

F. Kennedy Center for the Performing Arts; and

(B) site improvements and modifications.

**(2) Availability**

The plan shall be on file and available for public inspection in the office of the Secretary of the Center.

**(3) Limitation on use of appropriated funds**

No appropriated funds may be used to pay the costs (including the repayment of obligations incurred to finance costs) of—

(A) the design and construction of an addition to the parking garage authorized under paragraph (1)(A);

(B) the design and construction of site improvements and modifications authorized under paragraph (1)(B) that the Board specifically designates will be financed using sources other than appropriated funds; or

(C) any project to acquire large screen format equipment for an interpretive theater, or to produce an interpretive film, that the Board specifically designates will be financed using sources other than appropriated funds.

(Pub. L. 85-874, §3, Sept. 2, 1958, 72 Stat. 1699; Pub. L. 88-260, §1(2), Jan. 23, 1964, 78 Stat. 4; Pub. L. 105-95, §2, Nov. 19, 1997, 111 Stat. 2148.)

AMENDMENTS

1997—Pub. L. 105-95 substituted section catchline for former section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

1964—Pub. L. 88-260 substituted “John F. Kennedy Center for the Performing Arts” for “National Cultural Center” wherever appearing.

**§ 76j. Duties of Board**

**(a) Programs, activities, and goals**

**(1) In general**

The Board shall—

(A) present classical and contemporary music, opera, drama, dance, and other performing arts from the United States and other countries;

(B) promote and maintain the John F. Kennedy Center for the Performing Arts as the National Center for the Performing Arts—

(i) by developing and maintaining a leadership role in national performing arts education policy and programs, including developing and presenting original and innovative performing arts and educational programs for children, youth, families, adults, and educators designed specifically to foster an appreciation and understanding of the performing arts;

(ii) by developing and maintaining a comprehensive and broad program for national and community outreach, including establishing model programs for adaptation by other presenting and educational institutions; and

(iii) by conducting joint initiatives with the national education and outreach programs of the Very Special Arts, an entity affiliated with the John F. Kennedy Center

for the Performing Arts which has an established program for the identification, development, and implementation of model programs and projects in the arts for disabled individuals;

(C) strive to ensure that the education and outreach programs and policies of the John F. Kennedy Center for the Performing Arts meet the highest level of excellence and reflect the cultural diversity of the United States;

(D) provide facilities for other civic activities at the John F. Kennedy Center for the Performing Arts;

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

(F) develop, and update annually, a comprehensive building needs plan for the features of the John F. Kennedy Center for the Performing Arts in existence on July 21, 1994;

(G) with respect to the building and site of the John F. Kennedy Center for the Performing Arts, plan, design, and construct each capital repair, replacement, improvement, rehabilitation, alteration, or modification necessary to maintain the functionality of the building and site at current standards of life, safety, security, and accessibility;

(H) provide—

(i) information and interpretation; and

(ii) with respect to the building and site of the John F. Kennedy Center for the Performing Arts, all necessary maintenance, repair, and alteration of, and all janitorial, security, and other services and equipment necessary for the operations of, the building and site, in a manner consistent with requirements for high quality operations; and

(I) ensure that safe and convenient access to the site of the John F. Kennedy Center for the Performing Arts is provided for pedestrians and vehicles.

**(2) Administrative powers and duties**

**(A) Authority to enter into contracts**

The Board, in accordance with applicable law, may enter into contracts or other arrangements with, and make payments to, public agencies or private organizations or other private persons in order to carry out the functions of the Board under this subchapter. The authority described in the preceding sentence includes utilizing the services and facilities of other agencies, including the Department of the Interior, the General Services Administration, and the Smithsonian Institution.

**(B) Preparation of budget**

The Board shall prepare a budget pursuant to sections 1104, 1105(a), and 1513(b) of title 31.

**(C) Use of agency personnel**

The Board may utilize or employ the services of the personnel of any agency or instrumentality of the Federal Government or the District of Columbia, with the consent of the

agency or the instrumentality concerned, on a reimbursable basis, and utilize voluntary and uncompensated personnel.

**(D) Selection of contractors**

In carrying out the duties of the Board under this subchapter, the Board may negotiate any contract—

(i) for planning, design, engineering, or construction of buildings to be erected on the John F. Kennedy Center Plaza under section 76q-1 of this title and for landscaping and other improvements to the Plaza; or

(ii) 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.

**(E) Maintenance of halls**

The Board shall maintain the Hall of Nations, the Hall of States, and the Grand Foyer of the John F. Kennedy Center for the Performing Arts in a manner that is suitable to a national performing arts center that is operated as a Presidential memorial and in a manner consistent with other national Presidential memorials.

**(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)(D). Pub. L. 105-95 added subpar. (D).

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 im-

pacts) 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.