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HERITAGE AND ARTS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions related to the Department of Heritage and Arts.

Highlighted Provisions:

This bill:

- ▶ modifies the requirements for a state agency to begin an undertaking on a historic property;
- ▶ modifies the requirements for receiving a distribution from the Martin Luther King, Jr. Civil Rights Support Restricted Account; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-8-404, as last amended by Laws of Utah 2019, Chapter 221

9-18-102, as enacted by Laws of Utah 2012, Chapter 332

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **9-8-404** is amended to read:

9-8-404. Agency responsibilities -- State historic preservation officer to comment on undertaking -- Public Lands Policy Coordinating Office may require joint analysis.

30 (1) (a) Before ~~[making a final agency decision authorizing the expenditure of state~~
31 ~~funds or providing financial assistance for an undertaking,]~~ approving any undertaking, an
32 agency shall:

- 33 (i) take into account the effect of the undertaking on any historic property; and
- 34 (ii) provide the state historic preservation officer with a written evaluation of the
35 undertaking's effect on any historic property.

36 (b) The state historic preservation officer shall provide to the agency a written
37 comment on the agency's determination of effect within 30 days after the day on which the state
38 historic preservation officer receives a written evaluation described in Subsection (1)(a)(ii).

39 (c) If the written evaluation described in Subsection (1)(a)(ii) demonstrates that there is
40 an adverse effect to a historic property, the agency shall enter into a formal written agreement
41 with the state historic preservation officer describing how each adverse effect will be mitigated
42 before the agency may expend state funds or provide financial assistance for the undertaking.

43 (d) The state historic preservation officer shall make available to the Public Lands
44 Policy Coordinating Office a list of undertakings on which an agency or federal agency has
45 requested the state historic preservation officer's or the Antiquities Section's advice or
46 consultation.

47 (e) The Public Lands Policy Coordinating Office may request the joint analysis
48 described in Subsections (2)(c) and (d) of any proposed undertaking on which the state historic
49 preservation officer or Antiquities Section is providing advice or consultation.

50 (2) (a) If the state historic preservation officer does not concur with the agency's
51 written evaluation required by Subsection (1)(a)(ii), the state historic preservation officer shall
52 inform the Public Lands Policy Coordinating Office of any objections.

53 (b) The Public Lands Policy Coordinating Office shall review the state historic
54 preservation officer's objections and determine whether or not to initiate the joint analysis
55 established in Subsections (2)(c) and (d) within 30 days after the day on which the state historic
56 preservation officer informs the Public Lands Policy Coordinating Office of the objections.

57 (c) If the Public Lands Policy Coordinating Office determines further analysis is

58 necessary, the Public Lands Policy Coordinating Office shall, jointly with the agency and the
59 state historic preservation officer, analyze:

60 (i) the cost of the undertaking, excluding costs attributable to the identification,
61 potential recovery, or excavation of historic properties;

62 (ii) the ownership of the land involved;

63 (iii) the likelihood of the presence and the nature and type of historical properties that
64 may be affected by the expenditure or undertaking; and

65 (iv) clear and distinct alternatives for the identification, recovery, or excavation of
66 historic properties, including ways to maximize the amount of information recovered and
67 report that information at current standards of scientific rigor.

68 (d) The Public Lands Policy Coordinating Office, the agency, and the state historic
69 preservation officer shall also consider as part of the joint analysis:

70 (i) the estimated costs of the alternatives in Subsection (2)(c)(iv) in total and as a
71 percentage of the total cost of the undertaking; and

72 (ii) at least one plan for the identification, recovery, or excavation of historic properties
73 that does not substantially increase the cost of the proposed undertaking.

74 (3) (a) (i) If the state historic preservation officer concurs with the agency's evaluation
75 or if the Public Lands Policy Coordinating Office determines that the joint analysis is
76 unnecessary, the state historic preservation officer shall, no later than 30 calendar days after
77 receiving the agency's evaluation, provide formal comments on the agency's evaluation.

78 (ii) If a joint analysis is conducted, the state historic preservation officer shall provide
79 formal comments on the agency's evaluation no later than 30 calendar days after the conclusion
80 of the joint analysis.

81 (b) The state historic preservation officer shall ensure that the comments include the
82 results of any joint analysis conducted under Subsection (2).

83 (c) If a joint analysis is not conducted, the state historic preservation officer's
84 comments may include advice about ways to maximize the amount of historic, scientific,
85 archaeological, anthropological, and educational information recovered, in addition to the

86 physical recovery of artifacts and the reporting of archaeological information at current
87 standards of scientific rigor.

88 Section 2. Section **9-18-102** is amended to read:

89 **9-18-102. Martin Luther King, Jr. Civil Rights Support Restricted Account.**

90 (1) There is created in the General Fund a restricted account known as the "Martin
91 Luther King, Jr. Civil Rights Support Restricted Account."

92 (2) The account shall be funded by:

93 (a) contributions deposited into the account in accordance with Section [41-1a-422](#);

94 (b) private contributions; and

95 (c) donations or grants from public or private entities.

96 (3) Upon appropriation by the Legislature, the department shall distribute funds in the
97 account to one or more charitable organizations that~~[(a)]~~ qualify as being tax exempt under
98 Section 501(c)(3) of the Internal Revenue Code~~[(b) is]~~, are located within the state ~~[and is~~
99 ~~not]~~, are not affiliated with a parent organization~~;~~, and that:

100 ~~[(e)]~~ (a) create or support programs that promote awareness and education of
101 constitutional and civil rights;

102 ~~[(d)]~~ (b) provide education and training in inalienable rights as set forth in the
103 Declaration of Independence;

104 ~~[(e)]~~ (c) partner with educational institutions to administer underrepresented or
105 underserved scholarships; ~~[and]~~ or

106 ~~[(f)]~~ (d) partner with government agencies within the state and the private sector to
107 administer and facilitate an underrepresented or underserved internship program.

108 (4) (a) An organization described in Subsection (3) may apply to the department to
109 receive a distribution in accordance with Subsection (3).

110 (b) An organization that receives a distribution from the department in accordance with
111 Subsection (3) shall expend the distribution only to:

112 (i) facilitate, coordinate, and encourage appropriate ceremonies and activities that
113 commemorate the federal Martin Luther King, Jr. holiday;

114 (ii) create or support programs that promote awareness and education of constitutional
115 and civil rights;

116 (iii) provide education and training in inalienable rights as set forth in the Declaration
117 of Independence;

118 (iv) partner with educational institutions to administer underrepresented or underserved
119 scholarships;

120 (v) partner with government agencies within the state and the private sector to
121 administer and facilitate an underrepresented or underserved internship program; [~~and~~] or

122 (vi) pay the costs of issuing or reordering Martin Luther King, Jr. Civil Rights Support
123 special group license plate decals.

124 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
125 department may make rules providing procedures for an organization to apply to the
126 department to receive a distribution under this Subsection (3).

127 (5) In accordance with Section [63J-1-602.1](#), appropriations from the account are
128 nonlapsing.