

1                   A bill to be entitled  
2           An act relating to abandoned and historic cemeteries;  
3           creating s. 267.21, F.S.; creating the Historic  
4           Cemeteries Program within the Division of Historical  
5           Resources of the Department of State; designating the  
6           State Historic Preservation Officer as the program's  
7           director and requiring him or her to hire employees,  
8           subject to legislative appropriation; providing the  
9           duties and responsibilities of the program; requiring  
10          the program to provide grants, subject to legislative  
11          appropriation, to certain entities for certain  
12          purposes; authorizing the division to adopt rules;  
13          creating s. 267.22, F.S.; creating the Historic  
14          Cemeteries Program Advisory Council within the  
15          division; providing for membership, terms, and duties  
16          of the council; providing that members shall serve  
17          without compensation but may receive per diem and  
18          reimbursement for travel expenses; amending s.  
19          497.005, F.S.; revising the definition of the term  
20          "legally authorized person" to include a member of a  
21          representative community organization; amending s.  
22          704.06, F.S.; revising the definition of the term  
23          "conservation easement" to include a right or interest  
24          in real property which is appropriate to retaining the  
25          structural integrity or physical appearance of certain

26 cemeteries; authorizing certain entities to acquire  
 27 conservation easements to preserve certain cemeteries;  
 28 providing appropriations and authorizing positions;  
 29 providing an effective date.

30

31 Be It Enacted by the Legislature of the State of Florida:

32

33 Section 1. Section 267.21, Florida Statutes, is created to  
 34 read:

35 267.21 Historic Cemeteries Program.-

36 (1) The Historic Cemeteries Program is created within the  
 37 division. The State Historic Preservation Officer shall serve as  
 38 the director of the program and shall, subject to legislative  
 39 appropriation, employ three full-time employees to operate the  
 40 program. The program shall have the following duties and  
 41 responsibilities:

42 (a) Serve as the organizational center for recording and  
 43 updating in the Florida Master Site File records of cemeteries  
 44 in this state established at least 50 years ago.

45 (b) Develop guidelines for use by state agencies, local  
 46 governments, and developers in the identification, location, and  
 47 maintenance of abandoned and historic cemeteries.

48 (c) Serve as an interagency governmental liaison to  
 49 municipalities, planning departments, colleges and universities,  
 50 and community organizations to facilitate collaboration and the

51 sharing of information relating to abandoned and historic  
52 cemeteries.

53 (d) Coordinate with the University of South Florida's  
54 Black Cemetery Network to facilitate the inclusion of abandoned  
55 African-American cemeteries in the Black Cemetery Network.

56 (e) Research, identify, and record abandoned cemeteries,  
57 with an emphasis on abandoned African-American cemeteries.

58 (f) When abandoned cemeteries are located, provide  
59 notification and guidance to relevant persons and assist with  
60 efforts to identify relatives and descendants, funeral  
61 directors, religious organizations, qualified nonprofit  
62 organizations, and property owners.

63 (g) Assist constituents, descendant communities, state and  
64 federal agencies, local governments, and other stakeholders with  
65 inquiries relating to abandoned cemeteries.

66 (h) In coordination with the Department of Education,  
67 develop a curriculum relating to abandoned and historic  
68 cemeteries, with a focus on citizenship, social responsibility,  
69 and history.

70 (i) Establish a priority for the placement of historical  
71 markers for erased, forgotten, lost, or abandoned African-  
72 American cemeteries.

73 (2) The Historic Cemeteries Program shall, subject to  
74 legislative appropriation, provide grants to the following  
75 entities:

76        (a) Research institutions, colleges and universities, and  
77 qualified nonprofit organizations, for the purpose of conducting  
78 genealogical and historical research necessary to identify and  
79 contact the relatives and descendants of persons buried in  
80 abandoned African-American cemeteries.

81        (b) Local governments and qualified nonprofit  
82 organizations, for the purposes of repairing, restoring, and  
83 maintaining abandoned African-American cemeteries.

84        (3) The division may adopt rules to implement this  
85 section.

86        Section 2. Section 267.22, Florida Statutes, is created to  
87 read:

88        267.22 Historic Cemeteries Program Advisory Council.—

89        (1) The Historic Cemeteries Program Advisory Council, an  
90 advisory council as defined in s. 20.03(7), is created within  
91 the division and shall consist of nine members appointed by the  
92 Secretary of State after considering the recommendations of the  
93 director of the division. The council must be composed of an  
94 inclusive group of members who are regionally distributed and  
95 representative of communities throughout this state. Members  
96 shall serve 4-year terms; however, for the purpose of providing  
97 staggered terms, four of the appointees initially shall be  
98 appointed to 2-year terms and the remaining five shall be  
99 appointed to 4-year terms. All subsequent appointments shall be  
100 for 4-year terms. As soon as practicable after July 1, 2023, the

101 council shall meet to elect a chair from its membership. Except  
 102 as otherwise provided in this section, the council shall operate  
 103 in a manner consistent with s. 20.052.

104 (2) The council shall provide guidance and recommendations  
 105 to the division regarding the duties and responsibilities of the  
 106 Historic Cemeteries Program created under s. 267.21.

107 (3) Members of the council shall serve without  
 108 compensation but may receive per diem and reimbursement for  
 109 travel expenses pursuant to s. 112.061.

110 Section 3. Subsection (43) of section 497.005, Florida  
 111 Statutes, is amended to read:

112 497.005 Definitions.—As used in this chapter, the term:

113 (43) "Legally authorized person" means, in the priority  
 114 listed:

115 (a) The decedent, when written inter vivos authorizations  
 116 and directions are provided by the decedent;

117 (b) The person designated by the decedent as authorized to  
 118 direct disposition pursuant to Pub. L. No. 109-163, s. 564, as  
 119 listed on the decedent's United States Department of Defense  
 120 Record of Emergency Data, DD Form 93, or its successor form, if  
 121 the decedent died while in military service as described in 10  
 122 U.S.C. s. 1481(a)(1)-(8) in any branch of the United States  
 123 Armed Forces, United States Reserve Forces, or National Guard;

124 (c) The surviving spouse, unless the spouse has been  
 125 arrested for committing against the deceased an act of domestic

126 | violence as defined in s. 741.28 that resulted in or contributed  
127 | to the death of the deceased;

128 |       (d) A son or daughter who is 18 years of age or older;

129 |       (e) A parent;

130 |       (f) A brother or sister who is 18 years of age or older;

131 |       (g) A grandchild who is 18 years of age or older;

132 |       (h) A grandparent; or

133 |       (i) Any person in the next degree of kinship.

134 |

135 | In addition, the term may include, if no family member exists or  
136 | is available, the guardian of the dead person at the time of  
137 | death; the personal representative of the deceased; the attorney  
138 | in fact of the dead person at the time of death; the health  
139 | surrogate of the dead person at the time of death; a public  
140 | health officer; the medical examiner, county commission, or  
141 | administrator acting under part II of chapter 406 or other  
142 | public administrator; a representative of a nursing home or  
143 | other health care institution in charge of final disposition; or  
144 | a friend or other person, including a member of a representative  
145 | community organization, not listed in this subsection who is  
146 | willing to assume the responsibility as the legally authorized  
147 | person. Where there is a person in any priority class listed in  
148 | this subsection, the funeral establishment shall rely upon the  
149 | authorization of any one legally authorized person of that class  
150 | if that person represents that she or he is not aware of any

151 objection to the cremation of the deceased's human remains by  
152 others in the same class of the person making the representation  
153 or of any person in a higher priority class.

154 Section 4. Subsections (1) and (3) of section 704.06,  
155 Florida Statutes, are amended to read:

156 704.06 Conservation easements; creation; acquisition;  
157 enforcement.—

158 (1) As used in this section, "conservation easement" means  
159 a right or interest in real property which is appropriate to  
160 retaining land or water areas predominantly in their natural,  
161 scenic, open, agricultural, or wooded condition; retaining such  
162 areas as suitable habitat for fish, plants, or wildlife;  
163 retaining the structural integrity or physical appearance of  
164 sites or properties of historical, architectural,  
165 archaeological, or cultural significance, including abandoned  
166 and neglected cemeteries that are 50 or more years old; or  
167 maintaining existing land uses and which prohibits or limits any  
168 or all of the following:

169 (a) Construction or placing of buildings, roads, signs,  
170 billboards or other advertising, utilities, or other structures  
171 on or above the ground.

172 (b) Dumping or placing of soil or other substance or  
173 material as landfill or dumping or placing of trash, waste, or  
174 unsightly or offensive materials.

175 (c) Removal or destruction of trees, shrubs, or other

176 | vegetation.

177 |       (d) Excavation, dredging, or removal of loam, peat,  
178 | gravel, soil, rock, or other material substance in such manner  
179 | as to affect the surface.

180 |       (e) Surface use except for purposes that permit the land  
181 | or water area to remain predominantly in its natural condition.

182 |       (f) Activities detrimental to drainage, flood control,  
183 | water conservation, erosion control, soil conservation, or fish  
184 | and wildlife habitat preservation.

185 |       (g) Acts or uses detrimental to such retention of land or  
186 | water areas.

187 |       (h) Acts or uses detrimental to the preservation of the  
188 | structural integrity or physical appearance of sites or  
189 | properties of historical, architectural, archaeological, or  
190 | cultural significance, including abandoned and neglected  
191 | cemeteries that are 50 or more years old.

192 |       (3) Conservation easements may be acquired by any  
193 | governmental body or agency or by a charitable corporation or  
194 | trust whose purposes include protecting natural, scenic, or open  
195 | space values of real property, assuring its availability for  
196 | agricultural, forest, recreational, or open space use,  
197 | protecting natural resources, maintaining or enhancing air or  
198 | water quality, or preserving sites or properties of historical,  
199 | architectural, archaeological, or cultural significance, and  
200 | including abandoned and neglected cemeteries that are 50 or more



201 years old.

202       Section 5. For the 2023-2024 fiscal year, three full-time  
 203 equivalent positions with associated salary rate of \$145,000 are  
 204 authorized and the sums of \$242,433 in recurring funds and  
 205 \$12,021 in nonrecurring funds from the General Revenue Fund are  
 206 appropriated to the Department of State to be used for the  
 207 Historic Cemeteries Program.

208       Section 6. For the 2023-2024 fiscal year, the sum of \$1  
 209 million in nonrecurring funds from the General Revenue Fund is  
 210 appropriated to the Department of State to be used for grants  
 211 for qualifying entities under the Historic Cemeteries Program.

212       Section 7. This act shall take effect July 1, 2023.