the criteria for Florida Heritage Landmark designation but are still of local, regional or statewide historic significance relating to Florida history, culture, and ethnic heritage.⁸
- A “Special Marker” is a marker which the Division will establish to guide the public to places of historic or cultural interest and to facilitate the identification and interpretation of various topics, including at a minimum, historic and scenic trails, byways, greenways and anniversaries or other occasions of special significance to the history and culture of Florida.⁹

The Division is responsible for the administration of all aspects of the Florida Historic Marker Program, including the application process, selection and designation of properties, persons or events to be marked and the placement and maintenance of the markers.¹⁰ There are approximately 1,200 markers throughout the state currently.¹¹ While the current list of Florida Historical Markers has all the approved and created markers, some have yet to be installed or have been removed without notice to the Bureau of Historic Preservation.¹²

Executive Branch Entities

Chapter 20, F.S., authorizes the creation of different entities within the executive branch to assist agencies in performing their duties more efficiently and effectively. These entities include commissions, committees or task forces, coordinating councils, and advisory councils. These entities are statutorily defined:

- “Commission,” unless otherwise required by the State Constitution, means a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.¹³
- “Committee” or “task force” means an *advisory body* created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.¹⁴
- “Coordinating Council” means an interdepartmental advisory body created by law to coordinate programs and activities for which one department has primary responsibility but in which one or more other departments have an interest.¹⁵

⁷ Rule 1A-48.002(3)(a), F.A.C.

⁸ Rule 1A-48.002(3)(b), F.A.C.

⁹ Rule 1A-48.002(3)(d), F.A.C.

¹⁰ Rule 1A-48.003(1), F.A.C.

¹¹ Florida Department of State, *Florida Historical Marker List*, <https://apps.flheritage.com/markers/> (Jan. 16, 2023).

¹² Email from Jeremy Heiker, Florida Historical Marker Coordinator, Department of State, to Gabriela Limones-Borja, Legislative Analyst, Senate Committee on Governmental Oversight and Accountability (Jan. 16, 2024, 4:15 EST) (on file with the Senate Committee on Governmental Oversight and Accountability).

¹³ Section 20.03(4), F.S.

¹⁴ Section 20.03(5), F.S.

¹⁵ Section 20.03(6), F.S.

- “Council” or “advisory council” means an *advisory body* created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.¹⁶

III. Effect of Proposed Changes:

Section 1 provides that this act may be cited as the “Florida Women’s Historical Marker Initiative.”

Section 2 establishes the Florida Women’s Historical Marker Initiative (Initiative) within the Division of Historical Resources (Division). The purpose of this Initiative is to recognize the contributions of 100 women, living or deceased, to the history of this state by placing new historical markers.

The bill also creates the Women’s Historical Marker Selection Committee (Committee). The goal of the Committee is to decide which women will be recognized by the Initiative. The membership of the committee must consist the following:

- Three members appointed by the governor, two of which must be noted Florida historians;
- One member appointed by the President of the Senate;
- One member appointed by the Speaker of the House;
- One member appointed by the Secretary of State;
- A member from the Florida Commission of the Status of Women;
- A representative of the Division of Historical Resources;
- A member of the State Historical Marker Council; and
- Two members from the general public.

The bill requires the Committee to conduct its own research on the women to be recognized, and solicit input from the general public.

The bill sets the following criteria for women to be recognized for the markers:

- Must have been born in, resided in, or been employed in this state;
- Must have significantly contributed to the state of Florida, her county, or her specific community; and
- The contribution or achievement for which a woman is being recognized must have occurred more than 30 years before such recognition.

The bill requires that there be at least one woman from each of the state’s counties recognized. The bill also requires that there be a total of 100 markers placed, with 10 placed each year. The first 10 markers must be placed by December 31, 2025 and the final marker placed by December 31, 2035.

Section 3 provides that the bill takes effect July 1, 2024.

¹⁶ Section 20.03(7), F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

To ensure transparency and to ensure the appointed members don't violate public records and public meetings laws, language should be added stating the committee is subject to public records and public meetings requirements.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The government of the State of Florida is organized according to the doctrine of the separation-of-powers, which is specifically enshrined in Article II, s. 3 of the State Constitution:

The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.

The Legislature has further refined this state constitutional provision in s. 20.02(1), F.S., which states:

The State Constitution contemplates the separation of powers within state government among the legislative, executive, and judicial branches of the government. *The legislative branch has the broad purpose of determining policies and programs and reviewing program performance. The executive branch has the purpose of executing the programs and policies adopted by the Legislature and of making policy recommendations to the Legislature.* The judicial branch has the purpose of determining the constitutional propriety of the policies and programs and of adjudicating any conflicts arising from the interpretation or application of the laws. [emphasis added.]

Two fundamental prohibitions are contained in the separation of powers doctrine in Florida. The first is that no branch may encroach upon the powers of the other; the second is that no branch may delegate to another branch its constitutionally assigned power.¹⁷ Therefore, a court may find that legislative appointments to a committee implementing a program (namely, the identification of women to be honored) within the Executive Branch usurps the power of the executive branch and constitutes a violation of the Separation of Powers Doctrine.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Section 2 establishes the Florida Women's Historical Marker Initiative within the Division of Historical Resources. The Division may incur additional workload and costs associated with the placing of 100 new historical markers.

VI. Technical Deficiencies:

The bill defines the new entity as a "committee." Under s. 20.03, F.S., this means the entity is advisory and must complete its work (identifying 100 women to recognize) within one year. If this is not the intent of the law, the bill should address the duration of the entity.

The duration of the committee is also important for the terms of the appointees. If the committee is intended to exist more than two years, consideration should be given to state the terms of the members (assuming the members are not appointed for 10 years).

The bill directs the Florida Historical Marker Program to place a total of 100 markers, with 10 markers placed each year. It does not direct whether the Committee is limited to selecting 10 per year or if the Committee may select all 100 within the first year of existence with the markers placed throughout the 10-year period.

On lines 41-42, the bill states that the Committee is established to "select those women who will be recognized by the initiative." On lines 70-73, the bill provides that at least one woman from each county must be recognized, and the "remaining 33 women recognized shall be selected" by Committee. This last phrase may cause confusion as to whether the Committee selects the 67 women representing the counties.

¹⁷ *Chiles v. Children A, B, C, D, E, and F*, 589 So. 260 (Fla. 1991).

On line 55, the bill states that two members of the general public will be on the committee. However, the bill does not identify the appointing authority for these members. Note that s. 20.052(5), F.S., specifically states that the members of an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, or a cabinet officer.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered section of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.