

1 HB34  
2 175445-5  
3 By Representatives Givan, Moore (M) and Alexander (N & P)  
4 RFD: Jefferson County Legislation  
5 First Read: 07-FEB-17  
6 PFD: 12/15/2016

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ENROLLED, An Act,

Relating to Jefferson County; to establish a cemetery board; to define terms; to provide for the members and duties of the board; and to provide funding.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall apply only in Jefferson County.

Section 2. For the purposes of this act, the following terms shall have the following meanings:

(1) BOARD. The Jefferson County Cemetery Board.

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

(3) MAINTENANCE. The act of maintaining a cemetery, including, but not limited to, any of the following:

a. The cutting and trimming of the lawn, shrubs, and trees.

~~b. Keeping in repair the drains, water lines, roads, buildings, fences, and other structures located in the cemetery.~~

~~c. The service and repair of machinery, tools, and equipment used for the maintenance of the cemetery.~~

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

3 a. Weeds, briars, bushes, or trees have become  
4 overgrown.

5 b. Fences have become broken, decayed, or  
6 dilapidated.

7 c. Graves, lots, crypts, niches, mausoleums, and  
8 markers and roads, buildings, or other structures in a  
9 cemetery have become damaged, broken, dilapidated, or  
10 destroyed.

11 Section 3. (a) The Jefferson County Cemetery Board  
12 is created.

13 (b) The board shall consist of ~~five~~ seven members.

14 ~~(c) One member of the board shall be appointed by~~  
15 ~~each member of the local legislative delegation, and the local~~  
16 ~~legislative delegation, by majority vote, shall appoint an~~  
17 ~~additional member, who shall serve as the chair of the board.~~  
18 ~~The members shall serve at the pleasure of the local~~  
19 ~~legislative delegation.~~

20 (c) Four members of the board shall be appointed by  
21 the members of the State House of Representatives representing  
22 any part of the county, and three members shall be appointed  
23 by the members of the State Senate representing any part of  
24 the county. The local legislative delegation, by majority  
25 vote, shall appoint one of the members to serve as the chair

1 of the board. The members shall serve at the pleasure of the  
2 appointing authority.

3 (d) (1) The initial board members appointed in  
4 accordance with subsection (c) shall serve the following  
5 terms:

6 a. Two members appointed by a member of the House of  
7 Representatives and one member appointed by a member of the  
8 Senate shall serve a two-year term.

9 b. One member appointed by a member of the House of  
10 Representatives and one member appointed by a member of the  
11 Senate shall serve a three-year term.

12 c. One member appointed by a member of the House of  
13 Representatives and one member appointed by a member of the  
14 Senate shall serve a four-year term.

15 (2) After the expiration of the initial term of  
16 office of each board member, the term of office for all board  
17 members shall be four years.

18 ~~(d)~~ (e) The board shall meet quarterly and at such  
19 times as the board by a majority of its members agree.

20 ~~(e)~~ (f) The board may adopt necessary rules or  
21 procedures to conduct its business.

22 ~~(f)~~ (g) Members of the board shall serve without  
23 compensation, but may be reimbursed for actual expenses  
24 incurred while conducting the business of the board, according  
25 to its rules or procedures.

1           Section 4. (a) There shall be established within the  
 2 Jefferson County Budget Division, a Jefferson County Cemetery  
 3 Account funded by revenue from the pistol permits portion  
 4 dedicated to the Jefferson County delegation.

5           (b) 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           Section 5. (a) The board shall be responsible for  
 10 all of the following duties:

11           ~~(1) Negotiating the acquisition of any neglected~~  
 12 ~~for-profit cemetery in the county, including a cemetery owned~~  
 13 ~~by a private entity.~~

14           ~~(2) (1) Supervising the clean up and maintenance of~~  
 15 ~~any neglected cemetery under its authority.~~

16           ~~(3) (2) Coordinating with the sheriff to provide~~  
 17 ~~inmate labor to perform the maintenance of any neglected~~  
 18 ~~cemetery.~~

19           ~~(4) (3) Purchasing office equipment up to \$500 and~~  
 20 ~~other necessary materials to perform the functions of the~~  
 21 ~~board.~~

22           ~~(5) At its discretion, transferring the ownership of~~  
 23 ~~a cemetery under its authority to a nonprofit board.~~

24           ~~(6) (4) Any other business necessary to carry out~~  
 25 ~~the purposes of this act.~~

1           (b) The board may only perform maintenance on a  
2 private cemetery if the board finds after a hearing that the  
3 condition of the cemetery is a public nuisance.

4           (c) The board shall have the authority to enforce  
5 all rules adopted pursuant to this act and may institute any  
6 legal proceeding, including the filing of a suit, as necessary  
7 to effect compliance with this act.

8           Section 6. (a) ~~Subject to subsection (b), fifty~~  
9 ~~Fifty~~ thousand dollars (\$50,000) shall be made available to  
10 the board from the ~~county general fund~~ pistol permit fees  
11 collected by the county and twenty-five thousand (\$25,000)  
12 from the pistol permit fees for each year thereafter ~~when the~~  
13 ~~board takes action to acquire a for-profit neglected cemetery~~  
14 ~~under this act. The funds shall come from the sales tax~~  
15 ~~revenues deposited in the county general fund.~~

16           ~~(b) The funds made available for the purposes of~~  
17 ~~this act shall come only from the sales tax revenues collected~~  
18 ~~in the fiscal year 2016 and thereafter that is greater than~~  
19 ~~the sales tax revenues collected and deposited in the county~~  
20 ~~general fund in the fiscal year 2015.~~

21           Section 7. The county commission shall have no  
22 authority over the board and the county commission shall have  
23 no responsibility over a cemetery in the county, as defined by  
24 this act, and no county funds shall be expended as a result of  
25 the implications or implementation of this act.

1           Section 8. Members of the board may not be subject  
2 to civil liability arising from the conduct of the affairs of  
3 the board except when the act or omission of the member of the  
4 board amounts to willful or wanton misconduct, fraud, or ~~gross~~  
5 negligence.

6           Section 9. This act shall only apply to cemeteries  
7 in existence on the effective date of this act.

8           Section 10. A cemetery owned by a religious  
9 organization, as defined by Section 45-37-150.01 of the Code  
10 of Alabama 1975, or a private, family-owned cemetery, is  
11 exempt from this act.

12           Section 11. All laws or parts of laws which conflict  
13 with this act are repealed.

14           Section 12. This act shall become effective  
15 immediately following its passage and approval by the  
16 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 07-MAR-17, as amended.

Jeff Woodard  
Clerk

Senate	17-MAY-17	Amended and Passed
House	19-MAY-17	Concurred in Senate Amendment