

The Code of Alabama 1975

Title 41 STATE GOVERNMENT

Chapter 6 ALABAMA DEPARTMENT OF ARCHIVES AND HISTORY

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Section 41-6-1

Establishment; location.

There shall be a Department of Archives and History, to be located at Montgomery.

(Code 1907, §793; Code 1923, §1398; Code 1940, T. 55, §255.)

Section 41-6-2

Objects and purposes.

(a) The objects and purposes of the department are:

- (1) The care and custody of official archives;
- (2) The collection of materials bearing upon the history of the state and of the territory included therein from the earliest times;
- (3) The completion and publication of the state's official records and other historical materials;
- (4) The diffusion of knowledge in reference to the history and resources of the state;
- (5) The encouragement of historical work and research;
- (6) The encouragement of and assistance in the establishment of public school libraries and in the improvement and strengthening of those already in existence; and
- (7) The provision of advice and assistance to libraries and library workers in library administration, methods and economy.

(b) The department shall bring together and arrange for ready consultation a reference collection of materials for the use of members of the Legislature, state officers and others on all subjects which may, from time to time, be deemed of public interest and importance to the people of the state.

(c) The department shall perform such other acts and requirements as may be enjoined by law.

(Code 1907, §794; Code 1923, §1399; Code 1940, T. 55, §256.)

Section 41-6-3

Board of trustees of department - Composition.

(a) The department shall be under the control of the Board of Trustees of the Department of Archives and History, which shall consist of one member from each congressional district and the additional members selected pursuant to subsection (b).

(b) Two additional at-large members shall be selected and an additional member shall be selected from each U.S. Congressional District. The additional members shall be selected by the board of trustees and their names shall be communicated to the Senate not later than the fifth legislative day of the 2004 Regular Session of the Legislature. Newly selected members shall be confirmed by the Senate in the same manner as vacancies filled pursuant to Section 41-6-4. The board of trustees shall select three of the new members to serve initial terms of two years, three of the new members to serve initial terms of four years, and three of the new members to serve initial terms of six years. All successor members shall serve terms of six years and shall be selected as provided in Section 41-6-4.

(c) The membership of the board of trustees shall be inclusive and shall reflect the racial and gender diversity of the state.

(Code 1907, §795; Acts 1923, No. 40, p. 23; Code 1923, §1401; Code 1940, T. 55, §258; Act 2003-395, §1.)

Section 41-6-4

Board of trustees of department - Vacancies; terms of office; meetings; officers; compensation; powers and duties generally.

(a) The board of trustees shall fill all vacancies occurring on the board, whether by expiration of term of service or by death or resignation, but the names of all successor members shall be communicated to the current session or the next ensuing regular session of the state Senate for confirmation. If the Senate rejects any successor trustee, the board shall proceed forthwith to fill the vacancy.

(b) A trustee appointed to succeed a member whose term has expired shall serve for a term of six years. A person appointed to fill a vacancy occurring by death or resignation shall only serve out the unexpired term of his or her predecessor. A person whose appointment to the board has been confirmed by the Senate shall serve beyond his or her expired term until a successor has been confirmed by the Senate.

(c) The board shall hold at the State Capital at least one regular meeting during every year and as many special meetings as may be necessary, and at any meeting a majority of the trustees shall constitute a quorum. The Governor of the state shall be a member of the board, and he or she shall, as far as possible, lend every encouragement to the success and upbuilding of the department. The director shall be the secretary of the board. The trustees shall receive no compensation for their services. Each member of the board of trustees shall be reimbursed at the same per diem and travel allowance amounts paid by law to state employees for each day of attendance of the business of the board.

(d) The board may:

- (1) Adopt rules for its own government and also for the government of the department.
- (2) Elect a director and provide for the selection or appointment of other officials or employees as may be authorized.
- (3) Provide for the publication of historical material pertaining to the state under the supervision of the director.
- (4) Control and expend such appropriations as may be made for the maintenance of the department.
- (5) Perform such other acts as may be necessary to carry out the intent and purposes of this article.

(Code 1907, §796; Code 1923, §1402; Code 1940, T. 55, §259; Act 2003-395, §1.)

Section 41-6-5

Director - Election; term of office.

The department shall be under the immediate management and control of a director, to be elected by the board of trustees, whose term of office shall be six years and until his successor is elected and qualified.

(Code 1907, §797; Code 1923, §1403; Code 1940, T. 55, §260.)

Section 41-6-6

Director - Oath of office; director to be commissioned.

The director shall take an oath of office as other public officials and shall be commissioned in like manner.

(Code 1907, §798; Code 1923, §1404; Code 1940, T. 55, §261.)

Section 41-6-7

Director - Salary.

The director shall receive an annual salary to be fixed in accordance with the provisions of Section 36-6-6, which shall be payable as the salaries of other state officers are paid.

(Code 1907, §804; Acts 1923, No. 600, p. 789; Code 1923, §1411; Acts 1933, Ex. Sess., No. 138, p. 124; Acts 1935, No. 373, p. 792; Acts 1939, No. 435, p. 582; Code 1940, T. 55, §268; Acts 1943, No. 396, p. 364; Acts 1953, No. 594, p. 846.)

Section 41-6-8

Director - Powers, functions, and duties generally.

The powers, functions and duties of the Director of the Department of Archives and History shall be as follows:

- (1) To control and direct the work and operations of the Department of Archives and History;
- (2) To administer the state official archives;
- (3) To prepare the Alabama official and statistical register;
- (4) To diffuse knowledge in reference to the history and resources of the state;
- (5) To administer all military records for historical purposes;
- (6) To administer the state's historical library and to collect and administer historical portraits and museums;
- (7) To collect, organize and preserve noncurrent county records for historical purposes;
- (8) To edit the Alabama Historical Quarterly and other historical publications;
- (9) To distribute state official reports;
- (10) To designate and describe historic spots in Alabama for monumental purposes;
- (11) To have custody and supervision, under the direction of the Director of Finance, of the Alabama Memorial Building; and
- (12) To perform any and all other powers, functions and duties as may now or hereafter be placed upon the Director of the Department of Archives and History.

(Code 1907, §799; Code 1923, §1405; Acts 1939, No. 435, p. 582; Code 1940, T. 55, §262.)

Section 41-6-9

Clerical assistants in department.

Subject to the provisions of the state Merit System, there may be employed in the Department of Archives and History such number of curators, clerks, librarians, stenographers, statisticians and other employees as are necessary to carry out the functions and duties of the department.

(Code 1907, §809; Acts 1923, No. 600, p. 789; Code 1923, §1417; Acts 1933, Ex. Sess., No. 138, p. 124; Acts 1939, No. 58, p. 68; Code 1940, T. 55, §270.)

Section 41-6-10

Transfer by officials of objects, books, records, etc., to department for permanent preservation.

Any state, county or other official may turn over to the department for permanent preservation therein any objects, official books, records, documents, original papers, newspaper files, and printed books not in current use in the offices and that are determined by the Department of Archives and History to be of historical value. The Director of the Department of Archives and History shall develop guidelines and procedures for the appraisal and transfer of historical objects to the department from state, county, or other offices. Objects and other tangible items acquired for the historical collections of the Department of Archives and History shall be documented and maintained in accordance with an overall inventory control system for historical collections in the department as established by the director.

(Code 1907, §800; Code 1923, §1406; Code 1940, T. 55, §263; Acts 1992, 2nd Ex. Sess., No. 92-719, p. 220, §1.)

Section 41-6-11

Provision of certified copies of books, records, etc., surrendered to department.

When books, records, documents, original papers and newspaper files have been surrendered in accordance with Section 41-6-10, copies therefrom shall be made and certified by the director upon the application of any person interested, which certificate shall have all the force and effect as if made by the officer originally in the custody of them and for which the same fees shall be charged, to be collected in advance.

(Code 1907, §801; Code 1923, §1407; Code 1940, T. 55, §264.)

Section 41-6-13

Collection, etc., of data as to Alabama soldiers in war between states.

The department shall make special effort to collect data in reference to soldiers from Alabama in the war between the states, both from the Department of Defense and also from private individuals, and to cause the same to be prepared for publication as speedily as possible.

(Code 1907, §803; Code 1923, §1410; Code 1940, T. 55, §267.)

Section 41-6-14

Statistical register.

(a) An official and statistical register of the State of Alabama shall be compiled every two years by the director to contain:

- (1) Brief sketches of the several state officials, the members of Congress from Alabama, the Supreme Court judges and the members of the Senate and House of Representatives of the State of Alabama;
 - (2) Rosters of all state and county officials;
 - (3) Lists of all state institutions with officials;
 - (4) State and county population and election statistics; and
 - (5) Miscellaneous statistics.
- (b) Said register shall be published in an edition of 1,000 copies for free distribution, the printing and binding to be paid for as other printing and binding.

(Code 1907, §802; Code 1923, §1409; Code 1940, T. 55, §266.)

Section 41-6-15

Historical quarterly.

One thousand copies of the Alabama Historical Quarterly shall be published each quarter. The said quarterly shall be edited by the Director of the Department of Archives and History and shall be supplied gratis to public officials, public and high school libraries and, upon call, to any responsible person in the interest of propagating facts about the history of the state.

(Acts 1939, No. 583, p. 953; Code 1940, T. 55, §271.)

Section 41-6-30

Gifts or donations of money to Department of Archives and History to be deposited in State Treasury to credit of department.

Unless otherwise provided, in accordance with Section 41-6-50, whenever any gift or donation of money from any source is made to the Department of Archives and History of this state, the same must be deposited in the State Treasury for the use of said department as provided in this article.

(Acts 1943, No. 454, p. 416, §1.)

Section 41-6-31

Endowment fund established; composition; expenditure; investment of fund.

The principal amount of such gift or donation shall be set aside by the State Treasurer in a special fund designated: "Endowment Fund - Department of Archives and History," and moneys so deposited shall constitute an endowment fund for said department. In no event shall more than 10 percent of the amount remaining in said fund be expended in any one fiscal year. The Director of Finance shall invest or reinvest from time to time, at his discretion and with the approval of the Governor, all or any part or

portion of said fund in such bonds as are authorized by the laws of Alabama governing investments in bonds by domestic life insurance companies, and the interest thereon shall be paid to said department by the State Treasurer upon a requisition signed by the director of said department and approved by the Governor.

(Acts 1943, No. 454, p. 416, §2.)

Section 41-6-32

Interest accruing, earned or paid from investment of fund appropriated to department; expenditure thereof.

The interest accrued, earned or paid as the result of investment of said endowment fund is hereby appropriated to said Department of Archives and History and shall be used by said department only for such purposes as its trustees may specify and the Governor approve; provided, however, that no expenditure of such funds may be made or approved by said board of trustees unless it is for the purpose of acquiring rare and valuable articles, property or materials or acquiring, marking and preserving or maintaining historical locations or spots within the State of Alabama.

(Acts 1943, No. 454, p. 416, §3.)

Section 41-6-33

Lease, sale, etc., of gifts or donations of real property authorized; disposition of proceeds from sale or rent.

Should any gift or donation to said department be in the form of real property, it may be leased, rented or sold in the discretion of said board of trustees, but the sum received as rent or the amount received as the purchase price, in the event of sale, must be deposited to the credit of said endowment fund, and such sum shall remain intact as a part of the principal amount of such endowment fund, and the interest received from the investment thereof shall be paid in the same manner as provided in this article for the payment of interest on other moneys deposited to the credit of said endowment fund.

(Acts 1943, No. 454, p. 416, §4.)

Section 41-6-34

Perpetuation or memorialization of names of certain donors.

Should any gift or donation by any person amount in value to as much as \$5,000.00, said board of trustees is hereby authorized to perpetuate or memorialize the name of the persons making such gift or donation by designating any property or project or material or program acquired or carried on by proceeds derived from said endowment fund with appropriate nomenclature.

(Acts 1943, No. 454, p. 416, §5.)

Section 41-6-50

Establishment; certain gifts or donations of money to be deposited in State Treasury in said fund.

Whenever any gift or donation of money to the Department of Archives and History is in an amount not exceeding \$100.00 or whenever the donor thereof, regardless of the amount of the gift, requests that such gift be used for a specified purpose and such purpose is a purpose approved by the board of trustees of such department and whenever the donor designates the gift as a memorial gift, such money shall be deposited in the State Treasury in a special fund designated "Memorial Fund - Department of Archives and History," which fund is hereby established.

(Acts 1967, No. 522, p. 1252, §1.)

Section 41-6-51

Disposition and expenditure of fund.

Such part of the fund as is derived from gifts for a designated purpose shall be used and expended by the Director of the Department of Archives and History in accordance with the terms of the gift. The remainder of the fund shall be used and expended by the director in accordance with such policies as may be established by the board of trustees, and, at each regular meeting of the board of trustees, the director shall report all such expenditures made since the next preceding regular meeting.

(Acts 1967, No. 522, p. 1252, §2.)

Section 41-6-52

Identification of item or purpose for which gift expended where gift designated in memory of specified person.

When a gift is designated as a gift in memory of a specified person, then the item or purpose for which such gift is expended shall be identified as a memorial to such designated person.

(Acts 1967, No. 522, p. 1252, §3.)

Section 41-6-53

Gifts deemed gifts to state; deduction of amount of gift for income tax purposes.

Every gift to the Department of Archives and History payable into the fund, whether or not the use thereof is prescribed by the donor or the gift is designated as a memorial to a specified person, shall be deemed a gift to the State of Alabama. The donor in computing his net income for state income tax purposes for the year in which he makes the gift may deduct the amount of the gift from his gross income as authorized in Section 40-18-15.

(Acts 1967, No. 522, p. 1252, §4.)

Section 41-6-70

Definitions.

For purposes of Sections 41-6-71 through 41-6-77, inclusive, the following terms shall have the following meanings:

- (1) BOARD. The Board of Trustees of the Department of Archives and History.
- (2) DE-ACCESSION. To remove from the collection of the Department of Archives and History.
- (3) DEPARTMENT. The Department of Archives and History.
- (4) DIRECTOR. The Director of the Department of Archives and History.
- (5) LOAN. A deposit of property not accompanied by transfer of title to the property.
- (6) PROPERTY. Includes all books, materials, documents, and tangible objects in the possession of the Department of Archives and History.
- (7) UNDOCUMENTED PROPERTY. Property in the possession of the Department of Archives and History for which the department cannot determine by reference to the department's records the property's owner.

(Acts 1992, 2nd Ex. Sess., No. 92-719, p. 220, §2.)

Section 41-6-71

De-accession of property; Archives Historical Collections Fund.

(a) The director, subject to the approval of the board, may from time to time de-accession property in the possession of the department. The director shall develop guidelines and procedures for the de-accession and transfer of property including, but not limited to, those that no longer fall within the department's collecting guidelines, that duplicate items in the collection, or that are no longer deemed appropriate for the department's collections. The transfer of historical materials may be made in any of the following ways:

- (1) By return to the donor or donors.
- (2) By gift to other cultural institutions.
- (3) By trade with other institutions.
- (4) By sale.
- (5) By any other manner consistent with accepted practices for museums and archives.

(b) There is created in the State Treasury a fund to be known and designated as the Archives Historical Collections Fund. Any revenue collected from the sale or transfer of any historical materials pursuant to subsection (a) shall be deposited in the State Treasury to the credit of the Archives Historical Collections Fund.

(c) The expenditure of any funds collected under subsection (b) shall be solely for acquisitions or conservation of permanent collections for the department and in accordance with guidelines approved by the board.

(d) No funds deposited in the State Treasury to the credit of the Archives Historical Collections Fund shall be expended for any purpose whatsoever unless the funds have been allotted and budgeted in accordance with the provisions of Article 4 (commencing with Section 41-4-80), Chapter 4, Title 41, and only in the amounts and for the purposes provided by the Legislature.

(e) Funds deposited in the Archives Historical Collections Fund shall not revert to the General Fund of the state but shall remain in the Archives Historical Collections Fund until expended by the department.

(f) There is appropriated from the Archives Historical Collections Fund to the department the sum of \$5,000.00 for the fiscal year ending September 30, 1993.

(Acts 1992, 2nd Ex. Sess., No. 92-719, p. 220, §3.)

Section 41-6-72

Property on loan to department.

(a) Property on loan to the department, subject to a loan agreement, shall be deemed to be donated to the department if no claim is made or action filed to recover the property after termination or expiration of the loan, and if the department has given notice pursuant to Section 41-6-74 and no assertion of title has been filed within 90 days from the date of the second published notice.

(b) The department may terminate a loan of property if the property was loaned to the department for an indefinite term and the property has been held by the department for five years or more. Property on "permanent loan" shall be deemed to be loaned for an indefinite term.

(c) If property was loaned to the department for a specified term, the department may give notice of termination of the loan at any time after expiration of the specified term.

(d) When the department accepts a loan of property, the department shall inform the owner in writing of the requirements of this article.

(e) It is the responsibility of the owner to notify the department promptly in writing of any change of address or change in ownership of the property.

(f) When a loan expires, the department shall make every effort, using the last known address of the owner, to locate the owner or the owner's heirs. The department shall document all efforts to locate the owner.

(Acts 1992, 2nd Ex. Sess., No. 92-719, p. 220, §4.)

Section 41-6-73

Abandoned property.

Any undocumented property that has been held by the department for five years or more and has remained unclaimed shall be deemed to be abandoned. The undocumented property shall become the property of the department if the department has given notice pursuant to Section 41-6-74 and no assertion of title has been filed for the property within 90 days from the date of the second published notice.

(Acts 1992, 2nd Ex. Sess., No. 92-719, p. 220, §5.)

Section 41-6-74

Notice.

(a) When the department is required to give notice of the abandonment of property or of termination of a loan, the department shall mail notice by certified mail, return receipt requested, to the last known owner at the most recent address of the owner as shown on the department's records. If the department does not know the identity of the owner, or does not have an address for the owner, or does not receive written proof of receipt of the mailed notice within 30 days of the date the notice was mailed, the department shall publish notice, at least once each week for two consecutive weeks, in a newspaper of general circulation in both Montgomery County and the county in which the last known address, if available, of the owner, if known, is located.

(b) The published notice shall contain all of the following:

(1) A description of the unclaimed property.

(2) The name and last known address of the owner, if available.

(3) A request that all persons who may have any knowledge of the location of the owner provide written notice to the department.

(4) A statement that if written assertion of title is not presented by the owner to the department within 90 days from the date of the second published notice, the property shall be deemed abandoned or donated and shall become the property of the department.

(c) If no written assertion of title has been presented by the owner to the department within 90 days from the date of the second published notice, title to the property shall vest in the department, free of all claims of the owner and of all persons claiming under the owner.

(d) One who purchases or otherwise acquires property from the department acquires good and marketable title to the property if the department has acquired title to the property under this section.

(Acts 1992, 2nd Ex. Sess., No. 92-719, p. 220, §6.)

Section 41-6-75

Conservation measures to property; disposal of property.

(a) The department may apply conservation measures to or dispose of undocumented property if immediate action is required to protect the property or other property in the custody of the department, or if the property is a hazard to the health and safety of the public or the department staff.

(b) Unless there is a written stipulation in the loan agreement to the contrary, the department may apply conservation measures to or dispose of property on loan to the department without the owner's permission or formal notice if immediate action is required to protect the property on loan or other property in the custody of the department, or if the property on loan is a hazard to the health and safety of the public or the department staff and if any of the following apply:

(1) The department is unable to reach the owner at the owner's last known address or phone number if action is to be taken within more than three days but less than one week from the time the department determined action was necessary.

(2) The department is unable to reach the owner at the owner's last known phone number prior to taking action if the action is to be taken within three days or less from the time the department determined action was necessary.

(3) The owner does not respond or will not agree to the protective measures the department recommends, yet is unwilling or unable to terminate the loan and retrieve the property.

(c) If the department applies conservation measures to or disposes of property under this section, or with the agreement of the owner, unless the agreement provides otherwise, the department:

(1) Has lien on the property and on the proceeds of any disposition of the property for the costs incurred by the department.

(2) Is not liable for injury to or loss of the property if the department:

a. Had a reasonable belief at the time the action was taken that the action was necessary to protect the property on loan or other property in the custody of the department, or that the property on loan was a hazard to the health and safety of the public or the department staff.

b. Exercised reasonable care in the choice and application of conservation measures.

(Acts 1992, 2nd Ex. Sess., No. 92-719, p. 220, §7.)

Section 41-6-76

Collection of fees for services rendered by department; Archives Services Fund.

(a) The department may collect fees for certain services rendered by the department, including, but not limited to the following:

(1) SEARCH AND HANDLING FEES. These fees shall include, but not limited to, fees for conducting research for requests from outside the state and for handling all requests for reproducing special format materials.

(2) RECORDS CENTER AND MICROGRAPHICS STORAGE AND SERVICE FEES. These fees shall be collected from government agencies for storage, retrieval, and reproduction of nonpermanent records in the records center and for the security storage of microfilm. One year's notice shall be given to any agency prior to implementation of a storage fee.

(b) Fees for services shall be set by the board upon recommendation by the director and may be amended as required. Fees shall be based upon actual cost to the department for providing the services.

(c) There is created in the State Treasury a fund to be known and designated as the Archives Services Fund. Any revenue collected for services pursuant to subsection (a) shall be deposited in the State Treasury to the credit of the Archives Services Fund.

(d) The expenditure of funds collected under subsection (a) shall be used by the department to help defray expenses incurred in providing the services.

(e) No funds deposited in the State Treasury to the credit of the Archives Services Fund shall be expended for any purpose whatsoever unless the same shall have been allotted and budgeted in accordance with the provisions of Article 4 (commencing with Section 41-4-80), Chapter 4, Title 41, and only in the amounts and for the purposes provided by the Legislature.

(f) Funds deposited in the Archives Services Fund shall not revert to the General Fund of the state but shall remain in the Archives Services Fund until expended by the department.

(g) There is appropriated from the Archives Services Fund to the department the sum of \$25,000.00 for the fiscal year ending September 30, 1993.

(Acts 1992, 2nd Ex. Sess., No. 92-719, p. 220, §8.)

Section 41-6-77

Establishment of store.

(a) The department may establish and administer or permit establishment and administration under contract of a store to provide information and materials relating to exhibits, collections, and programs to the public. The store may produce, acquire, and sell craft products, replicas, and reproductions of artifacts and documents, and other merchandise relating to historical and cultural resources and may make a reasonable charge for the merchandise.

(b) Items purchased specifically for resale in the store are not subject to the state competitive bid process.

(c) All profits from the store shall be used for the benefit of the department.

(Acts 1992, 2nd Ex. Sess., No. 92-719, p. 220, §9.)