

1 SENATE BILL 78

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 Bill B. O'Neill

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10 AN ACT

11 RELATING TO CULTURAL AFFAIRS; AUTHORIZING THE SECRETARY OF
12 CULTURAL AFFAIRS TO AUTHORIZE VENDORS TO SELL TICKETS, PASSES
13 AND OTHER CULTURAL AFFAIRS DEPARTMENT PRODUCTS.

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 9-4A-6 NMSA 1978 (being Laws 2004,
17 Chapter 25, Section 6, as amended) is amended to read:

18 "9-4A-6. SECRETARY--DUTIES AND GENERAL POWERS.--

19 A. The secretary is responsible to the governor for
20 the operation of the department. It is the secretary's duty to
21 manage all operations of the department and to administer and
22 enforce the laws with which the secretary or the department is
23 charged.

24 B. To perform the secretary's duties, the secretary
25 has every power expressly enumerated in the laws, whether

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1 granted to the secretary or the department, or any division of
2 the department, except where authority conferred upon any
3 division therein is explicitly exempted from the secretary's
4 authority by statute. In accordance with these provisions, the
5 secretary shall:

6 (1) except as otherwise provided in the
7 Cultural Affairs Department Act, exercise general supervisory
8 and appointing authority over all department employees, subject
9 to any applicable personnel laws and rules;

10 (2) delegate authority to subordinates as the
11 secretary deems necessary and appropriate, clearly delineating
12 such delegated authority and the limitations thereto;

13 (3) organize the department into those
14 organizational units the secretary deems will enable it to
15 function most efficiently, subject to any provisions of law
16 requiring or establishing specific organizational units;

17 (4) within the limitations of available
18 appropriations and applicable laws, employ and fix the
19 compensation of those persons necessary to discharge the
20 secretary's duties;

21 (5) take administrative action by issuing
22 orders and instructions, not inconsistent with the law, to
23 ensure implementation of and compliance with the provisions of
24 law for whose administration or execution the secretary is
25 responsible, and to enforce those orders and instructions by

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1 appropriate administrative action or actions in the courts;

2 (6) conduct research and studies that will
3 improve the operations of the department and the provision of
4 services to the citizens of the state;

5 (7) provide courses of instruction and
6 practical training for employees of the department and other
7 persons involved in the administration of programs with the
8 objective of improving the operations and efficiency of the
9 administration;

10 (8) prepare an annual budget of the
11 department;

12 (9) provide cooperation, at the request of
13 heads of administratively attached agencies, in order to:

14 (a) minimize or eliminate duplication of
15 services and jurisdictional conflicts;

16 (b) coordinate activities and resolve
17 problems of mutual concern; and

18 (c) resolve by agreement the manner and
19 extent to which the department shall provide budgeting,
20 recordkeeping and related clerical assistance to
21 administratively attached agencies; and

22 (10) appoint, with the governor's consent, for
23 each division, a "director". These appointed positions are
24 exempt from the provisions of the Personnel Act. Persons
25 appointed to these positions shall serve at the pleasure of the

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1 secretary.

2 C. The secretary may:

3 (1) apply for and receive, with the
4 governor's approval, in the name of the department, any public
5 or private funds, including United States government funds,
6 available to the department to carry out its programs, duties
7 or services; and

8 (2) acquire by purchase, gift, endowment or
9 legacy real or personal property and hold title to that
10 property in the name of the department for the purpose of
11 promoting, encouraging and supporting the performing arts in
12 New Mexico. Property acquired pursuant to this paragraph shall
13 be held under the control and authority of the ~~[cultural~~
14 ~~affairs]~~ department.

15 D. Where functions of departments overlap, or a
16 function assigned to one department could better be performed
17 by another department, a secretary may recommend appropriate
18 legislation to the next session of the legislature for its
19 approval.

20 E. The secretary may make and adopt such
21 reasonable procedural rules as may be necessary to carry out
22 the duties of the department and its divisions. A rule
23 promulgated by the director of a division in carrying out the
24 functions and duties of the division shall not be effective
25 until approved by the secretary. Unless otherwise provided

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1 by statute, a rule affecting a person or agency outside the
2 department shall not be adopted, amended or repealed without
3 a public hearing on the proposed action before the secretary
4 or a hearing officer designated by the secretary. The public
5 hearing shall be held in Santa Fe unless otherwise permitted
6 by statute. Notice of the subject matter of the rule, the
7 action proposed to be taken, the time and place of the
8 hearing, the manner in which interested persons may present
9 their views and the method by which copies of the proposed
10 rule or proposed amendment or repeal of an existing rule may
11 be obtained shall be published once at least thirty days
12 prior to the hearing date in a newspaper of general
13 circulation and mailed at least thirty days prior to the
14 hearing date to all persons who have made a written request
15 for advance notice of hearing. All rules shall be filed in
16 accordance with the State Rules Act.

17 F. The secretary may authorize vendors to sell
18 tickets, passes or other department products in compliance
19 with rules adopted by the secretary. A vendor authorized to
20 sell tickets, passes or other department products may retain
21 a portion of the sale price."

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