

(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, 76l, 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 di-

rector, 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.

§ 761. 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 76r¹ 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 em-

¹ See References in Text note below.

ployee 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.

(Pub. L. 85-874, § 6, Sept. 2, 1958, 72 Stat. 1699; Pub. L. 88-100, § 3, Aug. 19, 1963, 77 Stat. 128; Pub. L. 88-260, § 1(4), (5), Jan. 23, 1964, 78 Stat. 4; Pub. L. 92-313, § 10, June 16, 1972, 86 Stat. 222; Pub. L. 93-67, July 10, 1973, 87 Stat. 161; Pub. L. 94-119, §§ 1, 2, Oct. 21, 1975, 89 Stat. 608; Pub. L. 94-578, title III, § 314, Oct. 21, 1976, 90 Stat. 2737; Pub. L. 95-50, § 2, June 20, 1977, 91 Stat. 232; Pub. L. 95-305, June 29, 1978, 92 Stat. 348; Pub. L. 96-587, § 1, Dec. 23, 1980, 94 Stat. 3387; Pub. L. 97-73, Nov. 3, 1981, 95 Stat. 1064; Pub. L. 97-202, June 24, 1982, 96 Stat. 128; Pub. L. 101-449, §§ 1-3, Oct. 22, 1990, 104 Stat. 1050; Pub. L. 102-500, § 1, Oct. 24, 1992, 106 Stat. 3267; Pub. L. 103-279, § 5, July 21, 1994, 108 Stat. 1414; Pub. L. 105-226, § 4, Aug. 12, 1998, 112 Stat. 1513.)

REFERENCES IN TEXT

Section 76r of this title, referred to in subsec. (d), was in the original a reference to section 12 of Pub. L. 85-874. Section 12 of Pub. L. 85-874 was renumbered as section 13, and a new section 12 was added, by Pub. L. 107-224, § 2, Sept. 18, 2002, 116 Stat. 1340. Sections 12 and 13 are classified to sections 76q-1 and 76r, respectively, of this title.

The Inspector General Act of 1978, referred to in subsec. (d), is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsecs. (d) to (f). Pub. L. 105-226 redesignated subsecs. (e) and (f) as (d) and (e), respectively, and struck out heading and text of former subsec. (d). Text read as follows: “Not less than once every 3 years, the Comptroller General shall review and audit the accounts of the John F. Kennedy Center for the Performing Arts for the purpose of examining expenditures of funds appropriated under the authority provided by this subchapter.”

1994—Subsec. (c). Pub. L. 103-279, § 5(1), substituted “the operations of the Board” for “its operations”.

Subsecs. (d) to (f). Pub. L. 103-279, § 5(2), added subsecs. (d) to (f) and struck out former subsec. (e) which related to maintenance, repair, alteration, security, information, and other services and former subsec. (f) which related to audits.

1992—Subsec. (e)(3). Pub. L. 102-500 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “There is authorized to be appropriated to the Secretary of the Interior to carry out this subsection—

“(A) for fiscal year 1991, not more than—

“(i) \$6,750,000 for annual maintenance, repairs, alterations, and operating services; and

“(ii) \$15,000,000 for deferred maintenance, repairs, and alterations; and

“(B) for fiscal year 1992, not more than—

“(i) \$9,850,000 for annual maintenance, repairs, alterations, and operating services; and

“(ii) \$15,512,000 for deferred maintenance, repairs, and alterations.”

1990—Subsec. (d). Pub. L. 101-449, § 3, struck out subsec. (d) which read as follows: “The Board shall transmit to Congress a detailed report of any memorial which it proposes to provide within the John F. Kennedy Center for the Performing Arts under authority of paragraph (5) of section 76j of this title, and no such memorial shall be provided until the Board of Regents of the Smithsonian Institution shall have approved such memorial.”

Subsec. (e). Pub. L. 101-449, § 1, amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “The Secretary of the Interior, acting through the National Park Service, shall provide maintenance, security, information, interpretation, janitorial and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. There is authorized to be appropriated to carry out this subsection not to exceed \$2,800,000 for the fiscal year ending June 30, 1976, \$741,000 for the transition period ending September 30, 1976, \$3,100,000 for the fiscal year ending September 30, 1977, and \$4,000,000 for the fiscal year ending September 30, 1978. There is authorized to be appropriated to carry out this subsection not to exceed \$4,200,000 for the fiscal year ending September 30, 1979. There is authorized to be appropriated to carry out this subsection not to exceed \$4,287,000 for the fiscal year ending September 30, 1980, and not to exceed \$4,400,000 for the fiscal year ending September 30, 1981, and not to exceed \$4,544,000 for the fiscal year ending September 30, 1982, and not to exceed \$4,247,000 for the fiscal year ending September 30, 1983.”

Subsec. (f). Pub. L. 101-449, § 2, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “The General Accounting Office is authorized and directed to review and audit, regularly, the accounts of the Kennedy Center for the Performing Arts, for the purpose of determining the continuing ability of the Center to pay its share of future operating costs, and for the purpose of assuring that the cost-of-living formula fairly and accurately reflects the use of the building.”

1982—Subsec. (e). Pub. L. 97-202 inserted provisions authorizing an appropriation of not to exceed \$4,247,000 for fiscal year ending Sept. 30, 1983.

1981—Subsec. (e). Pub. L. 97-73 inserted provision authorizing an appropriation of not to exceed \$4,544,000 for fiscal year ending Sept. 30, 1982.

1980—Subsec. (e). Pub. L. 96-587 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1980, and Sept. 30, 1981.

1978—Subsec. (e). Pub. L. 95-305 inserted provisions authorizing appropriations for fiscal year ending Sept. 30, 1979.

1977—Subsec. (e). Pub. L. 95-50 substituted provisions authorizing an appropriation of \$4,000,000 for fiscal year ending Sept. 30, 1978, for provisions authorizing appropriations of \$4,000,000 for fiscal year ending Sept. 30, 1978, and not to exceed \$4,300,000 for the fiscal year ending Sept. 30, 1979.

1976—Subsec. (e). Pub. L. 94-578 substituted provisions authorizing appropriations for fiscal years ending Sept.

30, 1978, and Sept. 30, 1979, for provisions covering fiscal years ending Sept. 30, 1976, Sept. 30, 1977, and transitional period ending Sept. 30, 1976.

1975—Subsec. (e). Pub. L. 94-119, §1, inserted provisions authorizing appropriations for fiscal year ending June 30, 1976, for the transitional period ending Sept. 30, 1976, and for fiscal year ending Sept. 30, 1977.

Subsec. (f). Pub. L. 94-119, §2, added subsec. (f).

1973—Subsec. (e). Pub. L. 93-67 substituted provisions authorizing appropriations not to exceed \$2,400,000 for fiscal year ending June 30, 1974, and \$2,500,000 for fiscal year ending June 30, 1975, for provision granting general authorization of appropriation for fiscal year ending June 30, 1973.

1972—Subsec. (e). Pub. L. 92-313 added subsec. (e).

1964—Subsec. (c). Pub. L. 88-260, §1(4), inserted “and to Congress” after “Smithsonian Institution”.

Subsec. (d). Pub. L. 88-260, §1(5), added subsec. (d).

1963—Subsec. (a). Pub. L. 88-100 substituted “twelve” for “eight” after “vacancies and”.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c) of this section relating to submitting annual report to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 192 of House Document No. 103-7.

AWARD OF SERVICE CONTRACTS

Pub. L. 100-446, title I, Sept. 27, 1988, 102 Stat. 1782, provided: “That contracts hereafter awarded for environmental systems, housekeeping, protection systems, and repair or renovation of buildings of the John F. Kennedy Center for the Performing Arts may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.”

§ 76m. Photovoltaic system

(a) In general

The Board may study, plan, design, engineer, and construct a photovoltaic system for the main roof of the John F. Kennedy Center for the Performing Arts.

(b) Report

Not later than 60 days before beginning construction of the photovoltaic system pursuant to subsection (a), the Board shall submit 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 on the feasibility and design of the project.

(Pub. L. 85-874, §7, as added, Pub. L. 110-338, §3, Oct. 3, 2008, 122 Stat. 3731.)

PRIOR PROVISIONS

A prior section 76m, Pub. L. 85-874, §7, Sept. 2, 1958, 72 Stat. 1700; Pub. L. 86-297, Sept. 21, 1959, 73 Stat. 573; Pub. L. 88-100, §4, Aug. 19, 1963, 77 Stat. 128; Pub. L. 88-260, §1(2), Jan. 23, 1964, 78 Stat. 4; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, which related to termination of offices created and appointments made in connection with John F. Kennedy Center for the Performing Arts if moneys were not found to construct the Center within eight years after Sept. 2, 1958, was repealed by Pub. L. 101-449, §3, Oct. 22, 1990, 104 Stat. 1050.

§ 76n. Repealed. Pub. L. 101-449, §3, Oct. 22, 1990, 104 Stat. 1050

Section, Pub. L. 85-874, §8, as added Pub. L. 88-260, §1(6), Jan. 23, 1964, 78 Stat. 4; amended Pub. L. 91-90, §1(a), Oct. 17, 1969, 83 Stat. 135; Pub. L. 92-313, §9, June 16, 1972, 86 Stat. 222; Pub. L. 95-50, §1, June 20, 1977, 91

Stat. 232, authorized appropriations for construction, repair, renovation, and reconstruction of John F. Kennedy Center for the Performing Arts.

§ 76o. Borrowing authority to finance parking facilities

(a) Revenue bonds

To finance necessary parking facilities for the Center, the Board may issue revenue bonds to the Secretary of the Treasury payable from revenues accruing to the Board. The total face value of all bonds so issued shall not be greater than \$20,400,000. Such obligations shall have maturities agreed upon by the Board and the Secretary of the Treasury but not in excess of fifty years. Such obligations may be redeemable at the option of the Board before maturity in such manner as may be stipulated in such obligations, but the obligations thus redeemed shall not be refinanced by the Board. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Board to be issued under this section and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31 and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include any purchases of the Board's obligations under this section.

(b) Interest

Effective as of October 12, 1984, the obligations of the Board incurred under subsection (a) of this section shall bear no interest, and the requirement of the Board to pay the unpaid interest which has accrued on such obligations is terminated.

(c) Kennedy Center Revenue Bond Sinking Fund

There is hereby established in the Treasury of the United States a sinking fund, the Kennedy Center Revenue Bond Sinking Fund (hereinafter referred to as the “Fund”), which shall be used to retire the obligations of the Board incurred under subsection (a) of this section upon the respective maturities of such obligations. The Board shall pay into the Fund, beginning on January 1, 1987 and ending on January 1, 2016, the annual sum of \$200,000 in amortization of the principal amount of the obligations. Such sums shall be invested by the Secretary of the Treasury in public debt securities with maturities suitable for the needs of the Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to and form a part of the Fund. Moneys in the Fund shall be used exclusively to retire the obligations of the Board incurred under subsection (a) of this section. Adjustments of not greater than plus or minus 5 per centum may be made from time to time in the annual payments to the Fund in order to correct any gains or deficiencies as a result of fluctuations in interest rates over the life of the investments: *Provided, however,* That a final adjustment shall be made between the Board and the Secretary of the Treasury at the end of the