

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

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8 SYNOPSIS: This act would apply in a Class 2
9 municipality. The bill would relate to the Tree
10 Commission, and would provide for the members of
11 the commission, delete the nomination process, and
12 provide further for appeals.
13

14 A BILL
15 TO BE ENTITLED
16 AN ACT
17

18 Relating to Class 2 municipalities; to amend Act 929
19 of the 1961 Regular Session (Acts 1961, p. 1487), relating to
20 the Tree Commission in a Class 2 municipality; to provide that
21 the number of members on the Tree Commission shall be the same
22 as the number of members of the city council of the Class 2
23 municipality; to delete the nomination process; and further
24 provide for an appeal from the decisions of the commission.
25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

15 "Section 2. There is hereby created the ~~Mobile~~
16 (insert city name) Tree Commission within the Class 2
17 municipality, to consist of ~~five (5) members,~~ the same number
18 of members as the number of members of the city council each
19 ~~such~~ member to be appointed by the ~~governing body~~ city council
20 of the ~~City of Mobile~~ Class 2 municipality. ~~from a panel of~~
21 ~~three (3) persons nominated by each one of the bodies named~~
22 ~~below: the Historic Mobile Preservation Society, Inc.; the~~
23 ~~Federated Garden Clubs of Mobile County, Inc.; the Mobile~~
24 ~~Azalea Trail, Inc.; the Tourist Committee of the Mobile Area~~
25 ~~Chamber of Commerce; the Allied Arts Council of Metropolitan~~
26 ~~Mobile, Inc.~~

1 ~~"One of the Commissioners who is first appointed~~
2 ~~shall be designated to serve for a term of five (5) years, one~~
3 ~~for four (4) years, one for three (3) years, one for two (2)~~
4 ~~years, one for one (1) years, respectively, from the date of~~
5 ~~their appointment. Thereafter, the term of office of each~~
6 ~~Commissioner shall be five (5) years. The city council of the~~
7 ~~Class 2 municipality shall make the appointments to the~~
8 ~~commission within a reasonable time after the effective date~~
9 ~~of the act adding this language. Each member of the commission~~
10 ~~shall serve at the pleasure of the city council. Members~~
11 ~~serving on the commission on the effective date of this~~
12 ~~amendatory act shall be eligible for appointment by the city~~
13 ~~council of the Class 2 municipality. Each commissioner~~
14 ~~Commissioners shall serve until ~~his~~ a successor takes office,~~
15 ~~and any vacancies shall be filled by appointment. from a panel~~
16 ~~nominated by the same entity which nominated the predecessor~~
17 ~~Commissioner. Three Commissioners shall constitute a quorum.~~

18 "Section 3. Members of the ~~Commission~~ commission
19 shall serve without salary or remuneration. They shall
20 annually elect from among their number a ~~Chairman~~ chair, a
21 ~~Vice-Chairman~~ vice chair, a ~~Secretary~~ secretary, and a
22 ~~Treasurer~~ treasurer.

23 "Section 4. The ~~Commission~~ commission is authorized
24 to accept contributions and to expend the same for the
25 purposes of carrying out its duties and obligation imposed by
26 this ~~Act~~ act.

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

8 "Section 6. The Tree Commission shall cooperate with
9 and coordinate its activities with the ~~Street Department~~
10 Public Works Department, the Department of Parks and
11 ~~Cemeteries~~ Recreation and other departments of the ~~City of~~
12 ~~Mobile~~ Class 2 municipality; all ~~agencies~~ departments of the
13 ~~City~~ Class 2 municipality shall cooperate with the Tree
14 Commission.

15 "Section 7. The ~~Commission~~ commission shall take
16 active steps to:

17 "(a) Educate the public as to the economic and
18 aesthetic benefits of trees to the ~~City of Mobile~~ Class 2
19 municipality and its citizens, both on publicly owned property
20 and privately owned property;

21 "(b) Promote the planting, health and growth of
22 trees in the ~~City of Mobile~~ Class 2 municipality, with the
23 particular objective of establishing and protecting avenues of
24 live oak trees and other trees deemed suitable by the
25 ~~Commission~~ commission;

26 "(c) Promote the care, feeding, fertilization and
27 other measures desirable for the health and growth of existing

1 trees in street rights-of-way in the ~~City of Mobile~~ Class 2
2 municipality; and

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

7 "Section 8. The ~~Commission~~ commission may adopt
8 by-laws and rules and regulations ~~not in conflict herewith,~~
9 pursuant to this act, shall meet ~~regularly~~ at least once each
10 month and specially as it deems necessary and ~~may be as~~
11 provided in ~~such~~ the by-laws, may provide ~~such~~ printed forms
12 to be used as shall be necessary to govern its proceedings and
13 to effectuate the provisions of this ~~Act~~ act, may cause ~~such~~
14 studies to be made as it deems necessary, may perform its
15 functions directly through its own agents or employees, or may
16 contract with others for specific or general services to carry
17 out its purposes hereunder. It shall keep a record of its
18 proceedings and a register of all applications made to it and
19 its action thereon, all of which shall be public records. ~~Any~~
20 ~~person desiring a copy of any act or proceeding of the~~
21 ~~Commission may obtain the same by paying a fee of One Dollar~~
22 ~~(\$1.00) for each and every page or portion thereof.~~

23 "Section 9. No person shall cut, remove, trim, or in
24 any way damage any tree in any street right-of-way in the ~~City~~
25 ~~of Mobile~~ Class 2 municipality or ~~shall~~ create any condition
26 injurious to any ~~such~~ tree without having first made a written
27 application so to do to the ~~Commission~~ commission and having

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

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

20 "Section 11. Any person who ~~shall violates~~ violates
21 the provisions of this ~~Act~~ act shall be ~~deemed~~ guilty of a
22 Class C misdemeanor. ~~and shall, on conviction, be fined not~~
23 ~~less than \$100.00, nor more than \$5,000.00, and may also be~~
24 ~~imprisoned in the county jail, or sentenced to hard labor for~~
25 ~~the county, for not more than one (1) year."~~

26 Section 3. All laws or parts of laws which conflict
27 with this act are repealed.

1 Section 4. The provisions of this act are severable.
2 If any part of this act is declared invalid or
3 unconstitutional, that declaration shall not affect the part
4 which remains.

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