

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 933
Committee Substitute Reported Without Prejudice 5/27/99

Short Title: Cemetery Law Changes.

(Public)

Sponsors:

Referred to:

April 6, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE RELOCATION AND CARE OF THOSE
3 ABANDONED CEMETERIES SELECTED FOR RELOCATION BY THE
4 ARCHAEOLOGY AND HISTORIC PRESERVATION SECTION OF THE
5 DEPARTMENT OF CULTURAL RESOURCES.

6 The General Assembly of North Carolina enacts:

7 Section 1. Chapter 65 of the General Statutes is amended by adding an Article
8 after Article 1 to read:

9 **"ARTICLE 1A.**

10 **"RELOCATION OF ABANDONED CEMETERIES.**

11 **"§ 65-3.10. Purpose.**

12 The purpose of this Article is to stop the loss of abandoned public cemeteries by
13 vandalism, logging, plowing, and other causes, to relocate certain abandoned cemeteries
14 on a county-by-county basis, and to provide for the perpetual care of these relocated
15 cemeteries, thereby preserving their historic significance.

16 **"§ 65-3.11. Administration of program.**

17 The Archaeology and Historic Preservation Section of the Division of Archives and
18 History, Department of Cultural Resources, shall administer the relocation of abandoned
19 public cemeteries program.

1 **"§ 65-3.12. Selection for relocation.**

2 (a) The Archaeology and Historic Preservation Section shall select those
3 abandoned cemeteries that, according to the Section, need relocation. The Archaeology
4 and Historic Preservation Section may rely on the list of abandoned public cemeteries
5 compiled pursuant to G.S. 65-1.

6 (b) From this selection, the Archaeology and Historic Preservation Section shall
7 create a list of counties that contain the selected abandoned cemeteries and rank those
8 counties according to need for relocation of abandoned cemeteries within each county.

9 (c) The Archaeology and Historic Preservation Section shall relocate the selected
10 abandoned cemeteries in the first county on the list compiled under subsection (b) of this
11 section until all selected abandoned cemeteries within that county have been relocated.
12 As long as funds are available, the Archaeology and Historic Preservation Section shall
13 relocate the selected abandoned cemeteries in the remaining counties on the list in order
14 of ranking.

15 **"§ 65-3.13. Contractor to perform relocation.**

16 (a) The Archaeology and Historic Preservation Section shall receive written bids
17 for the relocation program from any person, firm, or corporation that:

18 (1) Is licensed in North Carolina for the practice of funeral directing or
19 funeral service pursuant to G.S. 90-210.25;

20 (2) Has been engaged in the business of cemetery relocation for the
21 previous 10 years; and

22 (3) Is qualified to relocate cemeteries based on past experience, reputation,
23 and other qualifications known to the Archaeology and Historic
24 Preservation Section.

25 (b) The Archaeology and Historic Preservation Section shall review the proposals
26 and select a person, firm, or corporation to perform the relocation of the selected
27 abandoned cemeteries. The State and this contractor shall enter into a negotiated service
28 contract.

29 (c) In lieu of requiring a performance bond from the contractor, the Archaeology
30 and Historic Preservation Section shall withhold at least ten percent (10%) of the
31 compensation to be paid according to the terms of the negotiated service contract until the
32 contractor has completed all of his obligations under the contract. No performance bond
33 may be required from the contractor.

34 (d) The total amount to be paid the contractor under the terms of the negotiated
35 service contract may not exceed the amount of monies available to the Department of
36 Cultural Resources for this purpose. This amount shall equal the current appropriation
37 less:

38 (1) The costs incurred by the Archaeology and Historic Preservation
39 Section in carrying out the provisions of this Article; and

40 (2) The costs to purchase, pursuant to G.S. 65-3.14(a), the properties to
41 which the selected abandoned cemeteries will be relocated.

42 **"§ 65-3.14. Duties of the contractor.**

1 (a) Upon the approval of the Archaeology and Historic Preservation Section, the
2 contractor shall select the sites to which the abandoned cemeteries are to be relocated.
3 The State shall obtain fee simple title to each site prior to relocating an abandoned
4 cemetery to that site.

5 (b) The contractor shall:

6 (1) Prepare each site by clearing undergrowth and constructing fences;

7 (2) Determine the location of each grave on the property;

8 (3) Disinter and remove graves at the cemetery to be relocated;

9 (4) Reinter the graves at the relocation site;

10 (5) Grade and landscape the relocation site; and

11 (6) Perform any other function necessary to effectuate the relocation.

12 **"§ 65-3.15. Supervision by Department; inspection of certain contents of graves.**

13 (a) The Archaeology and Historic Preservation Section shall supervise the
14 activities of the contractor listed in G.S. 65-3.14. The contractor's work shall be fully
15 satisfactory to the Archaeology and Historic Preservation Section.

16 (b) A representative of the Archaeology and Historic Preservation Section may
17 inspect the remains and:

18 (1) Study any remains uncovered at disinterment for up to two hours; and

19 (2) Study those remains believed by the representative to be of historical
20 significance for a period not to exceed five days; provided, however,
21 that no more than ten percent (10%) of the remains at any one
22 abandoned cemetery may be studied during one five-day period.

23 (c) Upon the invitation of the Archaeology and Historic Preservation Section,
24 college and university archaeology classes may observe the inspections and studies
25 conducted by the Archaeology and Historic Preservation Section and assist with these
26 inspections and studies.

27 **"§ 65-3.16. Future care of relocated cemeteries.**

28 (a) The Department of Correction is authorized to furnish prison labor from a unit
29 in a county to provide for the future care of a relocated cemetery in that county. The
30 wages to be paid this prison labor may be appropriated by the General Assembly for this
31 purpose.

32 (b) The Department of Cultural Resources may enter into contracts with private
33 persons, firms, or corporations for the provision of future care when future care has not
34 been provided for pursuant to subsection (a) of this section."

35 Section 2. The Department of Cultural Resources shall enter into a negotiated
36 service contract with a contractor pursuant to G.S. 65-3.13 within 60 days after the
37 effective date of this act.

38 Section 3. There is appropriated from the General Fund to the Department of
39 Cultural Resources, Division of Archives and History, Archaeology and Historic
40 Preservation Section, the sum of two hundred fifty thousand dollars (\$250,000) for the
41 1999-2000 fiscal year to fund the program created by this act as follows: an amount not
42 to exceed fifty thousand dollars (\$50,000) shall be used for the additional staff,
43 equipment, supplies, and other expenses of the Department necessary to effectuate this

1 program; the remaining two hundred thousand dollars (\$200,000) or more shall be used
2 for the purchase of land by the State to be used as relocation sites and for the payment of
3 the contractor as provided in the negotiated service contract.

4 Section 4. Funds appropriated in this act shall be expended only in accordance
5 with G.S. 121-11 and G.S. 143-31.2.

6 Section 5. This act becomes effective July 1, 1999.