



SPONSOR: Sen. Hoffner & Rep. Dorsey Walker
Sens. Gay, Huxtable, Pettyjohn, Richardson; Reps.
Collins, K. Johnson, Parker Selby, Spiegelman

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 136

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DIVISION OF THE ARTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 8726, Title 29 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 8726. Division of the Arts; definitions.

4 As used in § 8727, § 8728, § 8729, and § 8730 of this title:

5 (a) (1) "Council" means the Delaware State Arts Council created by this chapter.

6 (b) (2) "Director" means the Director of the Division of the Arts.

7 (c) (3) "Division" means the Division of the Arts.

8 (d) (4) "State" means the State of Delaware.

9 Section 2. Amend § 8728, Title 29 of the Delaware Code by making deletions as shown by strike through and
10 insertions as shown by underline as follows:

11 § 8728. Division of the Arts — The Delaware State Arts Council.

12 (a) Establishment and purpose. The Delaware State Arts Council is hereby established for the purpose of
13 promotion and encouragement of the arts and to promote and encourage the arts in this State. The Council shall provide
14 guidance to the Director on matters of arts policy and shall consider such other matters as may be referred to it by the
15 Governor, by the Secretary of the Department of State, or by the Director. The Council may study, research, plan plan, and
16 advise the Director, the Secretary Secretary, and the Governor on matters it deems appropriate to enable the Division to
17 function in the best possible manner.

18 (b) ~~The Delaware State Arts Council shall be composed of Delaware citizens broadly representative of all fields of~~
19 ~~the performing and fine arts known for their interest in these areas appointed by the Governor. Each such citizen shall serve~~
20 ~~as a member of the Delaware State Arts Council for the period of the unexpired term unless the member vacates the~~
21 ~~position by resignation, death or incapacity. The Council shall be composed of not more than 15 members. When the~~
22 ~~number of members has been reduced to less than 15 by reason of the expiration of terms, resignation, death or incapacity,~~

23 the Governor shall appoint new members. The terms of newly appointed members will be staggered so that no more
24 than $\frac{1}{3}$ will expire annually. All new appointees shall serve for a term of 3 years and no member shall serve more than 2
25 consecutive terms. Members. The Council is composed of 15 members, who the Governor appoints. Membership must
26 meet all of the following qualifications:

27 (1) Each member is a Delaware citizen.

28 (2) Membership broadly represents all fields of the performing and fine arts.

29 (3) Each member is known for the member's interest in a field of the performing or fine arts.

30 (c) ~~The Governor may appoint members for terms of less than 3 years to ensure that the Board members' terms~~
31 ~~expire on a staggered basis.~~ Term of office. Each member serves for a term of 3 years and may not serve more than 2
32 consecutive terms. Each term of office expires on the date specified in the appointment, but a member remains eligible to
33 participate in Council proceedings until the Governor replaces that member. The Governor may appoint a member for a
34 term of less than 3 years to ensure that no more than $\frac{1}{3}$ of membership expires annually.

35 (d) ~~Members of the Council and Chairperson shall serve without compensation, except that they may be~~
36 ~~reimbursed for reasonable and necessary expenses incident to their duties related to the Council.~~ Compensation. A member
37 receives no compensation but may be reimbursed for the member's actual and necessary expenses incurred in the
38 performance of the member's official duties.

39 (e) ~~A Chairperson of the Council shall be designated in addition to the members of the Council by the Governor~~
40 ~~and shall serve in that capacity at the pleasure of the Governor.~~ The Council shall elect a chair from among its members
41 every 3 years. A member may not serve more than 2 consecutive terms as a chair.

42 (f) ~~Any appointment, pursuant to this section, to replace a member whose position becomes vacant prior to the~~
43 ~~expiration of a member's term shall be filled only for the remainder of that term.~~ Removal. The Governor may remove a
44 member for gross inefficiency, misfeasance, nonfeasance, malfeasance, or neglect of duty. A member is deemed in neglect
45 of duty if the member is absent from 3 consecutive, regular Council meetings or 4 out of 12 regular meetings. The
46 Governor may consider the member to have resigned and may accept the member's resignation.

47 (g) Quorum. A majority of members must be present at a Council meeting in order to have quorum and conduct
48 official business. A vacancy on the Council is not counted for quorum.

49 (h) Staffing. The Division shall provide reasonable staff support to assist the Council in performing its duties
50 under this section.

51 (i) Subcommittees. The Council may form subcommittees to assist the Council in performing its duties under this
52 section.

53 (j) A Council member may participate in the Division's grant review process, as requested by the Division.
54 Section 2. The amendment this Act makes to § 8728(e) takes effect when the current chair resigns or the chair
55 position is otherwise vacant.

SYNOPSIS

This Act is a result of the Joint Legislative Oversight and Sunset Committee's review of the Delaware State Arts Council, and does the following:

- Removes or updates outdated language.
- Clarifies Council members' terms.
- Updates the method for chair selection and provides that this update does not take effect until the current chair resigns or the chair position is otherwise vacant.
- Clarifies quorum.
- Clarifies that the Delaware Division for the Arts provides reasonable staff support to assist the Council.
- Clarifies the Council's authority to create subcommittees.
- Clarifies that Council members may participate in the grant review process as needed.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Hoffner