

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 49 Abandoned and Historic Cemeteries

SPONSOR(S): State Affairs Committee, Infrastructure & Tourism Appropriations Subcommittee, Constitutional Rights, Rule of Law & Government Operations Subcommittee, Driskell and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 430

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Constitutional Rights, Rule of Law & Government Operations Subcommittee	14 Y, 0 N, As CS	Villa	Miller
2) Infrastructure & Tourism Appropriations Subcommittee	11 Y, 0 N, As CS	McAuliffe	Davis
3) State Affairs Committee	19 Y, 0 N, As CS	Villa	Williamson

SUMMARY ANALYSIS

The Division of Historical Resources (Division), established within the Department of State (DOS), is charged with encouraging identification, evaluation, protection, preservation, collection, conservation, and interpretation of information about Florida's historic sites and properties or objects related to Florida's history and culture.

On June 4, 2021, Governor DeSantis signed into law CS/CS/HB 37 relating to abandoned cemeteries. The bill created a 10-member Task Force on Abandoned African-American Cemeteries (task force), adjunct to DOS, to study the extent that unmarked or abandoned African-American cemeteries and burial grounds exist throughout the state and develop and recommend strategies for identifying and recording cemeteries and burial grounds while preserving local history and ensuring dignity and respect for the deceased. The task force submitted its final report on December 17, 2021.

The bill creates the Historic Cemeteries Program within the Division and designates the State Historic Preservation Officer to serve as the director of the program. The bill requires the Historic Cemeteries Program to provide grants for certain entities to conduct research, repair, restore, or maintain abandoned African-American cemeteries.

The bill creates the Historic Cemeteries Program Advisory Council within the Division to provide guidance and recommendations to the Division regarding the duties and responsibilities of the Historic Cemeteries Program.

The bill amends the definition of "legally authorized person" within the Florida Funeral, Cemetery, and Consumer Services Act, to include members of representative community organizations. The definition of "conservation easement" is amended to include abandoned and neglected cemeteries 50 or more years old.

The bill provides an appropriation of \$1 million in nonrecurring funds from the General Revenue Fund for Historic Cemetery Program grants, and \$242,433 in recurring funds and \$12,021 in nonrecurring funds from the General Revenue Fund for three positions to staff the program. It does not appear to impact local government revenues or expenditures.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Department of State

The head of the Department of State (DOS) is the Secretary of State (Secretary) who is appointed by and serves at the pleasure of the Governor and is confirmed by the Senate. The Secretary must perform the 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 government officials, develops, maintains, publishes, and distributes the state protocol manual.²

Division of Historical Resources

The Division of Historical Resources (Division) is one of six divisions established within DOS.³ The Division is charged with encouraging identification, evaluation, protection, preservation, collection, conservation, and interpretation of information about Florida's historic sites and properties or objects related to Florida's history and culture.⁴ Some of the Division's responsibilities include:

- Developing a comprehensive statewide historic preservation plan;
- Directing and conducting a comprehensive statewide survey, and maintaining an inventory, of historic resources;
- Ensuring that historic resources are taken into consideration at all levels of planning and development; and
- Providing public information, education, and technical assistance relating to historic preservation programs.⁵

Advisory Councils

Advisory councils are 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.⁶ The Division receives assistance, guidance, and support from the following advisory councils:

- Florida Historical Commission;
- Florida National Register Review Board;
- State Historical Marker Council; and
- Great Floridian Ad Hoc Selection Committee.⁷

Historic and Abandoned Cemeteries and Unmarked Human Remains

Cemetery Regulation

Chapter 497, F.S., known as the Florida Funeral, Cemetery, and Consumer Services Act (Funeral Act), generally regulates funeral and cemetery services.⁸ The Funeral Act authorizes the Board of Funeral, Cemetery, and Consumer Services within the Department of Financial Services (DFS) to regulate

¹ Section 20.10(1), F.S.

² Section 15.01(1), F.S.

³ Section 20.10(2), F.S.

⁴ Section 267.031, F.S.

⁵ Section 267.031(5)(a), (b), (d), and (f), F.S.

⁶ Section 20.03(7), F.S.

⁷ Florida Department of State, Florida Division of Historical Resources, Advisors, available at <https://dos.myflorida.com/historical/about/advisors/> (Last visited March 29, 2023).

⁸ Section 497.001, F.S.

cemeteries, columbaria,⁹ cremation services, mausoleums, cemetery companies, dealers and monument builders, funeral directors, and funeral establishments.¹⁰

Section 497.005(13), F.S., defines the term “cemetery” to mean:

[A] place dedicated to and used or intended to be used for the permanent interment of human remains or cremated remains. A cemetery may contain land or earth interment; mausoleum, vault, or crypt interment; a columbarium, ossuary, scattering garden, or other structure or place used or intended to be used for the interment or disposition of cremated remains; or any combination of one or more of such structures or places.

The Funeral Act allows for the moving of graves – disinterment and reinterment. Disinterment and reinterment must be made in the physical presence of a licensed funeral director, unless reinterment occurs in the same cemetery.¹¹ The funeral director is to obtain written authorization from a legally authorized person¹² or court of competent jurisdiction prior to any disinterment and reinterment of a dead human body.¹³

Counties and municipalities are authorized, upon notice to DFS, to maintain and secure an abandoned cemetery or one that has not been maintained for more than six months.¹⁴ The solicitation of private funds and the expenditure of public funds are authorized for maintenance and security of abandoned cemeteries.¹⁵ These efforts of maintenance and security are statutorily exempt from civil liabilities or penalties for damages to property at the cemetery.¹⁶ Additionally, the county or municipality is permitted to maintain an action against the cemetery owner to recover costs for maintenance or security.¹⁷

Criminal Offenses Concerning Dead Bodies and Graves

Willfully and knowingly destroying, mutilating, defacing, injuring, or removing any tomb¹⁸ containing human skeletal remains or to disturbing memorials including fences associated with a monument containing human skeletal remains is a third-degree felony.¹⁹ Willfully and knowingly disturbing the contents of a grave or tomb is a second-degree felony.²⁰ The foregoing offenses do not apply to:

- Any person acting under the direction or authority of the Division within DOS;²¹
- Cemeteries operating under ch. 497, F.S.;
- Any cemeteries removing or relocating the contents of a grave or tomb as a response to a natural disaster; or
- Any person otherwise authorized by law to remove or disturb a tomb, monument, gravestone, burial mound, or similar structure, or its contents.²²

⁹ “Columbarium” means a structure or building that is substantially exposed above the ground and that is intended to be used for the interment of cremated remains. Section 497.005(18), F.S.

¹⁰ See ss. 497.101 and 497.103, F.S.

¹¹ Section 497.384, F.S.

¹² Section 497.005(43), F.S., defines the term “legally authorized person” as a priority list that begins with the authorizations and directions of the decedent and can include relatives, guardians, or personal representatives of the decedent.

¹³ Section 497.384(3), F.S.

¹⁴ Section 497.284(1), F.S.

¹⁵ *Id.*

¹⁶ Section 497.284(2), F.S.

¹⁷ Section 497.284(3), F.S.

¹⁸ This section provides that the term “tomb” includes any mausoleum, columbarium, or belowground crypt.

¹⁹ Section 872.02(1), F.S. A third-degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

²⁰ Section 872.02(2), F.S. A second-degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

²¹ The powers and duties of the Division are set forth in s. 267.031, F.S. Subject to some limitations, a state archaeologist, as employed by the Division, may assume jurisdiction over an unmarked human burial site in order to initiate efforts for the proper protection of the burial and the human skeletal remains and associated burial artifacts. See ss. 872.05(4)-(6), F.S.

²² Section 872.02(4), F.S.

Abandoned Cemeteries in the Tampa Area

Zion Cemetery

Zion Cemetery, established in 1901, is believed to be Tampa's first cemetery for African-Americans with room for approximately 800 graves.²³ Zion Cemetery disappeared from public view and city maps by the late 1920s.²⁴ In 1951, the Tampa Housing Authority started construction on the Robles Park Apartments on land that includes part of the Zion Cemetery site, and construction crews found several unmarked graves and three caskets.²⁵

The Robles Park Village housing, which is still owned by the Tampa Housing Authority (THA), and two other commercial businesses owned by two private sector individuals now stand on the land that once was the site of the African-American cemetery. Upon learning that the Zion Cemetery might still lie beneath at least a portion of its Robles Park Village Apartments, the THA organized a consultation committee and hired archaeologists to survey its property.²⁶ In August 2019, archeologists used ground-penetrating radar and discovered what they believe to be 126 caskets beneath the THA land.²⁷ The THA spent between \$70,000 and \$80,000 to relocate about 29 families who occupied five buildings within the housing complex under which Zion Cemetery is believed to be located.²⁸ The goal, according to the THA, is to "demolish the five buildings that sit on top of the cemetery and create a memorial park that honors those resting underground. The rest of Robles Park Village will eventually be demolished and redeveloped as a mixed-income community."²⁹

Ridgewood Cemetery

In October 2019, the Hillsborough County School District (HCSD) learned that the old Ridgewood Cemetery might have been located at the southeast corner of the King High School campus, which is now occupied by a small building and open land used for the agricultural program.³⁰ Ridgewood was designated as a pauper's cemetery and at least 280 people (mostly African-Americans) were buried there between 1942 and 1954.³¹

On October 28, 2019, the HCSD created an advisory committee, named the Historical Response Committee, to determine how to handle the search for unmarked graves at King High School and what to do if unmarked graves were found. The HCSD hired a geotechnical firm to conduct a survey on the south end of King High School campus using ground penetrating radar to look for any signs of the lost Ridgewood Cemetery on the campus. On November 20, 2019, the HCSD released the results of the

²³ Paul Guzzo, *A community, not just Zion Cemetery, Disappeared to Build Homes for Whites*, Tampa Bay Times, Nov. 4, 2019 (updated Jan. 8, 2020), available at <https://www.tampabay.com/news/hillsborough/2019/11/04/a-community-not-just-zion-cemetery-disappeared-to-build-homes-for-whites/#talk-wrapper> (last visited Feb. 13, 2023).

²⁴ See *Id.*

²⁵ See Paul Guzzo, *Key Dates in the History of Tampa's Forgotten Zion Cemetery*, Tampa Bay Times, Jun. 19, 2019 (updated Jan. 13, 2020), available at <https://www.tampabay.com/florida/2019/06/23/key-dates-in-the-history-of-tampas-forgotten-zion-cemetery> (last visited Feb. 14, 2023).

²⁶ Paul Guzzo, *Richard Gonzmart Believes no Coffins will be Found on his Zion Cemetery Land*, Tampa Bay Times, Sep. 24, 2019, available at <https://www.tampabay.com/news/hillsborough/2019/09/24/richard-gonzmart-believes-no-coffins-will-be-found-on-his-zion-cemetery-land/> (last visited Feb. 14, 2023).

²⁷ *Id.*

²⁸ Emerald Morrow, *Lost African American Grave Discoveries Highlight the Need for Affordable Housing*, 10News WTSP, Feb. 24, 2020, available at <https://www.wtsp.com/article/news/special-reports/erased/lost-graves-from-zion-highlights-affordable-housing-crunch/67-25fe2f5e-5476-4152-823f-59280cd7fb0f> (last visited Feb. 14, 2023); see also Divya Kumar, *Tenant Leaders Seek Quicker Relocation for People Living Near Zion Cemetery*, Tampa Bay Times, Oct. 10, 2019, available at <https://www.tampabay.com/news/tampa/2019/10/10/tenant-leaders-seek-quicker-relocation-for-people-living-near-zion-cemetery> (last visited Feb. 14, 2023).

²⁹ Morrow, *supra* note 29.

³⁰ Paul Guzzo, *Records Show King High Gym may have been Built atop Paupers Cemetery*, Tampa Bay Times, Oct. 22, 2019 (updated Oct. 23, 2019), available at <https://www.tampabay.com/news/education/2019/10/22/map-shows-king-high-gym-may-have-been-built-atop-paupers-cemetery> (last visited Feb. 14, 2023).

³¹ Lori Rozsa, *Lost Lives, Fresh Heartache as a Black Cemetery is Found Buried under a High School*, WASHINGTON POST, November 24, 2019, available at https://www.washingtonpost.com/national/lost-lives-fresh-heartache-as-a-black-cemetery-is-found-buried-under-a-high-school/2019/11/24/5e755e4a-0ed4-11ea-bf62-eadd5d11f559_story.html (last visited Feb. 14, 2023).

survey.³² The survey of the southern edge of the King High School campus showed evidence of burials of approximately 145 graves;³³ however, there was no evidence of burials or graves on the northeast corner of the campus.

Historical records generally indicate that there were between 250 and 268 burials at Ridgewood Cemetery.³⁴ Possible reasons why the radar survey only revealed approximately 145 possible graves include:

- The radar may have more difficulty locating smaller coffins of infants and children.
- Some coffins may have decayed underground preventing detection by scan some 75 years later.
- Some graves may be under the agricultural workshop building.
- Some graves may have been moved to another cemetery.
- Limitations of radar technology.³⁵

On November 21, 2019, the HCSD notified the county Medical Examiner in Hillsborough County and the Division of the unmarked human burials³⁶ found on the King High Campus. When an unmarked human burial is discovered (other than during an authorized archaeological excavation),³⁷ all disturbing activity of the burial must cease and the district medical examiner must be notified.³⁸ Activity may not resume until authorized by the district medical examiner or the state archaeologist.³⁹

Almost a year later, the Division informed the HCSD that it does not have jurisdiction unless the cemetery is located on state lands.⁴⁰ The cemetery is not located on state lands; thus, jurisdiction was returned to the HCSD. On or about November 3, 2020, the Historical Response Committee met to discuss proper ways to honor the individuals buried at the site, care for the space, and provide learning opportunities to students at King High School and other schools.⁴¹ On February 15, 2021, the HCSD unveiled design plans for a monument intended to pay tribute to the deceased buried in the cemetery.⁴² If approved by the community, the monument will be erected on a 1-acre site on the campus of King High School.⁴³

Memorial Park Cemetery

During segregation, the Tampa area had several burial sites for African-American residents. Most were abandoned and built over; however, Memorial Park Cemetery was purchased by John Robinson in 1929 who operated the cemetery until his recent death in 2019.⁴⁴ Robinson left the cemetery to his niece and nephew who subsequently divested themselves of it. Accordingly, the City of Tampa began

³² Hillsborough County School District, Press Release, *School District Releases Findings from Scans on King High School Property*, Nov. 20, 2019, available at <https://www.sdhc.k12.fl.us/newsdesk/article/1578/school-district-releases-findings-from-scans-on-king-high-school-property> (last visited Feb. 14, 2023).

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Section 872.05(2)(f), F.S., defines the term “unmarked human burial” as any human skeletal remains or associated burial artifacts or any location, including any burial mound or earthen or shell monument, where human skeletal remains or associated burial artifacts are discovered or believed to exist on the basis of archaeological or historical evidence, excluding any burial marked or previously marked by a tomb, monument, gravestone, or other structure or thing placed or designed as a memorial of the dead.

³⁷ Section 872.05(5), F.S., provides for a similar process if an unmarked human burial is discovered during an authorized archaeological excavation.

³⁸ Section 872.05(4), F.S.

³⁹ *Id.*

⁴⁰ Hillsborough County School District, Press Release, *Historical Response Committee Seeks Input for Ridgewood Memorial*, Nov. 3, 2020, available at <https://sdhc.k12.fl.us/newsdesk/article/1795/historical-response-committee-seeks-input-for-ridgewood-memorial> (last visited Feb. 14, 2023).

⁴¹ *Id.*

⁴² D'Ann Lawrence White, *District Unveils Memorial to Lost Black Cemetery at High School*, Patch.com (Feb. 16, 2021), available at <http://www.thafl.com/docs/uploads/2021-02-16%20District%20Unveils%20Memorial.pdf> (last visited Feb. 14, 2023).

⁴³ *Id.*

⁴⁴ Paul Guzzo, *Tampa loses control of historic Black cemetery. A property flipper now owns it.*, Tampa Bay Times, Jan. 30, 2023 (updated Jan. 31, 2023), available at <https://www.tampabay.com/life-culture/history/2023/01/30/tampa-loses-control-historic-black-cemetery-property-flipper-now-owns-it/> (last visited Feb. 14, 2023).

maintaining the 20-acre cemetery with at least 13,000 unmarked graves and 6,000 headstones.⁴⁵ The city hoped to take official ownership by placing a lien, foreclosing, and purchasing the property at county auction. However, the city was outbid by a company that specializes in buying and reselling foreclosed property. The company expressed its intent to maintain and ultimately sell the property.⁴⁶

Task Force on Abandoned African-American Cemeteries

On June 4, 2021, Governor DeSantis signed into law CS/CS/HB 37⁴⁷ relating to abandoned cemeteries. The bill created a 10-member Task Force on Abandoned African-American Cemeteries (task force), adjunct to DOS, to study the extent that unmarked or abandoned African-American cemeteries and burial grounds exist throughout the state and to develop and recommend strategies for identifying and recording such cemeteries and burial grounds while preserving local history and ensuring dignity and respect for the deceased.

The task force was required to hold its first meeting by August 1, 2021, and was authorized to meet as many times as it deemed necessary to complete its duties. The task force was required to submit a report by January 1, 2022, detailing its findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Minority Leaders of the Senate and the House of Representatives.

The task force met five times from July 20, 2021, to December 9, 2021, and submitted its final report on December 17, 2021.⁴⁸ The recommendations of the task force are organized under four categories: Identification and Protection, Maintenance, Education, and Memorialization.⁴⁹ The task force expired on March 11, 2022.

Effect of the Bill

The bill creates the Historic Cemeteries Program within the Division. The bill designates the State Historic Preservation Officer as the director of the program and requires the State Historic Preservation Officer, subject to legislative appropriation, to employ three full-time employees to operate the program. The bill provides that the program will:

- Serve as the organizational center for recording and updating the Florida Master Site File records of cemeteries in this state established at least 50 years ago.
- Develop guidelines for use by state agencies, local governments, and developers in the identification, location, and maintenance of abandoned and historic cemeteries.
- Serve as an interagency governmental liaison to municipalities, planning departments, colleges and universities, and community organizations to facilitate collaboration and the sharing of information relating to abandoned and historic cemeteries.
- Coordinate with the University of South Florida's Black Cemetery Network⁵⁰ to facilitate the inclusion of abandoned African-American cemeteries in the Black Cemetery Network.
- Research, identify, and record abandoned cemeteries, with an emphasis on abandoned African-American cemeteries.

⁴⁵ Fadia Patterson, *House-flipping group buys historically Black cemetery*, Spectrum News, Feb. 5, 2023, available at <https://www.baynews9.com/fl/tampa/news/2023/02/05/historically-black-memorial-park-cemetery-has-new-owner> (last visited Feb. 14, 2023); see also Paul Guzzo, *Could Tampa's Memorial Park Cemetery be full of unmarked graves? Archaeologists think so*, Tampa Bay Times, June 3, 2020, available at <https://www.tampabay.com/news/tampa/2020/06/03/could-tampas-memorial-park-cemetery-be-full-of-unmarked-graves-archaeologists-think-so/#:~:text=of%20unmarked%20graves%3F-,Archaeologists%20think%20so,many%20unmarked%20graves%20are%20there.> (last visited Feb. 14, 2023).

⁴⁶ Guzzo, *supra* note 45.

⁴⁷ Chapter 2021-60, Laws of Fla.

⁴⁸ Florida Department of State: Division of Historical Resources, *Abandoned African-American Cemeteries Task Force*, available at <https://dos.myflorida.com/historical/archaeology/human-remains/abandoned-cemeteries/abandoned-african-american-cemeteries-task-force/> (last visited Feb. 14, 2023).

⁴⁹ Florida Department of State: Division of Historical Resources, *Final Report of the Abandoned African-American Cemeteries Task Force*, available at https://files.floridados.gov/media/705214/hb-37_task-force-on-abandoned-african-american-cemeteries_report_12-17-2021.pdf (last visited Feb. 14, 2023).

⁵⁰ The Black Cemetery Network is a national network that brings visibility to African American cemeteries and serves as a resource for information relating to Black Cemeteries.

- When abandoned cemeteries are located, provide notification and guidance to relevant persons and assist with efforts to identify relatives and descendants, funeral directors, religious organizations, qualified nonprofit organizations, and property owners.
- Assist constituents, descendant communities, state and federal agencies, local governments, and other stakeholders with inquiries relating to abandoned cemeteries.
- In coordination with the Department of Education (DOE), develop a curriculum relating to abandoned and historic cemeteries, with a focus on citizenship, social responsibility, and history.
- Establish a priority for the placement of historical markers for erased, forgotten, lost, or abandoned African-American cemeteries.

In addition, the Historic Cemeteries Program must, subject to legislative appropriation, provide grants to:

- Research institutions, colleges and universities, and qualified nonprofit organizations, for the purpose of conducting genealogical and historical research necessary to identify and contact the relatives and descendants of persons buried in abandoned African-American cemeteries.
- Local governments and qualified nonprofit organizations, for the purposes of repairing, restoring, and maintaining abandoned African-American cemeteries.

The bill authorizes the Division to adopt rules to implement the creation of the Historic Cemeteries Program.

The bill also creates the nine-member Historic Cemeteries Program Advisory Council⁵¹ within the Division. The members, who are regionally distributed and representative of communities throughout Florida, are appointed by the Secretary of State after considering the recommendations of the director of the Division. Council members serve four-year terms; however, for the purpose of providing staggered terms, four of the initially appointees will be appointed to two-year terms and the remaining five members will be appointed to four-year terms. Council members serve without compensation, but may receive per diem and reimbursement for travel expenses.⁵²

As soon as practicable after July 1, 2023, the council must meet to elect a chair from its membership.

Except as otherwise provided, the council must operate in a manner consistent with s. 20.052, F.S., regarding advisory bodies, commissions, and boards. The council must provide guidance and recommendations to the Division regarding the duties and responsibilities of the Historic Cemeteries Program.

The bill amends the definition of “legally authorized person”⁵³ within the Funeral Act,⁵⁴ to include a member of a representative community organization. This authorizes a funeral director to obtain written authorization from a member of a representative community organization prior to the disinterment and reinterment of a dead human body.⁵⁵ The bill also amends the definition of “conservation easement”⁵⁶ to include abandoned and neglected cemeteries that are 50 or more years old, and prohibits acts or uses that are detrimental to the preservation of the structural integrity or physical appearance of abandoned and neglected cemeteries that are 50 or more years old. In addition, the bill authorizes conservation easements to be acquired by any governmental body or agency or by a charitable corporation or trust whose purposes include preserving sites or properties of historical, architectural, archaeological, or cultural significance, including abandoned and neglected cemeteries that are 50 or more years old.

⁵¹ “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. Section 20.03(7), F.S.

⁵² See section 112.061, F.S.

⁵³ See section 497.005, F.S.

⁵⁴ See chapter 497, F.S.

⁵⁵ See section 487.384(3), F.S.

⁵⁶ See section 704.06(1), F.S.

The bill provides an appropriation of \$1 million in nonrecurring funds from the General Revenue Fund for Historic Cemetery Program grants, and \$242,433 in recurring funds and \$12,021 in nonrecurring funds from the General Revenue Fund for three positions to staff the program.

B. SECTION DIRECTORY:

Section 1 creates s. 267.21, F.S., relating to historic cemeteries program.

Section 2 creates s. 267.22, F.S., relating to historic cemeteries program advisory council.

Section 3 amends s. 497.005, F.S., relating to definitions.

Section 4 amends s. 704.06, F.S., relating to conservation easements; creation; acquisition; enforcement.

Section 5 provides an appropriation for three positions to staff the Historic Cemetery Program.

Section 6 provides an appropriation for Historic Cemetery Program grants.

Section 7 provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides an appropriation of \$1 million in nonrecurring funds from the General Revenue Fund for Historic Cemetery Program grants, and \$242,433 in recurring funds and \$12,021 in nonrecurring funds from the General Revenue Fund for three positions to staff the program.

The bill requires the Historic Cemeteries Program to develop, in coordination with DOE, a curriculum relating to abandoned and historic cemeteries. It is likely that any costs associated with developing the curriculum would be insignificant, and therefore, could be absorbed within DOE's existing resources.

The bill creates the Historic Cemeteries Program Advisory Council composed of an inclusive group of nine members who are regionally distributed and representative of communities throughout this state. Members will not be entitled to compensation, but are authorized to receive per diem and reimbursement for travel expenses as provided in law. It is unknown how many members will be appointed to serve on the advisory council, but there will likely be an indeterminate insignificant negative fiscal impact to DOS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants rule-making authority to the Division to implement the creation of the Historic Cemeteries Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 23, 2023, the Constitutional Rights, Rule of Law & Government Operations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. One amendment corrected the effective date, changing it from July 1, 2022, to July 1, 2023. The other amendment removed a provision granting the state an easement on private property for certain purposes relating to an abandoned cemetery, and removed an appropriation.

On March 21, 2023, the Infrastructure & Tourism Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provided an appropriation of \$1 million in nonrecurring funds from the General Revenue Fund for Historic Cemetery Program grants, and \$242,433 in recurring funds and \$12,021 in nonrecurring funds from the General Revenue Fund for three positions to staff the program.

On March 31, 2023, the State Affairs Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments specified that the advisory council is a nine-member council, provided a process for staggering the terms of the council members, and added a dollar sign to the salary rate.

This analysis is drawn to the committee substitute as approved by the State Affairs Committee.