

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

ENGROSSED

A BILL  
TO BE ENTITLED  
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

1 be planted, and that those ends require a separate ~~agency~~  
2 entity specifically charged with the responsibility and duty  
3 of fostering the planting, growth and protection of trees on  
4 private property and publicly owned areas.

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

17 "One of the Commissioners who is first appointed  
18 ~~shall be designated to serve for a term of five (5) years, one~~  
19 ~~for four (4) years, one for three (3) years, one for two (2)~~  
20 ~~years, one for one (1) years, respectively, from the date of~~  
21 ~~their appointment. Thereafter, the term of office of each~~  
22 ~~Commissioner shall be five (5) years.~~ The city council of the  
23 Class 2 municipality shall make the appointments to the  
24 commission within a reasonable time after the effective date  
25 of the act adding this language. Each member of the commission  
26 shall serve at the pleasure of the city council. Members  
27 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  
26 ~~Cemeteries~~ Recreation and other departments of the ~~City of~~  
27 ~~Mobile~~ Class 2 municipality; all ~~agencies~~ departments of the

1 ~~City~~ Class 2 municipality shall cooperate with the Tree  
2 Commission.

3 "Section 7. The ~~Commission~~ commission shall take  
4 active steps to:

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

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

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

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

22 "Section 8. The ~~Commission~~ commission may adopt  
23 by-laws and rules and regulations ~~not in conflict herewith,~~  
24 pursuant to this act, shall meet ~~regularly~~ at least once each  
25 month and specially as it deems necessary and ~~may be~~ as  
26 provided in ~~such~~ the by-laws, may provide ~~such~~ printed forms  
27 to be used as shall be necessary to govern its proceedings and

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

11 "Section 9. ~~No~~ (a) Except as provided in subsection  
12 (b), no person shall cut, remove, trim, or in any way damage  
13 any tree in any street right-of-way in the ~~City of Mobile~~  
14 Class 2 municipality or ~~shall~~ create any condition injurious  
15 to any ~~such~~ tree without having first made a written  
16 application so to do to the ~~Commission~~ commission and having  
17 obtained advance written permission from the ~~Commission~~  
18 commission. Any governmental body or utility may, by filing an  
19 application accompanied by a certificate as hereinafter  
20 provided, obtain a continuing permission to trim, cut, or  
21 remove at any time any trees in any area described in its  
22 application for such permission. The form of application shall  
23 be as established ~~from time to time~~ by the ~~Commission~~  
24 commission, and the ~~Commission~~ commission may delegate to one  
25 or more of its members or officers the power to grant such  
26 permission in accordance with standards set by it. The  
27 ~~Commission~~ commission may in its discretion hold public

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

18 "(b) During a declared emergency or to eliminate an  
19 imminent danger to life, health, property, or the environment,  
20 or as required for the repair or restoration of service, a  
21 utility or utility contractor may cut, remove, or trim trees  
22 in any street right-of-way in a Class 2 municipality without  
23 having obtained advance permission from the commission.

24 "Section 10. Any person aggrieved by any decision of  
25 any officer or agent of the ~~Commission~~ commission to whom its  
26 duties are delegated, or of any decision of the ~~Commission~~  
27 commission may appeal to the ~~Commission of Mobile, Alabama~~

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

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

22 Section 3. All laws or parts of laws which conflict  
23 with this act are repealed.

24 Section 4. The provisions of this act are severable.  
25 If any part of this act is declared invalid or  
26 unconstitutional, that declaration shall not affect the part  
27 which remains.



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

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Mobile County  
Legislation..... . . . . 10-MAR-15

Read for the second time and placed  
on the calendar 1 amendment ..... . . . . 09-APR-15

Read for the third time and passed  
as amended..... . . . . 14-APR-15

Yeas 41, Nays 0, Abstains 46

Jeff Woodard  
Clerk