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1
 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

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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

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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:

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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

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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

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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

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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

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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

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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.