

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 404

Short Title: Relocate Abandoned Cemeteries.

(Public)

Sponsors: Senators Hunt of Moore; Guy, Marvin, Raynor, Speed, Staton, Taft, Tally, and Walker.

Referred to: Judiciary III.

March 13, 1989

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
8 Article to read:

9 **“ARTICLE 1A.**

10 **“RELOCATION OF ABANDONED CEMETERIES.**

11 **“§ 65-3.1. 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 **“§ 65-3.2. 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.

20 **“§ 65-3.3. Selection for relocation.**

21 (a) The Archaeology and Historic Preservation Section shall select those
22 abandoned cemeteries that, according to the Section, need relocation. The Archaeology

1 and Historic Preservation Section may rely on the list of abandoned public cemeteries
2 compiled pursuant to G.S. 65-1.

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

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

11 **"§ 65-3.4. Contractor to perform relocation.**

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

- 14 (1) Is licensed in North Carolina for the practice of funeral directing or
15 funeral service pursuant to G.S. 90-210.25;
16 (2) Has been engaged in the business of cemetery relocation for the
17 previous 10 years; and
18 (3) Is qualified to relocate cemeteries based on past experience, reputation,
19 and other qualifications known to the Section.

20 (b) The Archaeology and Historic Preservation Section of the Department of
21 Cultural Resources shall review the proposals and select a person, firm, or corporation
22 to perform the relocation of the selected abandoned cemeteries. The State and this
23 contractor shall enter into a negotiated service contract.

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

29 (d) The total amount to be paid the contractor under the terms of the negotiated
30 service contract may not exceed the amount of monies available to the Department for
31 this purpose. This amount shall equal the current appropriation less:

- 32 (1) The costs incurred by the Archaeology and Historic Preservation
33 Section in carrying out the provisions of this Article; and
34 (2) The costs to purchase, pursuant to G.S. 65-3.5(a), the properties to
35 which the selected abandoned cemeteries will be relocated.

36 **"§ 65-3.5. Duties of the contractor.**

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

41 (b) The contractor shall:

- 42 (1) Prepare each site by clearing undergrowth and constructing fences;
43 (2) Determine the location of each grave on the property;
44 (3) Disinter and remove graves at the cemetery to be relocated;

- 1 (4) Refill graves spaces and landscape;
- 2 (5) Reinter the graves at the relocation site;
- 3 (6) Grade and landscape the relocation site; and
- 4 (7) Perform any other function necessary to effectuate the relocation.

5 **"§ 65-3.6. Supervision by Department; inspection of certain contents of graves.**

6 (a) The Archaeology and Historic Preservation Section shall supervise the
7 activities of the contractor under G.S. 65-3.5. The contractor's work shall be fully
8 satisfactory to the Section.

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

- 11 (1) Study any remains uncovered at disinterment for up to two hours; and
- 12 (2) Study those remains believed by the representative to be of historical
13 significance for a period not to exceed five days; provided, however,
14 that no more than ten percent (10%) of the remains at any one
15 abandoned cemetery may be studied during one five-day period.

16 (c) Upon the invitation of the Archaeology and Historic Preservation Section,
17 college and university archaeology classes may observe the inspections and studies
18 conducted by the Archaeology and Historic Preservation Section and assist with these
19 inspections and studies.

20 **"§ 65-3.7. Future care of relocated cemeteries.**

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

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

28 Sec. 2. The Department of Cultural Resources shall enter into a negotiated
29 service contract with a contractor pursuant to G.S. 65-3.4 within 60 days after the
30 effective date of this act.

31 Sec. 3. There is appropriated from the General Fund to the Department of
32 Cultural Resources, Division of Archives and History, Archaeology and Historic
33 Preservation Section, the sum of two million seven hundred fifty thousand dollars
34 (\$2,750,000) for the 1989-90 fiscal year to fund the program created by this act as
35 follows: an amount not to exceed one hundred fifty thousand dollars (\$150,000) shall
36 be used for the additional staff, equipment, supplies, and other expenses of the
37 Department necessary to effectuate this program; the remaining two million six hundred
38 thousand dollars (\$2,600,000) or more shall be used for the purchase of land by the
39 State to be used as relocation sites and for the payment of the contractor as provided in
40 the negotiated service contract.

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

43 Sec. 5. This act shall become effective July 1, 1989.