

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 430

INTRODUCER: Senator Powell

SUBJECT: Abandoned and Historic Cemeteries

DATE: March 14, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limonas-Borja</u>	<u>McVane</u>	<u>GO</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ATD</u>	_____
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 430 creates the Historic Cemeteries Program (Program) within the Division of Historical Resources (Division). The bill establishes the responsibilities of the Program and specifies the entities to which the Program can provide grants. The bill provides that the State Historic Preservation Officer (Officer) shall serve as the director of the Program and employ three full-time employees to operate the Program, subject to appropriation of funds.

The bill establishes the Historic Cemeteries Program Advisory Council (Council) within the Division. The bill provides that the Secretary of State will appoint members to the Council for 4-year staggered terms, who must be regionally distributed and representative of communities throughout the state. The bill establishes the duties and responsibilities of the Council and provides that the members serve without compensation, but may receive per diem and reimbursement for travel expenses.

The bill amends the definition of “legally authorized person” to include members of representative community organizations. The bill also amends the definition of “conservation easement” to include abandoned and neglected cemeteries that are 50 or more years old.

The bill provides the state an easement for ingress and egress if credible evidence supports a determination that there is an abandoned cemetery located on, underneath, or adjacent to land owned by a private owner. The easement will allow the state, after it provides notice to the owner, to maintain and conduct research and noninvasive searches at such cemetery at reasonable times and in a reasonable matter.

The bill requires the Legislature to appropriate funds to include abandoned African American cemeteries in the University of South Florida’s Black Cemetery Network.

The Department of State will incur insignificant costs associated with the Historic Cemeteries Program Advisory Council. Otherwise, the bill, without an appropriation by the Legislature, is not expected to impact state and local government expenditures.

The bill takes effect July 1, 2023.

## II. Present Situation:

### Department of State

The Department of State (DOS), created in s. 20.10, F.S., is composed of six divisions: Elections, Historical Resources, Corporations, Library and Information Services, Cultural Affairs and Administration. The head of the DOS is the Secretary of State (Secretary). The Secretary is appointed by and serves at the pleasure of the Governor, and is confirmed by the Senate. The Secretary performs functions conferred by the State Constitution upon the custodian of state records.<sup>1</sup> The Secretary also serves as the state protocol officer and, in consultation with the Governor and other governmental officials, develops, maintains, publishes, and distributes the state protocol manual.<sup>2</sup>

### *Division of Historical Resources*

The DOS's Division of Historical Resources (Division) is responsible for preserving and promoting Florida's historical, archaeological, and folk culture resources. The Division Director's Office oversees a Historic Preservation Grants program to help preserve and maintain Florida's historic buildings and archaeological sites and coordinates outreach programs. The Division Director also serves as the State Historic Preservation Officer, acting as the liaison with the national historic preservation program conducted by the National Park Service.

The Division is comprised of the following Bureaus:

- Bureau of Historic Preservation;
- Bureau of Historical Museums; and
- Bureau of Archeological Research.<sup>3</sup>

### 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.<sup>4</sup> The Division receives assistance, guidance, and support from the following advisory councils:

- Florida Historical Commission;
- Florida National Register Review Board;

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<sup>1</sup> Section 20.10(1), F.S.

<sup>2</sup> Section 15.01(1), F.S.

<sup>3</sup> Florida Department of State, Florida Division of Historical Resources, *About*, available at <https://dos.myflorida.com/historical/about/> (Last visited Mar. 6, 2023).

<sup>4</sup> Section 20.03(7), F.S.

- State Historical Marker Council; and
- Great Floridian Ad Hoc Selection Committee.<sup>5</sup>

### **Reimbursement of Travel Expenses and Per Diem for Public Officers**

The rates, procedures, and limitations placed on the use of taxpayer funds for travel by state and local government employees and officers is standardized by general law.<sup>6</sup> For public officers and employees, all travel must be authorized and approved by the head of the employing agency.<sup>7</sup> The travel request must be accompanied by a signed statement by the traveler's supervisor stating the purpose of the travel and that such travel is for official business. The agency head may only pay for travel expenses necessary to achieve the public purpose and subject to limitations established by state law.<sup>8</sup>

Public officers and employees may also receive reimbursement for transportation expenses.<sup>9</sup> Travel is reimbursed according to a usually traveled route, with any costs associated with deviation from that route being borne by the traveler. The agency head or designee must determine the most economical method of travel considering the nature of the business, the most efficient and economical means of travel (including a consideration of time and impact on productivity of the traveler), and the number of persons making the trip.<sup>10</sup> If the traveler pays for the cost of official travel out of pocket, the traveler must provide documentation for reimbursement.<sup>11</sup> Use of a personal vehicle for official business is reimbursed to the traveler at the rate of 44.5 cents per mile, or at the common carrier fare for such travel.<sup>12</sup> Mileage is calculated based on the current map of the Department of Transportation, plus vicinity mileage traveled for the conduct of official business.<sup>13</sup>

### **Historic and Abandoned Cemeteries Regulation**

Chapter 497, F.S., known as the Florida Funeral, Cemetery, and Consumer Services Act (the Act), generally regulates funeral and cemetery services.<sup>14</sup> The Act authorizes the Board of Funeral, Cemetery, and Consumer Services within the Department of Financial Services to regulate cemeteries, columbaria, cremation services and practices, cemetery companies, dealers and monument builders, funeral directors, and funeral establishments.<sup>15</sup>

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<sup>5</sup> Florida Department of State, Florida Division of Historical Resources, *Advisors*, available at <https://dos.myflorida.com/historical/about/advisors/> (Last seen Mar. 6, 2023).

<sup>6</sup> Section 112.061, F.S.

<sup>7</sup> Section 112.061(3)(a), F.S. (travel must be approved by “head of the agency”). The “head of the agency” is defined as the highest policymaking authority of a public agency. Section 112.061(2)(b), F.S.

<sup>8</sup> Section 112.061(3)(b), F.S.

<sup>9</sup> See s. 112.061(7), F.S.

<sup>10</sup> Section 112.061(7)(a), F.S.

<sup>11</sup> Section 112.061(7)(c), F.S.

<sup>12</sup> Section 112.061(7)(d)1., F.S.

<sup>13</sup> Section 112.061(7)(d)3., F.S.

<sup>14</sup> See Section 497.001, F.S.

<sup>15</sup> Sections 497.101, F.S., and 497.103, F.S.

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 Act allows graves to be moved – disinterment and reinterment.<sup>16</sup> Disinterment and reinterment must be made in the physical presence of a licensed funeral director, unless reinterment occurs in the same cemetery.<sup>17</sup> Further, the funeral director must obtain written authorization from a legally authorized person or court of competent jurisdiction prior to any disinterment and reinterment.

Section 497.005(43), F.S., defines the term “legally authorized person” by providing a priority listing which begins with the decedent (when written inter vivos authorizations and directions are provided by the decedent) and includes relatives of the decedent.<sup>18</sup> Additionally, the definition provides for other persons who may qualify— such as a public health officer, medical examiner or county commission – should a family member not exist or be available.<sup>19</sup> Thus, if a legally authorized person is not available, a court of competent jurisdiction may provide the written authorization prior to the disinterment and reinterment of a dead human body.<sup>20</sup>

Section 497.284, F.S., governs abandoned cemeteries, and authorizes counties and municipalities, upon notice to the Department of Financial Services, to maintain and secure an abandoned cemetery or one that has not been maintained for more than six months. The solicitation of private funds and the expenditure of public funds are authorized for such maintenance and security.<sup>21</sup> These efforts of maintenance and security are statutorily exempt from civil liabilities or penalties for damages to property at the cemetery.<sup>22</sup> Additionally, the county or municipality is permitted to maintain an action against the cemetery owner to recover costs for maintenance or security.<sup>23</sup>

Willfully and knowingly disturbing the contents of a grave or tomb is a second-degree felony.<sup>24</sup> The foregoing offenses do not apply to:

- Any person acting under the direction or authority of the Division within DOS;<sup>25</sup>
- Cemeteries operating under ch. 497, F.S.;

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<sup>16</sup> See Section 497.384, F.S.

<sup>17</sup> Section 487.384(1), F.S.

<sup>18</sup> Section 497.005(43), F.S.

<sup>19</sup> *Id.*

<sup>20</sup> Section 497.384(3), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> Section 497.284(2), F.S.

<sup>23</sup> Section 497.284(3), F.S.

<sup>24</sup> 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.

<sup>25</sup> 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.

- 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.<sup>26</sup>

## Abandoned Cemeteries

### *Zion Cemetery*

Zion Cemetery was founded in 1901.<sup>27</sup> It is believed to be Tampa's first cemetery for African-Americans with room for approximately 800 graves.<sup>28</sup> Sometime after 1925, Zion Cemetery disappeared from city maps.<sup>29</sup> In 1951, the Tampa Housing Authority (THA) started construction on the Robles Park Apartments on land that includes part of the Zion Cemetery site. The construction crews found several unmarked graves and three caskets.<sup>30</sup>

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. In August 2019, archeologists used ground-penetrating radar and discovered what they believe to be 126 caskets beneath the THA land.<sup>31</sup> The THA spent between \$70,000 and \$80,000 to relocate about 29 families who occupied five buildings within the housing complex.<sup>32</sup> 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.”<sup>33</sup>

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<sup>26</sup> 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.

<sup>27</sup> Mark Schreiner, *Zion Cemetery: What's Happened So Far And What's Next*, WUSF Public Media (Oct. 16, 2019), available at <https://wusfnews.wusf.usf.edu/university-beat/2019-10-16/zion-cemetery-whats-happened-so-far-and-whats-next> (last visited Mar. 9, 2023).

<sup>28</sup> Paul Guzzo, *A community, not Just Zion Cemetery, Disappeared to Build Homes for Whites*, Tampa Bay Times, (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 Mar. 9, 2023).

<sup>29</sup> Schreiner, *supra* note 35.

<sup>30</sup> 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).

<sup>31</sup> 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 Mar. 9, 2023).

<sup>32</sup> 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-housingcrunch/67-25fe2f5e-5476-4152-823f-59280cd7fb0f> (last visited Mar. 9, 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 Mar. 9, 2023).

<sup>33</sup> Morrow, *supra* note 40.

### ***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.<sup>34</sup> Ridgewood was designated as a pauper's cemetery and at least 280 people (mostly African Americans) were buried there between 1942 and 1954.<sup>35</sup>

The HCSD hired a geotechnical firm to conduct a survey using a 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 survey. The survey of the southern edge of the King High School campus showed evidence of burials of approximately 145 graves; however, there was no evidence of burials or graves on the northeast corner of the campus.<sup>36</sup>

On November 21, 2019, the HCSD notified the county Medical Examiner in Hillsborough County and the Division of the unmarked human burials<sup>37</sup> found on the King High Campus. When an unmarked human burial is discovered (other than during an authorized archaeological excavation)<sup>38</sup> all disturbing activity of the burial must cease, and the district medical examiner must be notified.<sup>39</sup> Activity may not resume until authorized by the district medical examiner or the state archaeologist.<sup>40</sup>

On February 15, 2021, the HCSD unveiled design plans for a monument intended to pay tribute to the deceased buried in the cemetery.<sup>41</sup> If approved by the community, the monument will be erected on a 1-acre site on the campus of King High School.<sup>42</sup>

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<sup>34</sup> Paul Guzzo, Records Show King High Gym may have been Built atop Paupers Cemetery, Tampa Bay Times (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 Mar. 9, 2023).

<sup>35</sup> 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](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 Mar. 9, 2023). 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-highschool-property> (last visited Mar. 9, 2023).

<sup>36</sup> Emerald Morrow, *145 coffins found at King High School, part of an erased African American cemetery in Tampa*, 10 Tampa Bay Times (Dec. 3, 2019) available at <https://www.wtsp.com/article/news/local/hillsboroughcounty/king-high-school-african-american-cemetery-graves-found/67-9620c608-857e-4ba4-820b-2cf53667a099> (last visited Mar. 9, 2023).

<sup>37</sup> 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.

<sup>38</sup> Section 872.05(5), F.S., provides for a similar process if an unmarked human burial is discovered during an authorized archeological excavation.

<sup>39</sup> Section 872.05(4), F.S.

<sup>40</sup> *Id.*

<sup>41</sup> 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 Mar. 9, 2023).

<sup>42</sup> *Id.*

### ***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. The City of Tampa then began maintaining the 20-acre cemetery with at least 13,000 unmarked graves and 6,000 headstones. 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.<sup>43</sup>

### **Conservation Easements**

A conservation easement is a right or interest in real property which is appropriate to retain land or water areas predominantly in their natural, scenic, open, agricultural or wooded condition. Conservation easements are meant to retain areas as suitable habitat for fish, plants or wildlife or to retain the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological or cultural significance. The purpose of a conservation easement is accomplished by restricting development allowed on a piece of property, limiting other land uses, and maintaining existing areas of conservation interest on a piece of property in their natural condition. A conservation easement must prohibit or limit any or all of the following:

- Construction or placement of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- Removal or destruction of trees, shrubs, or other vegetation;
- Excavation, dredging, or removing loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;
- Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;
- Activities detrimental to drainage, flood control, water conservation erosion control, soil conservation, or fish and wildlife habitat preservation;
- Acts or uses detrimental to such retention of land or water areas; and
- Acts or uses detrimental to the preservation of the structural integrity or physical appearances of sites or properties of historical, architectural, archaeological, or cultural significance.<sup>44</sup>

Section 704.06(3), F.S., dictates that conservation easements may be acquired by any governmental body or agency or by a charitable corporation or trust whose purposes include protecting natural, scenic, or open space values of real property, assuring its availability for agricultural, forest, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving sites or properties of historical, architectural, archaeological, or cultural significance.

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<sup>43</sup> Paul Guzzo, *Tampa loses control of historic Black cemetery. A property flipper now owns it*, Tampa Bay Times (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 Mar. 9, 2023).

<sup>44</sup> Section 704.06(1), F.S.

Section 704.06(11), F.S., dictates that no law may prohibit or limit the owner of land or the owner of a conservation easement from voluntarily negotiating the sale or use of such land or easement for the construction and operation of linear facilities, to include; electric transmission and distribution facilities, telecommunications transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances. In any legal proceeding to condemn land for the purpose of construction and operation of a linear facility as described above, the court shall consider the public benefit provided by the conservation easement and linear facilities in determining which lands may be taken and the compensation paid.<sup>45</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 267.21, F.S., to establish the Historic Cemeteries Program within the Division. The bill designates the State Historic Preservation Officer (Officer) as the director of the Program. Subject to legislative appropriation, the section requires the Officer to employ three full-time employees to operate the program.

Section 1 provides that the program will have the following duties and responsibilities:

- Serve as the organizational center for recording and updating in the Florida Master Site File records of cemeteries 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 Network 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.
- 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, 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.

Section 1 also provides that the Program shall provide grants, subject to legislative appropriation to the following entities:

- 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.

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<sup>45</sup> Section 704.06(11)(a), F.S.



- Local governments and qualified nonprofit organizations, for the purposes of repairing, restoring, and maintaining abandoned African-American cemeteries.

Section 1 grants the Division rulemaking authority to implement the Program.

**Section 2** creates s. 267.22, F.S., to establish the Historic Cemeteries Program Advisory Council (Council) within the Division. The Council must be composed of members who are regionally distributed and representative of communities throughout Florida. The members shall be appointed by the Secretary of the State to serve 4-year staggered terms. The section requires the Council to meet as soon as practicable after July 1, 2023 to elect a chair from its membership. The section requires that the Council provide guidance and recommendations to the Division regarding the duties and responsibilities of the Historic Cemeteries Program. The members will serve without compensation but may receive per diem and reimbursement for travel expenses.

**Section 3** amends s. 497.005, F.S., to expand the definition of “legally authorized person” to include a member of a representative community organization. Thus allowing a member of a representative community organization to provide written authorization to a funeral director prior to the disinterment and reinternment of a dead human body.

**Section 4** amends s. 704.06, F.S., to expand the definition of “conservation easement” to include abandoned and neglected cemeteries that are at least 50 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 at least 50 years old. The section also authorizes any governmental body or agency or a charitable corporation or trust whose purposes include preserving sites or properties of historical, architectural, archeological, or cultural significance, including abandoned and neglected cemeteries that are at least 50 years old to acquire a conservation easement.

**Section 5** amends s. 704.08, F.S., to provide the state an easement for ingress and egress, if credible evidence supports a determination that there is an abandoned cemetery located on, underneath, or adjacent to land owned by a private owner, for the purpose of maintaining and conducting research and noninvasive searches at such cemetery at reasonable times and in a reasonable manner after providing the owner with reasonable notice.

**Section 6** requires the Legislature to appropriate funds for the purpose of including abandoned African-American cemeteries in Florida in the University of South Florida’s Black Cemetery Network.

**Section 7** provides the bill takes effect July 1, 2023.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Section 1 creates the Historic Cemeteries Program and authorizes the State Historic Preservation Officer to employ three full-time employees to operate the program, subject to legislative appropriation. The Department of State (DOS) has stated that the total costs of the three positions to be approximately \$247,301.<sup>46</sup>

Section 1 also requires the Historic Cemeteries Program to develop a curriculum relating to abandoned and historic cemeteries, in coordination with the Department of Education (DOE). As such, the DOS and DOE may incur costs associated with developing the curriculum.

Section 1 requires, subject to legislative appropriation, the Historic Cemeteries Program to provide grants for certain entities to conduct research, repair, restore, or maintain abandoned African American cemeteries. It is unknown how many entities could be provided grants and for what amount, but there will likely be an indeterminate significant negative fiscal impact to the extent an appropriation is provided.

Section 2 creates the Historic Cemeteries Program Advisory Council (Council). The members will not be provided compensation but are authorized to receive per diem and

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<sup>46</sup> Department of State, *2022 Agency Legislative Bill Analysis* (Mar. 6, 2023) (on file with the Senate Committee on Governmental Oversight and Accountability).

reimbursement for travel expenses as provided in law. It is anticipated that these costs will be absorbed within the DOS's current resources.

Section 6 instructs the legislature to appropriate funds for the purpose of including abandoned African-American cemeteries in this state into the University of South Florida's Black Cemetery Network.

**VI. Technical Deficiencies:**

On line 96, the bill states that members of the Council shall serve 4-year staggered terms, although it does not specify how to implement the staggering terms. The bill does not specify the amount of members to serve on the Council either. Consideration should be given to clarify how the terms on the council will be staggered and how many members will serve on the Council.

**VII. Related Issues:**

Section 5 grants the state an easement for ingress and egress over a property owners land, and it is unclear whether it would be considered a "taking" subject to payment of just compensation to the property owner.

**VIII. Statutes Affected:**

This bill substantially amends sections 497.005, 704.06, and 704.08 of the Florida Statutes.

This bill creates sections 267.21 and 267.22 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.