

1 HB207
2 164537-5
3 By Representative Pringle (N & P)
4 RFD: Mobile County Legislation
5 First Read: 10-MAR-15

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ENROLLED, An Act,

Relating to Class 2 municipalities; to amend Act 929 of the 1961 Regular Session (Acts 1961, p. 1487), relating to the Tree Commission in a Class 2 municipality; to provide that the number of members on the Tree Commission shall be the same as the number of members of the city council of the Class 2 municipality; to delete the nomination process; and further provide for an appeal from the decisions of the commission.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall apply only in a Class 2 municipality.

Section 2. Act 929, H. 1365 of the 1961 Regular Session (Acts 1961, p. 1487), is amended to read as follows:

"Section 1. It is hereby declared that the trees on private property and in publicly owned areas within the ~~City of Mobile~~, a Class 2 municipality, including particularly those in street rights-of-way, are both an economic and an aesthetic asset to the ~~City of Mobile~~ Class 2 municipality and the State of Alabama; that the existing trees so located are in need of protection and of active measures to support their health and growth, that it is desirable that additional trees be planted, and that those ends require a separate ~~agency~~ entity specifically charged with the responsibility and duty

1 of fostering the planting, growth and protection of trees on
2 private property and publicly owned areas.

3 "Section 2. There is hereby created the ~~Mobile~~
4 (insert city name) Tree Commission within the Class 2
5 municipality, to consist of ~~five (5) members,~~ the same number
6 of members as the number of members of the city council each
7 ~~such~~ member to be appointed by the ~~governing body~~ city council
8 of the ~~City of Mobile~~ Class 2 municipality. ~~from a panel of~~
9 ~~three (3) persons nominated by each one of the bodies named~~
10 ~~below: the Historic Mobile Preservation Society, Inc.; the~~
11 ~~Federated Garden Clubs of Mobile County, Inc.; the Mobile~~
12 ~~Azalea Trail, Inc.; the Tourist Committee of the Mobile Area~~
13 ~~Chamber of Commerce; the Allied Arts Council of Metropolitan~~
14 ~~Mobile, Inc.~~

15 "One of the Commissioners who is first appointed
16 shall be designated to serve for a term of ~~five (5) years, one~~
17 ~~for four (4) years, one for three (3) years, one for two (2)~~
18 ~~years, one for one (1) years, respectively, from the date of~~
19 ~~their appointment. Thereafter, the term of office of each~~
20 ~~Commissioner shall be five (5) years.~~ The city council of the
21 Class 2 municipality shall make the appointments to the
22 commission within a reasonable time after the effective date
23 of the act adding this language. Each member of the commission
24 shall serve at the pleasure of the city council. Members
25 serving on the commission on the effective date of this

1 amendatory act shall be eligible for appointment by the city
 2 council of the Class 2 municipality. Each commissioner
 3 Commissioners shall serve until ~~his~~ a successor takes office,
 4 and any vacancies shall be filled by appointment, ~~from a panel~~
 5 ~~nominated by the same entity which nominated the predecessor~~
 6 ~~Commissioner. Three Commissioners shall constitute a quorum.~~

7 "Section 3. Members of the ~~Commission~~ commission
 8 shall serve without salary or remuneration. They shall
 9 annually elect from among their number a ~~Chairman~~ chair, a
 10 ~~Vice-Chairman~~ vice chair, a ~~Secretary~~ secretary, and a
 11 ~~Treasurer~~ treasurer.

12 "Section 4. The ~~Commission~~ commission is authorized
 13 to accept contributions and to expend the same for the
 14 purposes of carrying out its duties and obligation imposed by
 15 this ~~Act~~ act.

16 "Section 5. The ~~City of Mobile~~ Class 2 municipality
 17 and other governmental subdivisions and agencies of the ~~State~~
 18 state, shall continue to be the owners of and, subject to the
 19 provisions hereof, ~~shall~~ continue to be responsible for the
 20 maintenance of and care for all trees on publicly owned
 21 property, and the Tree Commission shall have no duties other
 22 than those specifically ~~stated herein~~ provided in the act.

23 "Section 6. The Tree Commission shall cooperate with
 24 and coordinate its activities with the ~~Street Department~~
 25 Public Works Department, the Department of Parks and

1 ~~Cemeteries~~ Recreation and other departments of the ~~City of~~
 2 ~~Mobile~~ Class 2 municipality; all ~~agencies~~ departments of the
 3 ~~City~~ Class 2 municipality shall cooperate with the Tree
 4 Commission.

5 "Section 7. The ~~Commission~~ commission shall take
 6 active steps to:

7 "(a) Educate the public as to the economic and
 8 aesthetic benefits of trees to the ~~City of Mobile~~ Class 2
 9 municipality and its citizens, both on publicly owned property
 10 and privately owned property;

11 "(b) Promote the planting, health and growth of
 12 trees in the ~~City of Mobile~~ Class 2 municipality, with the
 13 particular objective of establishing and protecting avenues of
 14 live oak trees and other trees deemed suitable by the
 15 ~~Commission~~ commission;

16 "(c) Promote the care, feeding, fertilization and
 17 other measures desirable for the health and growth of existing
 18 trees in street rights-of-way in the ~~City of Mobile~~ Class 2
 19 municipality; and

20 "(d) Protect trees located in street rights-of-way
 21 in the ~~City of Mobile~~ Class 2 municipality from damage,
 22 removal, lack of sustenance or any other act or condition
 23 which might threaten the health and growth of such trees.

24 "Section 8. The ~~Commission~~ commission may adopt
 25 by-laws and rules and regulations ~~not in conflict herewith,~~

1 pursuant to this act, shall meet ~~regularly~~ at least once each
 2 month and specially as it deems necessary and ~~may be as~~
 3 provided in ~~such the~~ by-laws, may provide ~~such~~ printed forms
 4 to be used as shall be necessary to govern its proceedings and
 5 to effectuate the provisions of this ~~Act~~ act, may cause ~~such~~
 6 studies to be made as it deems necessary, may perform its
 7 functions directly through its own agents or employees, or may
 8 contract with others for specific or general services to carry
 9 out its purposes hereunder. It shall keep a record of its
 10 proceedings and a register of all applications made to it and
 11 its action thereon, all of which shall be public records. ~~Any~~
 12 ~~person desiring a copy of any act or proceeding of the~~
 13 ~~Commission may obtain the same by paying a fee of One Dollar~~
 14 ~~(\$1.00) for each and every page or portion thereof.~~

15 "Section 9. ~~No~~ (a) Except as provided in subsection
 16 (b), no person shall cut, remove, trim, or in any way damage
 17 any tree in any street right-of-way in the ~~City of Mobile~~
 18 Class 2 municipality or ~~shall~~ create any condition injurious
 19 to any ~~such~~ tree without having first made a written
 20 application so to do to the ~~Commission~~ commission and having
 21 obtained advance written permission from the ~~Commission~~
 22 commission. Any governmental body or utility may, by filing an
 23 application accompanied by a certificate as hereinafter
 24 provided, obtain a continuing permission to trim, cut, or
 25 remove at any time any trees in any area described in its

1 application for such permission. The form of application shall
2 be as established ~~from time to time~~ by the ~~Commission~~
3 commission, and the ~~Commission~~ commission may delegate to one
4 or more of its members or officers the power to grant such
5 permission in accordance with standards set by it. The
6 ~~Commission~~ commission may in its discretion hold public
7 hearings on any application and may approve part of an
8 application or may approve an application upon ~~such~~ terms and
9 conditions as the ~~Commission~~ commission may ~~fix~~ establish. In
10 considering any application before it, the ~~Commission~~
11 commission shall base its decision on whether the public and
12 private benefit that will result from granting the application
13 outweighs the public and private benefit that will result from
14 denying it. In the event ~~a governmental body~~ the Mayor of the
15 Class 2 municipality or public utility shall certify to the
16 ~~Commissioners~~ commissioners that it desires to trim, cut or
17 remove trees and that it is or may become reasonably necessary
18 to do so to prevent a public hazard or to provide efficient or
19 economical service to the public, then such certificate shall
20 be conclusive evidence for the approval of ~~such~~ the
21 application, and the ~~Commission~~ commission shall approve the
22 same, and there shall be no appeal from such approval except
23 as provided in Section 10.

24 "(b) During a declared emergency or to eliminate an
25 imminent danger to life, health, property, or the environment,

1 or as required for the repair or restoration of service, a
 2 utility or utility contractor may cut, remove, or trim trees
 3 in any street right-of-way in a Class 2 municipality without
 4 having obtained advance permission from the commission.

5 "Section 10. Any person aggrieved by any decision of
 6 any officer or agent of the ~~Commission~~ commission to whom its
 7 duties are delegated, or of any decision of the ~~Commission~~
 8 commission may appeal to the ~~Commission of Mobile, Alabama~~
 9 city council of the Class 2 municipality under any such rules
 10 and regulation as the ~~City Commission~~ city council may ~~fix~~
 11 adopt. Any person aggrieved by any decision of the ~~City~~
 12 ~~Commission~~ city council may, within ~~fifteen (15)~~ 15 days
 13 thereafter, appeal to the ~~Circuit Court~~ circuit court of
 14 ~~Mobile County, Alabama~~ the county in which the Class 2
 15 municipality is located, by filing with the ~~City Commission~~
 16 city council a written notice of appeal and making and filing
 17 with the ~~Clerk~~ clerk of ~~such Court~~ the court a bond approved
 18 by ~~such Clerk~~ the clerk conditioned to pay the costs of ~~such~~
 19 the appeal. The hearing and trial in the ~~Circuit Court~~ circuit
 20 court shall be de novo. No ~~such~~ appeal shall authorize any
 21 person to take any action pending appeal, application for
 22 which has been denied by the Tree Commission or ~~City~~
 23 ~~Commission~~ city council.

24 "Section 11. Any person who ~~shall violates~~ violates
 25 the provisions of this ~~Act~~ act shall be ~~deemed~~ guilty of a

1 ~~Class C~~ misdemeanor. ~~and shall, on conviction, be fined not~~
2 ~~less than \$100.00, nor more than \$5,000.00, and may also be~~
3 ~~imprisoned in the county jail, or sentenced to hard labor for~~
4 ~~the county, for not more than one (1) year."~~

5 Section 3. All laws or parts of laws which conflict
6 with this act are repealed.

7 Section 4. The provisions of this act are severable.
8 If any part of this act is declared invalid or
9 unconstitutional, that declaration shall not affect the part
10 which remains.

11 Section 5. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.

