(F) Maintenance of grounds

The Board shall manage and operate the grounds of the John F. Kennedy Center for the Performing Arts in a manner consistent with National Park Service regulations and agreements in effect on July 21, 1994. No change in the management and operation of the grounds may be made without the express approval of Congress and of the Secretary of the Interior.

(b) Restriction on additional memorials

(1) Except as provided in paragraph (2) of this subsection, the Board shall assure that after December 2, 1983, no additional memorials or plaques in the nature of memorials shall be designated or installed in the public areas of the John F. Kennedy Center for the Performing Arts.

(2) Paragraph (1) of this subsection shall not apply to—

(A) any plaque acknowledging a gift from a foreign country;

(B) any plaque on a theater chair or a theater box acknowledging the gift of such chair or box; and

(C) any inscription on the marble walls in the north or south galleries, the Hall of States, or the Hall of Nations acknowledging a major contribution;

which plaque or inscription is permitted under policies of the Board in effect on December 2, 1983.

(3) For purposes of this subsection, testimonials and benefit performances shall not be construed to be memorials.

(Pub. L. 85–874, § 4, Sept. 2, 1958, 72 Stat. 1699; Pub. L. 88–260, § 1(3), Jan. 23, 1964, 78 Stat. 4; Pub. L. 98–205, § 4, Dec. 2, 1983, 97 Stat. 1388; Pub. L. 103–279, § 3, July 21, 1994, 108 Stat. 1411; Pub. L. 105–95, § 3(a), Nov. 19, 1997, 111 Stat. 2149; Pub. L. 105–226, §§ 2, 3, Aug. 12, 1998, 112 Stat. 1513; Pub. L. 107–224, § 4(a), Sept. 18, 2002, 116 Stat. 1343.)

AMENDMENTS

2002—Subsec. (a)(2)(D). Pub. L. 107–224 amended heading and text of subpar. (D) generally. Prior to amendment, text read as follows: ''In carrying out the duties of the Board under this subchapter, the Board may negotiate any contract for an environmental system for, a protection system for, or a repair to, maintenance of, or restoration of the John F. Kennedy Center for the Performing Arts with selected contractors and award the contract on the basis of contractor qualifications as well as price.''

1998—Subsec. (a)(1)(G). Pub. L. 105–226, § 2, amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: ''with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on July 21, 1994 (including a theater, the garage, the plaza, or a building walkway), plan, design, and construct each capital repair, replacement, improvement, rehabilitation, alteration, or modification necessary for the feature;''.

Subsec. (a)(1)(H)(ii). Pub. L. 105–226, § 3, amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on July 21, 1994 (including a theater, the garage, the plaza, or a building walkway), all necessary maintenance, repair, and alteration of, and all janitorial, security, and other services and equipment necessary for the operation of, the feature, in a manner consistent with requirements for high quality operations; and''.

1997—Subsec. (a)(1)(I). Pub. L. 105–95 added subpar. (I).

1994—Pub. L. 103–279 substituted section catchline for former section catchline, added heading and text of subsec. (a), and struck out former subsec. (a) which read as follows: ''The Board shall—

''(1) present classical and contemporary music, opera, drama, dance, and poetry from this and other countries,

''(2) present lectures and other programs,

''(3) develop programs for children and youth and the elderly (and for other age groups as well) in such arts designed specifically for their participation, education, and recreation,

''(4) provide facilities for other civic activities at the John F. Kennedy Center for the Performing Arts,

''(5) provide within the John F. Kennedy Center for the Performing Arts a suitable memorial in honor of the late President.''

1983—Pub. L. 98–205 designated existing provisions as subsec. (a) and added subsec. (b).

1964—Pub. L. 88–260 struck out ''and'' at end of par. (3), substituted ''John F. Kennedy Center for the Performing Arts'' for ''Cultural Center'' in par. (4), and added par. (5).

ACCESS TO JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Pub. L. 105–178, title I, § 1214(a), June 9, 1998, 112 Stat. 204, provided that:

''(1) STUDY.—The Secretary [of Transportation], in cooperation with the District of Columbia, the John F. Kennedy Center for the Performing Arts, and the Department of the Interior and in consultation with other interested persons, shall conduct a study of methods to improve pedestrian and vehicular access to the John F. Kennedy Center for the Performing Arts.

''(2) REPORT.—Not later than September 30, 1999, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing the results of the study with an assessment of the impacts (including environmental, aesthetic, economic, and historical impacts) associated with the implementation of each of the methods examined under the study.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $500,000 for fiscal year 1998.

''(4) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities conducted using such funds shall be 100 percent and such funds shall remain available until expended.''

§ 76k. Powers of Board

(a) Solicitation and acceptance of gifts

The Board is authorized to solicit and accept for the John F. Kennedy Center for the Performing Arts, as a bureau of the Smithsonian Institution, and to hold and administer gifts, bequests, or devises of money, securities, or other property of whatsoever character for the benefit of the John F. Kennedy Center for the Performing Arts. Unless otherwise restricted by the terms of the gift, bequest, or devise, the Board is authorized to sell or exchange and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property composing trust funds given, bequeathed, or devised to or for the benefit of the John F. Kennedy Center for the Performing Arts. The income as and when collected shall be

placed in such depositaries as the Board shall determine and shall be subject to expenditure by the Board.

(b) Appointment of officers and employees

(1) Chairperson and Secretary

The Board shall appoint and fix the compensation and duties of a Chairperson of the John F. Kennedy Center for the Performing Arts, who shall serve as the chief executive officer of the Center, and a Secretary of the John F. Kennedy Center for the Performing Arts. The Chairperson and Secretary shall be well qualified by experience and training to perform the duties of their respective offices.

(2) Senior level executive and other employees

The Chairperson of the John F. Kennedy Center for the Performing Arts may appoint—

(A) a senior level executive who, by virtue of the background of the individual, shall be well suited to be responsible for facilities management and services and who may, without regard to the provisions of title 5, be appointed and compensated with appropriated funds, except that the compensation may not exceed the maximum rate of pay prescribed for level IV of the Executive Schedule under section 5315 of title 5; and

(B) such other officers and employees of the John F. Kennedy Center for the Performing Arts as may be necessary for the efficient administration of the functions of the Board.

(c) Transfer of property

Not later than October 1, 1995, the property, liabilities, contracts, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred from the Secretary of the Interior pursuant to the amendments made by the John F. Kennedy Center Act Amendments of 1994 shall be transferred, subject to section 1531 of title 31, to the Board as the Board and the Secretary of the Interior may determine appropriate. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which, and subject to the terms under which, the funds were originally authorized and appropriated.

(d) Transfer of personnel

(1) In general

Employees of the National Park Service assigned to duties related to the functions being undertaken by the Board shall be transferred with their functions to the Board not later than October 1, 1995.

(2) Rights and benefits

Transferred employees shall remain in the Federal competitive service and retain all rights and benefits provided under title 5. For a period of not less than 3 years after the date of transfer of an employee under paragraph (1), the transferred employee shall retain the right of priority consideration under merit promotion procedures or lateral reassignment for all vacancies within the Department of the Interior.

(3) Park Police

All United States Park Police and Park Police guard force employees assigned to the John F. Kennedy Center for the Performing Arts shall remain employees of the National Park Service.

(4) Costs

All usual and customary costs associated with any adverse action or grievance proceeding resulting from the transfer of functions under this section that are incurred before October 1, 1995, shall be paid from funds appropriated to the John F. Kennedy Center for the Performing Arts.

(5) Reorganization authority

Nothing contained in this section shall prohibit the Board from reorganizing functions at the John F. Kennedy Center for the Performing Arts in accordance with laws governing reorganizations.

(e) Review of Board actions

The actions of the Board relating to performing arts and to payments made or directed to be made by the Board from any trust funds shall not be subject to review by any officer or agency other than a court of law.

(f) Collective bargaining

(1) "Theatrical employee" defined

As used in this subsection, the term ''theatrical employee'' means a nonappropriated fund employee of the Board, who is engaged in a box office, performing, or theatrical trade that is the subject of a collective bargaining agreement as of January 1, 1994, including any change in the trade as a result of a technological advance.

(2) Collective bargaining

(A) In general

For the purposes of the National Labor Relations Act (29 U.S.C. 151 et seq.) and the Labor-Management Relations Act, 1947 (29 U.S.C. 141 et seq.)—

(i) each theatrical employee shall be considered to be an ''employee'' within the meaning of section 2(3) of the National Labor Relations Act (29 U.S.C. 152(3)); and

(ii) with respect to a theatrical employee, the Board shall be considered to be an ''employer'' within the meaning of section 2(2) of the National Labor Relations Act (29 U.S.C. 152(2)).

(B) Rights and obligations

With respect to each theatrical employee, the theatrical employee and the Board shall have all of the rights and obligations specified in such Acts.

(g) Pedestrian and vehicular access

Subject to approval of the Secretary of the Interior under section 76j(a)(2)(F) of this title, the Board shall develop plans and carry out projects to improve pedestrian and vehicular access to the John F. Kennedy Center for the Performing Arts.

(Pub. L. 85–874, § 5, Sept. 2, 1958, 72 Stat. 1699; Pub. L. 88–260, § 1(2), Jan. 23, 1964, 78 Stat. 4; Pub.

L. 103–279, § 4, July 21, 1994, 108 Stat. 1413; Pub. L. 105–95, § 3(b), Nov. 19, 1997, 111 Stat. 2149.)

REFERENCES IN TEXT

The John F. Kennedy Center Act Amendments of 1994, referred to in subsec. (c), is Pub. L. 103–279, July 21, 1994, 108 Stat. 1409, which enacted sections 76r and 76s of this title, amended this section, sections 76h, 76j, 76*l*, and 76p of this title, and sections 193r, 193u, and 193v of former Title 40, Public Buildings, Property, and Works, and enacted and amended provisions set out as notes under section 76h of this title. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 76h of this title and Tables.

The provisions relating to the Federal competitive service, referred to in subsec. (d)(2), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The National Labor Relations Act, referred to in subsec. (f)(2), is act July 5, 1935, ch. 372, 49 Stat. 449, as amended, which is classified generally to subchapter II (§ 151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

The Labor Management Relations Act, 1947, referred to in subsec. (f)(2), is act June 23, 1947, ch. 120, 61 Stat. 136, as amended, which is classified principally to chapter 7 (§ 141 et seq.) of Title 29. For complete classification of this Act to the Code, see section 141 of Title 29 and Tables.

AMENDMENTS

1997—Subsec. (g). Pub. L. 105–95 added subsec. (g).

1994—Pub. L. 103–279, § 4(a)(1), substituted section catchline for former section catchline.

Subsec. (a). Pub. L. 103–279, § 4(a)(1), inserted heading and substituted ''John F. Kennedy Center for the Performing Arts, as a bureau of the Smithsonian Institution,'' for ''Smithsonian Institution''.

Subsec. (b). Pub. L. 103–279, § 4(b), inserted heading and amended text generally. Prior to amendment, text read as follows: ''The Board shall appoint and fix the compensation and duties of a director, an assistant director, and a secretary of the John F. Kennedy Center for the Performing Arts and of such other officers and employees of the John F. Kennedy Center for the Performing Arts as may be necessary for the efficient administration of the functions of the Board. The director, assistant director, and secretary shall be well qualified by experience and training to perform the duties of their office.''

Subsec. (c). Pub. L. 103–279, § 4(c), added heading and text of subsec. (c) and struck out text of former subsec. (c). Prior to amendment, text read as follows: ''The actions of the Board, including any payment made or directed to be made by it from any trust funds, shall not be subject to review by any officer or agency other than a court of law.''

Subsecs. (d) to (f). Pub. L. 103–279, § 4(c), added subsecs. (d) to (f).

1964—Subsecs. (a), (b). Pub. L. 88–260 substituted ''John F. Kennedy Center for the Performing Arts'' for ''National Cultural Center'' wherever appearing.

§ 76*l*. Official seal, Board vacancies and quorum, trustee powers and obligations, reports, support services, and review and audit

(a) Adoption of seal; Board function notwithstanding vacancies; quorum

The Board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations, as it deems necessary for the administration of its functions under this subchapter, including, among other matters, bylaws, rules, and regulations relating to the administration of its trust funds and the organization and procedure of the Board. The Board may function notwithstanding vacancies and twelve members of the Board shall constitute a quorum for the transaction of business.

(b) Powers and obligations of Board in respect of trust funds

The Board shall have all the usual powers and obligations of a trustee in respect of all trust funds administered by it.

(c) Annual report of operations and finances

The Board shall submit to the Smithsonian Institution and to Congress an annual report of the operations of the Board under this subchapter, including a detailed statement of all public and private moneys received and disbursed by it.

(d) Inspector General

The functions of the Board funded by funds appropriated pursuant to section 76r[1] of this title shall be subject to the requirements for a Federal entity under the Inspector General Act of 1978 (5 U.S.C. App.). The Inspector General of the Smithsonian Institution is authorized to carry out the requirements of such Act on behalf of the Board, on a reimbursable basis when requested by the Board.

(e) Property and personnel compensation

(1) In general

The Board may procure insurance against any loss in connection with the property of the Board and other assets administered by the Board. Each employee and volunteer of the Board shall be considered to be a civil employee of the United States (within the meaning of the term ''employee'' as defined in section 8101(1) of title 5), except that the Board shall continue to provide benefits with respect to any disability or death resulting from a personal injury to a nonappropriated fund employee of the Board sustained while in the performance of the duties of the employee for the Board pursuant to the workers compensation statute of the jurisdiction in which the John F. Kennedy Center for the Performing Arts is located. The disability or death benefits referred to in the preceding sentence, whether under the workers compensation statute referred to in the preceding sentence or under chapter 81 of title 5, shall continue to be the exclusive liability of the Board and the United States with respect to all employees and volunteers of the Board.

(2) Federal tort claims

For the purposes of chapter 171 of title 28, an employee of the Board shall be considered to be an ''employee of the government'' and the Board shall be considered to be a ''Federal agency''. No employee of the Board may bring suit against the United States or the Board under the Federal tort claims procedure of chapter 171 of title 28 for disability or death resulting from personal injury sustained while in the performance of the duties of the employee for the Board.

[1] See References in Text note below.