

Q:\COMP\MISC\JFKCTR



JOHN F. KENNEDY CENTER ACT

[As Amended Through Public Law 107-142, Feb. 12, 2002]



Q:\COMP\MISC\JFKCTR

February 12, 2002

JOHN F. KENNEDY CENTER ACT

AN ACT To provide for a John F. Kennedy Center for the Performing Arts which will be constructed, with funds raised by voluntary contributions, on a site made available in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. [20 U.S.C. 76h note] SHORT TITLE AND FINDINGS.

(a) **SHORT TITLE.**—This Act may be cited as the “John F. Kennedy Center Act”.

(b) **FINDINGS.**—Congress finds that—

(1) the late John Fitzgerald Kennedy served with distinction as President of the United States and as a Member of the Senate and the House of Representatives;

(2) by the untimely death of John Fitzgerald Kennedy the United States and the world have suffered a great loss;

(3) the late John Fitzgerald Kennedy was particularly devoted to education and cultural understanding and the advancement of the performing arts;

(4) it is fitting and proper that a living institution of the performing arts, designated as the National Center for the Performing Arts, named in the memory and honor of this great leader, shall serve as the sole national monument to his memory within the District of Columbia and its environs;

(5) such a living memorial serves all of the people of the United States by preserving, fostering, and transmitting the performing arts traditions of the people of the United States and other countries by producing and presenting music, opera, theater, dance, and other performing arts; and

(6) such a living memorial should be housed in the John F. Kennedy Center for the Performing Arts, located in the District of Columbia.

SEC. 2. [20 U.S.C. 76h] BOARD OF TRUSTEES.

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—There is established in the Smithsonian Institution a bureau, which shall be directed by a board to be known as the Trustees of the John F. Kennedy Center for the Performing Arts (hereafter in this Act referred to as the “Board”), whose duty it shall be to maintain and administer the John F. Kennedy Center for the Performing Arts and site thereof as the National Center for the Performing Arts, a living memorial to John Fitzgerald Kennedy, and to execute such other functions as are vested in the Board by this Act.

(2) **MEMBERSHIP.**—The Board shall be composed of—
(A) the Secretary of Health and Human Services;
(B) the Librarian of Congress;
(C) the Secretary of State;

- (D) the Chairman of the Commission of Fine Arts;
- (E) the Mayor of the District of Columbia;
- (F) the Superintendent of Schools of the District of Columbia;
- (G) the Director of the National Park Service;
- (H) the Secretary of Education;
- (I) the Secretary of the Smithsonian Institution;
- (J)(i) the Speaker and the Minority Leader of the House of Representatives;
- (ii) the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives; and
- (iii) three additional Members of the House of Representatives appointed by the Speaker of the House of Representatives;
- (K)(i) the Majority Leader and the Minority Leader of the Senate;
- (ii) the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate; and
- (iii) three additional Members of the Senate appointed by the President of the Senate; and
- (L) thirty-six general trustees, who shall be citizens of the United States, to be appointed in accordance with subsection (b).
- (b) GENERAL TRUSTEES.—The general trustees shall be appointed by the President of the United States. Each trustee shall hold office as a member of the Board for a term of 6 years, except that—
- (1) any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term;
- (2) a member shall continue to serve until the successor of the member has been appointed; and
- (3) the term of office of a member appointed before the date of enactment of the John F. Kennedy Center Act Amendments of 1994 shall expire as designated at the time of appointment.
- (c) ADVISORY COMMITTEE ON THE ARTS.—There shall be an Advisory Committee on the Arts composed of such members as the President of the United States may designate, to serve at the pleasure of the President. Persons appointed to the Advisory Committee on the Arts, including officers or employees of the United States, shall be persons who are recognized for their knowledge of, or experience or interest in, one or more of the arts in the fields covered by the John F. Kennedy Center for the Performing Arts. The President shall designate the Chairman of the Advisory Committee on the Arts. In making such appointments the President shall give consideration to such recommendations as may from time to time be submitted to him by leading national organizations in the appropriate art fields. The Advisory Committee on the Arts shall advise and consult with the Board and make recommendations to the Board regarding existing and prospective cultural activities to be

carried out by the John F. Kennedy Center for the Performing Arts. The Advisory Committee on the Arts shall assist the Board in carrying out section 5(a) of this Act. Members of the Advisory Committee on the Arts shall serve without compensation.

SEC. 3. [20 U.S.C. 76i] JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.

(a) **IN GENERAL.**—The Board shall construct for the Smithsonian Institution, with funds raised by voluntary contributions, a building to be designated as the John F. Kennedy Center for the Performing Arts on a site in the District of Columbia bounded by the Inner Loop Freeway on the east, the Theodore Roosevelt Bridge approaches on the south, Rock Creek Parkway on the west, New Hampshire Avenue and F Street on the north, which shall be selected for such purpose by the National Capital Planning Commission. The National Capital Planning Commission shall acquire by purchase, condemnation, or otherwise, lands necessary to provide for the John F. Kennedy Center for the Performing Arts and related facilities. Such building shall be in accordance with plans and specifications approved by the Commission of Fine Arts.

(b) **PARKING GARAGE ADDITIONS AND SITE IMPROVEMENTS.**—

(1) **IN GENERAL.**—Substantially in accordance with the plan entitled “Site Master Plan—Drawing Number 1997–2 April 29, 1997,” and map number NCR 844/82571, the Board may design and construct—

(A) an addition to the parking garage at each of the north and south ends of the John 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.

SEC. 4. [20 U.S.C. 76j] DUTIES OF THE 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 the date of enactment of the John F. Kennedy Center Act Amendments of 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 Act. 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, United States Code.

(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 Act, 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.

(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 the date of enactment of the John F. Kennedy Center Act Amendments of 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)(1) Except as provided in paragraph (2) of this subsection, the Board shall assure that after the date of enactment of this subsection, 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 the date of enactment of this subsection.

(3) For purposes of this subsection, testimonials and benefit performances shall not be construed to be memorials.

SEC. 5. [20 U.S.C. 76k] POWERS OF THE 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, United States Code, 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, United States Code; 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, United States Code, 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, United States Code. 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) DEFINITION.—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.

(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 4(a)(2)(F), 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.

ADMINISTRATION

SEC. 6. [20 U.S.C. 761] (a) 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 Act, 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) The Board shall have all the usual powers and obligations of a trustee in respect of all trust funds administered by it.

(c) The Board shall submit to the Smithsonian Institution and to Congress an annual report of the operations of the Board under this Act, 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 12 shall be subject to the requirements for a Federal entity under the Inspector General Act of 1978 (5 U.S.C. App. 3). 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 employee of the United States (within the meaning of the term 'employee' as defined in section 8101(1) of title 5, United States Code), 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, United States Code, 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, United States Code, 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, United States Code, for disability or death resulting from personal injury sustained while in the performance of the duties of the employee for the Board.
[Sections 7 and 8 repealed by P.L. 101–449]

BORROWING AUTHORITY

SEC. 9. [20 U.S.C.76o] (a) 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, United States Code, and the purposes for which securities may be issued under chapter 31 of title 31, United States Code, are extended to include any purchases of the Board’s obligations under this section.

(b) Effect as of the date of enactment of this subsection 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) 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 amortization period to correct any overall gain or deficiency in the Fund. The terms of this adjustment shall be covered by a memorandum of understanding between the Board and the Secretary of the Treasury to be consummated on or before the time the initial payment into the Fund is made.

GIFTS TO UNITED STATES

SEC. 10. [20 U.S.C. 76p] The Secretary of the Treasury is authorized to accept on behalf of the United States any gift to the United States which the Secretary finds has been contributed in honor or in memory of the late President John F. Kennedy and to pay the money to such appropriation or other accounts, including the appropriation accounts established pursuant to appropriations authorized by this Act, as in the judgment of the Secretary will best effectuate the intent of the donor.

NATIONAL MEMORIAL

SEC. 11. [20 U.S.C. 76q] The John F. Kennedy Center for the Performing Arts, designated by this Act, shall be the sole national memorial to the late John Fitzgerald Kennedy within the city of Washington and its environs.

SEC. 12. [20 U.S.C. 76r] AUTHORIZATION OF APPROPRIATIONS.

(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H)—

- (1) \$13,000,000 for fiscal year 1999;
- (2) \$14,000,000 for each of fiscal years 2000 and 2001; and
- (3) \$15,000,000 for each of fiscal years 2002 and 2003.

(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1)—

- (1) \$20,000,000 for each of fiscal years 1999, 2000, and 2001;
- (2) \$19,000,000 for fiscal year 2002; and
- (3) \$17,000,000 for fiscal year 2003.

(c) LIMITATION ON USE OF FUNDS.—No funds appropriated pursuant to this section may be used for any direct expense incurred in the production of a performing arts attraction, for personnel who are involved in performing arts administration (including any supply or equipment used by the personnel), or for production, staging, public relations, marketing, fundraising, ticket sales, or education. Funds appropriated directly to the Board shall not affect nor diminish other Federal funds sought for any performing arts function and may be used to reimburse the Board for that portion of costs that are Federal costs reasonably allocated to building services and theater maintenance and repair.

SEC. 13. [20 U.S.C. 76s] DEFINITIONS.

As used in this Act, the terms “building and site of the John F. Kennedy Center for the Performing Arts” and “grounds of the John F. Kennedy Center for the Performing Arts” refer to the site

in the District of Columbia on which the John F. Kennedy Center building is constructed and that extends to the line of the west face of the west retaining walls and curbs of the Inner Loop Freeway on the east, the north face of the north retaining walls and curbs of the Theodore Roosevelt Bridge approaches on the south, the east face of the east retaining walls and curbs of Rock Creek Parkway on the west, and the south curbs of New Hampshire Avenue and F Street on the north, as generally depicted on the map entitled "Transfer of John F. Kennedy Center for the Performing Arts", numbered 844/82563, and dated April 20, 1994 (as amended by the map entitled "Transfer of John F. Kennedy Center for the Performing Arts", numbered 844/82563A and dated May 22, 1997), which shall be on file and available for public inspection in the office of the National Capital Region, National Park Service, Department of the Interior.