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SENATE BILL NO. 1055

Offered January 17, 2020

A *BILL to amend and reenact § 10.1-2305 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-2201.1, relating to the Department of Historic Resources; duties.*

Patron—Ruff

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-2305 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-2201.1 as follows:

§ 10.1-2201.1. Director functioning as State Historic Preservation Officer.

A. *In fulfilling the duties of State Historic Preservation Officer under § 106 of the National Historic Preservation Act (54 U.S.C. § 300101 et seq.), the Director shall make a reasonable effort to coordinate with the federal agency to ensure that the consultation process is conducted in a timely and efficient manner.*

B. *The Director shall review and respond to any request from the federal agency for review, concurrence, or execution of reports, agreements, determinations, and other documents provided in accordance with a § 106 consultation within 30 days or such period of time that is less than 30 days if requested by the federal agency. If the Director does not respond to the federal agency within the requested time, the Director's review will be deemed waived and, if the Director's approval, concurrence, or execution has been requested, such approval, concurrence, or execution shall be deemed granted.*

C. *The Director is authorized to enter into agreements with federal agencies for the purpose of implementing the objectives of this section.*

§ 10.1-2305. Permit required for the archaeological excavation of human remains.

A. *It shall be unlawful for any person to conduct any type of archaeological field investigation involving the removal of human skeletal remains or associated artifacts from any unmarked human burial regardless of age of an archaeological site and regardless of ownership without first receiving a permit from the Director.*

B. *Where unmarked burials are not part of a legally chartered cemetery, archaeological excavation of such burials pursuant to a permit from the Director shall be exempt from the requirements of §§ 57-38.1 and 57-39. However, such exemption shall not apply in the case of human burials within formally chartered cemeteries that have been abandoned.*

C. *The Department shall be considered an interested party in court proceedings considering the abandonment of legally constituted cemeteries or family graveyards with historic significance. A permit from the Director is required if archaeological investigations are undertaken as a part of a court-approved removal of a cemetery.*

D. *Within 15 days of receipt of a permit application, the Director shall review the application for completeness and either accept the application or request additional specific information from the applicant. Within 30 days of receipt of a complete application, the Director may issue public notice of a meeting or hearing on the permit application to be held no more than 45 days from the date of the notice. If no public meeting or hearing is held, the Director shall issue the permit, issue the permit with conditions, or deny the permit within 90 days of receipt of a complete application. If a public meeting or hearing is held, the Director shall issue the permit, issue the permit with conditions, or deny the permit within 60 days of the meeting or hearing.*

E. *The Board shall promulgate regulations implementing this section that provide for appropriate public notice prior to issuance of a permit, provide for appropriate treatment of excavated remains, the scientific quality of the research conducted on the remains, and the appropriate disposition of the remains upon completion of the research. The Department may carry out such excavations and research without a permit, provided that it has complied with the substantive requirements of the regulations promulgated pursuant to this section.*

F. *Any interested party may appeal the Director's decision to issue a permit or to act directly to excavate human remains to the local circuit court. Such appeal must be filed within fourteen days of the Director's decision.*

INTRODUCED

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