

1 HB72
2 204071-1
3 By Representative Brown (K)
4 RFD: Boards, Agencies and Commissions
5 First Read: 04-FEB-20
6 PFD: 02/03/2020

SYNOPSIS: Under existing law, the Alabama Board of Funeral Service is responsible for the licensing and regulation of funeral establishments, funeral directors, and embalmers in the state.

This bill would provide flexibility regarding receipts and expenses of the board.

This bill would also authorize the board to acquire, hold, and convey real property in its own name and provide for the creation, funding, and purpose of the Funeral Board Property Acquisition Fund.

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 34-13-23 and 34-13-27, Code of Alabama 1975, relating to the Alabama Board of Funeral Service; to provide flexibility regarding receipts and expenses of the board; to authorize the board to acquire,

1 hold, and convey real property in its own name; and to provide
2 for the creation, funding, and purpose of the Funeral Board
3 Property Acquisition Fund.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 34-13-23 and 34-13-27 of the
6 Code of Alabama 1975, are amended to read as follows:

7 "§34-13-23.

8 "(a) (1) The board appointed under this chapter and
9 each successor thereto is authorized to select from its own
10 membership a chair and to adopt ~~and promulgate such rules and~~
11 ~~regulations~~ for the transaction of its business and for the
12 betterment and promotion of the standards of service and
13 practice to be followed in the funeral service profession in
14 the State of Alabama as the board may deem expedient and
15 consistent with the laws of this state and for the public
16 good.

17 "(2) The chair shall preside at all meetings of the
18 board unless otherwise ordered, and he or she shall exercise
19 and perform all duties and functions incident to the office of
20 chair.

21 "(3) The board may select ~~also~~ from its own
22 membership a vice chair, a secretary, and a treasurer. No two
23 offices shall be held by the same person.

24 "(b) The treasurer shall give bond to the State of
25 Alabama in the sum of ten thousand dollars (\$10,000), and any
26 premium payable for the bond shall be paid from the funds of

1 the board. The bond shall be deposited with the Treasurer of
2 the State of Alabama.

3 "(c) Board members shall be reimbursed for their
4 necessary ~~traveling~~ travel expenses and the necessary expenses
5 incident to their attendance upon the business of the board,
6 and, in addition thereto, they shall receive the sum of fifty
7 dollars (\$50) per diem for every day not to exceed 20 days per
8 year actually spent by the member upon the business of the
9 board. The board may employ an executive director and
10 associate executive director who shall each receive and be
11 paid an annual salary to be fixed by the board, but not to
12 exceed the salary level established and paid to cabinet
13 officers in the state government. The salary shall be paid on
14 a semimonthly basis. In addition, the executive director and
15 associate executive director shall receive his or her
16 necessary ~~traveling~~ travel and other incidental expenses as
17 are incurred in the performance of duties, and all expenses,
18 per diem, and compensation shall be paid out of the receipts
19 of the board. At no time shall the operation of the board be
20 an expense to the state, ~~and at no time shall expenses of the~~
21 ~~board exceed the receipts of the board.~~

22 "(d) The executive director of the board shall have
23 complete supervision and be held responsible for the direction
24 of the office of the board, shall have supervision over field
25 inspection and enforcement of this chapter, and shall be
26 responsible and answerable to the board. The associate
27 executive director shall assist the executive director and

1 perform such other duties as may be assigned to him or her by
2 the board.

3 "(e) The executive director shall keep a record in
4 which shall be registered the name and business address of
5 every person to whom licenses have been granted in accordance
6 with this chapter, the number and date of the license, and the
7 date of each renewal. Upon request to do so, the executive
8 director shall supply each person licensed for the practice of
9 embalming and funeral directing with a list of all persons and
10 establishments holding a license under this chapter, then in
11 force, giving the names of the persons, their business
12 addresses, and the numbers of their licenses.

13 "(f) It shall be the duty of the executive director
14 to prepare under the direction of the board and cause to be
15 printed all forms required by this chapter to be prescribed by
16 the board. All notices required to be mailed by this chapter
17 shall be directed to the last known post office address of the
18 party to whom the notice is sent.

19 "(g) The executive director shall serve at the
20 pleasure of the board and shall perform duties as may be
21 necessary for the proper functioning of the board as the board
22 may determine or as may be prescribed in this chapter. During
23 the employment of the executive director, he or she may not be
24 employed by any funeral establishment.

25 "(h) All fees and fines received under this chapter
26 shall be paid into a special fund in the State Treasury to be
27 known as the Alabama State Funeral Directors and Embalmers

1 Fund, which is hereby created, for the necessary and proper
2 expenses of the board, and for a reasonable reserve for future
3 use by the board. All moneys in the fund are hereby
4 appropriated, as a continuing appropriation, to the board to
5 be used for carrying out this chapter.

6 "(i) Each member of the board, the executive
7 director, the associate executive director, designated
8 employees, and independent contractors of the board
9 appropriately identified are authorized at any given time, on
10 complaint or for inspection purposes, to enter the office,
11 premises, establishment, or place of business of any funeral
12 service licensee in the State of Alabama or any office,
13 premises, establishment, or place where the practice of
14 funeral service is carried on, or where the practice is
15 advertised as being carried on, for the purpose of inspecting
16 the office, premises, records, or establishment and for the
17 purpose of inspecting the license and registration of any
18 funeral service licensee ~~and~~ or apprentice trainee operating
19 therein.

20 "(j) All members of the board or designated
21 employees of the board may serve and execute any process
22 issued by any court under this chapter and to serve and
23 execute any papers or process issued by the board or any
24 officer or member ~~thereof~~ of the board under this chapter.

25 "(k) The board may employ clerical assistants and
26 employees ~~or other help~~ as necessary to carry out this
27 chapter, and the terms and conditions of employment shall be

1 determined by the board. The board may establish and equip an
2 office from which this chapter may be carried out.

3 "§34-13-27.

4 "(a) The board shall adopt a common seal, which may
5 be altered as often as the board may desire, and may adopt and
6 enforce, for the protection of the public health, safety, and
7 welfare, reasonable rules ~~and regulations~~ relating to all of
8 the following:

9 "(1) The practice of the profession of embalming,
10 including, but not limited to, solicitation of business~~7.~~.

11 "(2) The practice of the profession of funeral
12 directing, including, but not limited to, solicitation of
13 business~~7.~~.

14 "(3) The sanitary condition and physical facilities
15 of funeral homes, mortuaries, and funeral establishments where
16 the profession of embalming and funeral directing is carried
17 on, with particular regard to plumbing, sewage, disinfecting,
18 ventilation, and equipment~~7.~~.

19 "(4) Carrying out generally the various provisions
20 of this chapter for the protection of the peace, health,
21 safety, and welfare of the public~~7; and.~~.

22 "(5) Carrying out a program for training of
23 apprentice embalmers and apprentice funeral directors.

24 "(b) (1) The board may acquire and hold, in its own
25 name, real property by purchase, gift, lease, lease with the
26 option to purchase, or other lawful means, except eminent
27 domain, which real property may be used by the board to carry

1 out its responsibilities. The board may also transfer, sell,
2 convey, or cause to be conveyed real property and any
3 improvements thereon, subject to the requirements of this
4 section. In purchasing any real property, maintaining real
5 property, or making improvements thereto, the board may expend
6 any funds contained in the Funeral Board Property Acquisition
7 Fund established by subdivision (2), and any obligations
8 created in connection with the purchase or improvement of the
9 real property shall not create debts, obligations, or
10 liabilities of the state. As used in this subsection, real
11 property shall include land, lots, and all things and
12 interests, including leasehold interests, pertaining thereto,
13 and all other things annexed or attached to the land which
14 would pass to a vendee by conveyance of the land or lot,
15 including mineral, gas, and oil interests. All sales or leases
16 made by the board of any real property owned or held by the
17 board shall be subject to the requirements of Article 3,
18 commencing with Section 9-15-70, Chapter 15, Title 9.
19 Notwithstanding the foregoing, the proceeds from the sale of
20 real property owned by the board which are distributed
21 pursuant to Section 9-15-83, shall be paid to the board and
22 deposited into the property acquisition fund.

23 "(2) The board shall establish the Funeral Board
24 Property Acquisition Fund within the State Treasury. Any funds
25 received by the board pursuant to this section shall be
26 deposited into the property acquisition fund and shall be held
27 by the board in trust for carrying out the purposes of the

1 property acquisition fund. Not later than October 1, 2020, the
2 executive director shall transfer from the Alabama State
3 Funeral Directors and Embalmers Fund to the property
4 acquisition fund an amount determined by vote of the board for
5 the purchase of real property. Thereafter, the board shall
6 annually, during the month of October, transfer an amount
7 between three percent and seven percent of the boards receipts
8 from the previous fiscal year to the property acquisition
9 fund.

10 "(3) At the end of each fiscal year, any
11 unencumbered and unexpended balance in the property
12 acquisition fund shall not revert to the State General Fund,
13 but shall carry over to the next fiscal year."

14 Section 2. This act shall become effective August 1,
15 2020, following its passage and approval by the Governor, or
16 its otherwise becoming law.