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AMENDED

April 13, 2011

**H. 3709**

Introduced by Reps. Cooper and McLeod

S. Printed 4/13/11--H. [SEC 4/14/11 3:07 PM]

Read the first time February 17, 2011.

**A** **BILL**

TO AMEND SECTION 1‑30‑80, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENT OF PARKS, RECREATION AND TOURISM, SO AS TO TRANSFER THE SOUTH CAROLINA MUSEUM COMMISSION, THE SOUTH CAROLINA STATE MUSEUM, AND THE SOUTH CAROLINA ARTS COMMISSION AND THEIR POWERS AND DUTIES TO THE DEPARTMENT OF PARKS, RECREATION AND TOURISM; TO AMEND ARTICLE 1, CHAPTER 13, TITLE 60, RELATING TO THE SOUTH CAROLINA MUSEUM COMMISSION, SO AS TO PROVIDE THAT THE COMMISSION IS UNDER THE ADMINISTRATION AND SUPERVISION OF THE DEPARTMENT OF PARKS, RECREATION AND TOURISM AND THAT THE SOUTH CAROLINA STATE MUSEUM IS A STATE PARK IN THE STATE PARK SYSTEM; TO AMEND CHAPTER 15, TITLE 60, RELATING TO THE SOUTH CAROLINA ARTS COMMISSION, SO AS TO PROVIDE THAT THE COMMISSION IS UNDER THE ADMINISTRATION AND SUPERVISION OF THE DEPARTMENT OF PARKS, RECREATION AND TOURISM; AND TO PROVIDE TRANSITION PROVISIONS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 1‑30‑80 of the 1976 Code, as last amended by Act 359 of 2008, is further amended by adding appropriately lettered subsections at the end to read:

“( ) Effective on July 1, 2011, the South Carolina Museum Commission and the South Carolina State Museum provided for in Article 1, Chapter 13, Title 60, including all allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with the commission, the museum, and these entities, are transferred to the Department of Parks, Recreation and Tourism and all powers, duties, obligations, and responsibilities of the South Carolina Museum Commission and the State Museum are devolved upon the Department of Parks, Recreation and Tourism.

( ) Effective on July 1, 2011, the South Carolina Arts Commission, provided for in Chapter 15, Title 60, including all allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with the commission and these entities, are transferred to the Department of Parks, Recreation and Tourism and all powers, duties, obligations, and responsibilities of the South Carolina Arts Commission are devolved upon the Department of Parks, Recreation and Tourism.”

SECTION 2. Article 1, Chapter 13, Title 60 of the 1976 Code is amended to read:

“Article 1

South Carolina Museum Commission

Section 60‑13‑10. There is ~~hereby~~ created in, and under the administration and supervision of the Department of Parks, Recreation and Tourism, the South Carolina Museum Commission composed of nine members appointed by the Governor for terms of four years and until successors are appointed and qualify. One member ~~shall~~ must be appointed from each congressional district of the State and three members ~~shall~~ must be appointed at large. One of the at‑large members ~~shall~~ must be appointed chairman of the commission by the Governor. Vacancies for any reason ~~shall~~ must be filled in the manner of original appointment for the unexpired portion of the term.

~~Notwithstanding the provisions above prescribing four‑year terms for members of the Commission, the members appointed from even‑numbered congressional districts and one at‑large member other than the chairman shall be initially appointed for terms of two years only.~~

Section 60‑13‑20. The commission shall meet at least quarterly and at ~~such~~ other times as the chairman ~~shall designate~~ designates. Members shall elect a ~~vice‑chairman~~ vice chairman and ~~such~~ other officers as they ~~may deem~~ consider necessary. ~~They shall~~ Members must be paid ~~such~~ per diem, mileage, and subsistence as provided by law for state boards, committees, and commissions.

Section 60‑13‑30. The primary function of the Commission ~~shall be~~, under the overall administration of the department, is the creation and operation of a State Museum reflecting the history, fine arts, and natural history and the scientific and industrial resources of the State, mobilizing expert professional advice and guidance, and utilizing all available resources in the performance of this function.

Section 60‑13‑40. To carry out its assigned functions, the commission ~~is authorized to~~, under the overall administration of the department, may:

(1) establish a plan for, create, and operate a State Museum within the Department of Parks, Recreation and Tourism as a park in the state park system;

(2) ~~elect~~ employ an executive officer for the commission, to be known as the director;

(3) make rules and regulations for its own government and the administration of ~~its~~ the museum;

(4) ~~appoint, on the recommendation of the Director, all other members of the staff;~~

~~(5)~~ ~~adopt a seal for use in official Commission business;~~

~~(6)~~ control the expenditure in accordance with law of ~~such~~ public funds as may be appropriated to the department for use by the commission;

~~(7)~~(5) accept gifts, bequests, and endowments for purposes consistent with the objectives of the commission;

~~(8)~~(6) make annual reports to the General Assembly of the receipts, disbursements, work, and needs of the commission; and

~~(9)~~(7) adopt policies designed to fulfill the duties and attain the objectives of the commission as established by law.

Section 60‑13‑50. The director of the commission ~~shall~~ must be the Director of the State Museum, ~~when such facility comes into existence~~ and his qualifications shall reflect an ability to serve in that capacity. The director of the department must employ all other employees of the commission and the museum. Compensation for the director ~~shall~~ must be determined by the ~~General Assembly~~ Director of the Department of Parks, Recreation and Tourism.”

SECTION 3. Chapter 15, Title 60 of the 1976 Code is amended to read:

“CHAPTER 15

South Carolina Arts Commission

Section 60‑15‑10. It is hereby declared to be the policy of the State to join with private patrons and with institutions and professional organizations concerned with the arts to insure that the role of the arts in the life of our communities will continue to grow and play an ever more significant part in the welfare and educational experience of our citizens. It is further declared that all activities undertaken by the State in carrying out this policy shall be directed toward encouraging and assisting rather than limiting the freedom of artistic expression that is essential for the well‑being of the arts.

Section 60‑15‑20. There is ~~hereby~~ created in and under the administration of the Department of Parks, Recreation and Tourism, the South Carolina Arts Commission, to consist of nine members, representative of all fields of the creative and interpretive arts, to be appointed by the Governor with the advice and consent of the Senate from among private citizens who are widely known for their professional competence and experience in connection with the interpretive and creative arts. In making ~~such~~ these appointments consideration ~~shall~~ must be given to the recommendations made by representative~~,~~ civic, educational, and professional associations and groups~~,~~ concerned with or engaged in the production or presentation of the fine arts generally.

Section 60‑15‑30. The terms of office of members ~~shall be~~ are for three years, and until their successors have been appointed and qualify. No member of the commission ~~shall be~~ is eligible for appointment for more than two consecutive full terms. All vacancies must be filled for the unexpired portion of the term in the manner of original appointment. The commission, with the approval of the director of the department, shall designate an executive director to serve at the pleasure of the commission and who ~~shall be~~ is the chief executive officer of the commission. ~~All vacancies shall be filled for the unexpired in the manner of original appointment.~~

Section 60‑15‑40. The executive director shall receive such compensation as may be ~~provided in the annual general appropriations act~~ determined by the director of the department ~~and shall be reimbursed for all expenses actually incurred by him in the performance of his duties, within the amount appropriated therefor~~. The other members of the commission shall receive no compensation for their services, but shall receive such per diem, mileage, and subsistence as provided by law for members of boards, commissions, and committees.

Section 60‑15‑50. The ~~Commission~~ director of the department may employ, and at ~~its~~ his pleasure remove, such ~~officers~~ employees, experts, or other ~~employees~~ agents as may be needed and shall fix their compensation within the amount ~~appropriated therefor~~ allocated for these salaries.

Section 60‑15‑60. The duties of the commission ~~shall~~, under the overall administration of the department, include, but are not ~~be~~ limited to the following:

(1) to stimulate and encourage throughout the State the study and presentation of the performing and fine arts and public interest and participation ~~therein~~ in these arts;

(2) to make ~~such~~ studies as may be ~~deemed~~ advisable of public and private institutions engaged within the State in artistic and cultural activities, including but not limited to music, theater, dance, painting, sculpture, architecture, and allied arts and crafts, and to make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the State;

(3) to take ~~such~~ steps as may be necessary and appropriate to encourage public interest in the cultural heritage of the State of South Carolina and to expand the State’s cultural resources; and

(4) to do such other things as may be necessary to carry out the provisions of this chapter.

Section 60‑15‑70. The commission ~~is hereby authorized to~~, under the overall supervision of the department, may:

(1) hold public or private hearings;

(2) ~~to~~ with the authorization of the department, enter into contracts, within the amount ~~made available by appropriation therefor~~ allocated for these purposes, with individuals, organizations, and institutions for services furthering the educational objectives of the commission’s programs;

(3) ~~to~~ with the authorization of the department, enter into contracts, within the amount ~~made available by appropriation therefor~~ allocated for these purposes, with local and regional associations for cooperative endeavors furthering the educational objectives of the commission’s programs;

(4) ~~to~~ accept gifts, contributions, and bequests of an unrestricted nature from individuals, foundations, corporations, and other organizations or institutions for the purpose of furthering the educational objectives of the commission’s programs;

(5) ~~to~~ with the authorization of the department, purchase and own property, both real and personal;

(6) ~~to~~ with the authorization of the department, make and sign any agreements and to do and perform any acts that may be necessary, desirable, or proper to carry out the purposes of this chapter.

The commission may request and shall receive from any department or agency of the State such assistance and data as will enable ~~it~~ the commission to carry out its powers and duties.

Section 60‑15‑80. The commission shall ~~make an annual~~ report annually to the Governor and the ~~legislature~~ General Assembly and shall make ~~such~~ other reports as ~~it deems~~ the commission considers necessary.

Section 60‑15‑90. The commission ~~shall be~~ is the official agency of the State to receive and disburse any funds made available by the federal government for programs related to the creative and interpretive arts.”

SECTION 4. (A) Where the provisions of this act abolish the South Carolina Museum Commission and the South Carolina Arts Commission as a separate agency in the executive branch of state government and transfer it to, and under the administration and supervision of, the Department of Parks, Recreation and Tourism, the employees, authorized appropriations, and assets and liabilities of the South Carolina Museum Commission, the South Carolina State Museum, and the South Carolina Arts Commission are also transferred to and become part of the Department of Parks, Recreation and Tourism. All classified or unclassified personnel employed by the South Carolina Museum Commission, the South Carolina State Museum, and the South Carolina Arts Commission on the effective date of this act, either by contract or by employment at will, become employees of the Department of Parks, Recreation and Tourism with the same compensation, classification, and grade level, as applicable. The State Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer in accordance with state laws and regulations.

(B) Regulations promulgated by the South Carolina Museum Commission and the South Carolina Arts Commission are continued and are considered to be promulgated by the Department of Parks, Recreation and Tourism.

(C) The Code Commissioner is directed to change or correct all references to the South Carolina Museum Commission, the South Carolina State Museum, and the South Carolina Arts Commission to reflect their status under the Department of Parks, Recreation and Tourism. References to the name of the South Carolina Museum Commission, the South Carolina State Museum, and the South Carolina Arts Commission in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

SECTION 5. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 6. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 7. This act takes effect July 1, 2011.

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