

1 HB194
2 208168-1
3 By Representatives Givan, Garrett, Moore (M) and Alexander (N
4 & P)
5 RFD: Jefferson County Legislation
6 First Read: 02-FEB-21
7 PFD: 01/28/2021

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to the Birmingham Cemetery Board; to amend
14 Section 45-37-30, Code of Alabama 1975, to further provide for
15 the appointment of the chair of the board.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Section 45-37-30, Code of Alabama 1975,
18 is amended to read as follows:

19 "§45-37-30.

20 "(a) For the purposes of this section, the following
21 terms shall have the following meanings:

22 "(1) BOARD. The Jefferson County Cemetery Board.

23 "(2) CEMETERY. Any for profit cemetery in the county
24 where property is used or intended to be used for the
25 interment of human remains, including, but not limited to, any
26 property containing a grave, lot, crypt, niche, or mausoleum
27 and any gravestone, headstone, or other marker therein.

1 "(3) MAINTENANCE. The act of maintaining a cemetery,
2 including, but not limited to, the cutting and trimming of the
3 lawn, shrubs, and trees.

4 "(4) NEGLECTED CEMETERY. A cemetery that has become
5 abandoned or neglected in any of the following ways:

6 "a. Weeds, briars, bushes, or trees have become
7 overgrown.

8 "b. Fences have become broken, decayed, or
9 dilapidated.

10 "c. Graves, lots, crypts, niches, mausoleums, and
11 markers and roads, buildings, or other structures in a
12 cemetery have become damaged, broken, dilapidated, or
13 destroyed.

14 "(b) (1) The Jefferson County Cemetery Board is
15 created.

16 "(2) The board shall consist of seven members.

17 "(3) a. Four members of the board shall be appointed
18 by the members of the State House of Representatives
19 representing any part of the county, and three members shall
20 be appointed by the members of the State Senate representing
21 any part of the county. ~~The local legislative delegation, by
22 majority vote, shall appoint one of the members to serve as
23 the chair of the board.~~ The members shall serve at the
24 pleasure of the appointing authority.

25 "b. Within 30 days of the effective date of the act
26 adding this amendatory language, the members of the State
27 House of Representatives representing any part of the county

1 shall appoint one of the members of the board to serve as
2 chair. The chair shall serve until March 1, 2023. On March 1,
3 2023, the members of the State Senate representing any part of
4 the county shall appoint one of the members of the board to
5 serve as chair for a two-year term. Thereafter, the
6 appointment of the chair of the board for two-year terms shall
7 alternate between the House members and Senate members.

8 "(4) a. The initial board members appointed in
9 accordance with subdivision (3) shall serve the following
10 terms:

11 "1. Two members appointed by a member of the House
12 of Representatives and one member appointed by a member of the
13 Senate shall serve a two-year term.

14 "2. One member appointed by a member of the House of
15 Representatives and one member appointed by a member of the
16 Senate shall serve a three-year term.

17 "3. One member appointed by a member of the House of
18 Representatives and one member appointed by a member of the
19 Senate shall serve a four-year term.

20 "b. After the expiration of the initial term of
21 office of each board member, the term of office for all board
22 members shall be four years.

23 "(5) The board shall meet quarterly and at such
24 times as the board by a majority of its members agree.

25 "(6) The board may adopt necessary rules or
26 procedures to conduct its business.

1 "(7) Members of the board shall serve without
2 compensation, but may be reimbursed for actual expenses
3 incurred while conducting the business of the board, according
4 to its rules or procedures.

5 "(8) Board members shall serve on a volunteer basis,
6 except that they shall be reimbursed for actual expenses that
7 shall be verified and submitted to the Jefferson County
8 Commission.

9 "(c) There shall be established within the Jefferson
10 County Budget Division, a Jefferson County Cemetery Account
11 funded by revenue from the pistol permits portion dedicated to
12 the Jefferson County delegation.

13 "(d) (1) The board shall be responsible for all of
14 the following duties:

15 "a. Supervising the clean up and maintenance of any
16 neglected cemetery under its authority.

17 "b. Coordinating with the sheriff to provide inmate
18 labor to perform the maintenance of any neglected cemetery.

19 "c. Purchasing office equipment up to \$500 and other
20 necessary materials to perform the functions of the board.

21 "d. Any other business necessary to carry out the
22 purposes of this section.

23 "(2) The board may only perform maintenance on a
24 private cemetery if the board finds after a hearing that the
25 condition of the cemetery is a public nuisance.

26 "(3) The board shall have the authority to enforce
27 all rules adopted pursuant to this section and may institute

1 any legal proceeding, including the filing of a suit, as
2 necessary to effect compliance with this section.

3 "(e) Fifty thousand dollars (\$50,000) shall be made
4 available to the board from the pistol permit fees collected
5 by the county and twenty-five thousand dollars (\$25,000) from
6 the pistol permit fees for each year thereafter.

7 "(f) The county commission shall have no authority
8 over the board and the county commission shall have no
9 responsibility over a cemetery in the county, as defined by
10 this section, and no county funds shall be expended as a
11 result of the implications or implementation of this section.

12 "(g) Members of the board may not be subject to
13 civil liability arising from the conduct of the affairs of the
14 board except when the act or omission of the member of the
15 board amounts to willful or wanton misconduct, fraud, or
16 negligence.

17 "(h) This section shall only apply to cemeteries in
18 existence on May 26, 2017.

19 "(i) A cemetery owned by a religious organization,
20 as defined by Section 45-37-150.01, or a private, family-owned
21 cemetery, is exempt from this section."

22 Section 2. This act shall become effective
23 immediately following its passage and approval by the
24 Governor, or its otherwise becoming law.