1 HB207
2 164537-5
3 By Representative Pringle (N & P)
4 RFD: Mobile County Legislation
5 First Read: 10-MAR-15
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
of fostering the planting, growth and protection of trees on
private property and publicly owned areas.

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

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

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

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

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

"Section 6. The Tree Commission shall cooperate with
and coordinate its activities with the Street Department
Public Works Department, the Department of Parks and
Gemeindest Recreation and other departments of the City of Mobile Class 2 municipality; all agencies departments of the City Class 2 municipality shall cooperate with the Tree Commission.

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

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

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

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

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

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

"Section 9. No (a) Except as provided in subsection (b), no person shall cut, remove, trim, or in any way damage any tree in any street right-of-way in the City of Mobile Class 2 municipality or shall create any condition injurious to any such tree without having first made a written application so to do to the Commission commission and having obtained advance written permission from the Commission commission. Any governmental body or utility may, by filing an application accompanied by a certificate as hereinafter provided, obtain a continuing permission to trim, cut, or remove at any time any trees in any area described in its
application for such permission. The form of application shall be as established from time to time by the Commission commission, and the Commission commission may delegate to one or more of its members or officers the power to grant such permission in accordance with standards set by it. The Commission commission may in its discretion hold public hearings on any application and may approve part of an application or may approve an application upon such terms and conditions as the Commission commission may fix establish. In considering any application before it, the Commission commission shall base its decision on whether the public and private benefit that will result from granting the application outweighs the public and private benefit that will result from denying it. In the event a governmental body the Mayor of the Class 2 municipality or public utility shall certify to the Commissioners commissioners that it desires to trim, cut or remove trees and that it is or may become reasonably necessary to do so to prevent a public hazard or to provide efficient or economical service to the public, then such certificate shall be conclusive evidence for the approval of such the application, and the Commission commission shall approve the same, and there shall be no appeal from such approval except as provided in Section 10.

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

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

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

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

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

Section 5. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
Speaker of the House of Representatives

Kay Ivey
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 14-APR-15, as amended.

Jeff Woodard
Clerk

Senate 30-APR-15 Passed

APPROVED May 5, 2015

TIME 4:30 P.M.

GOVERNOR

Alabama Secretary Of State
Act Num....: 2015-116
Bill Num....: H-207
Recvd 05/06/15 10:12amSLF
I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 207

YEAS 41    NAYS 0

JEFF WOODARD, Clerk


JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees __________________________________________

________________________________________

This Bill was referred to the Standing Committee of the Senate on

LLMO

and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) ____ w/sub ____ by a vote of

yeas 4    nays 0    abstain 0

this 23 day of April 2015

Chairperson

DATE: 4-14 2015

RD 1 RFD

DATE: 4-18 2018

RF FA  RD 2 CAL

DATE: 20__

RE-REFERRED □  RE-COMMITTED □

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 207

YEAS 32    NAYS 0

PATRICK HARRIS, Secretary

FURTHER SENATE ACTION (OVER)