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HOUSE BILL NO. 1523

Offered January 9, 2020

A BILL to amend and reenact §§ 10.1-2202 and 10.1-2211.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-2211.3, relating to historical African American cemeteries and graves; fund.

Patrons—McQuinn, Bagby, Hope, Jenkins, Rasoul and Samirah

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-2202 and 10.1-2211.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-2211.3 as follows:

§ 10.1-2202. Powers and duties of the Director.

In addition to the powers and duties conferred upon the Director elsewhere and in order to encourage, stimulate, and support the identification, evaluation, protection, preservation, and rehabilitation of the Commonwealth's significant historic, architectural, archaeological, and cultural resources; in order to establish and maintain a permanent record of those resources; and in order to foster a greater appreciation of these resources among the citizens of the Commonwealth, the Director shall have the following powers and duties which may be delegated by the Director:

1. To employ such personnel as may be required to carry out those duties conferred by law;

2. To make and enter into all contracts and agreements necessary or incidental to the performance of his duties and the execution of his powers, including but not limited to contracts with private nonprofit organizations, the United States, other state agencies and political subdivisions of the Commonwealth;

3. To apply for and accept bequests, grants and gifts of real and personal property as well as endowments, funds, and grants from the United States government, its agencies and instrumentalities, and any other source. The Director shall have the authority to comply with such conditions and execute such agreements as may be necessary, convenient or desirable;

4. To perform acts necessary or convenient to carry out the duties conferred by law;

5. To promulgate regulations, in accordance with the Virginia Administrative Process Act (§ 2.2-4000 et seq.) and not inconsistent with the National Historic Preservation Act (P.L. 89-665) and its attendant regulations, as are necessary to carry out all responsibilities incumbent upon the State Historic Preservation Officer, including at a minimum criteria and procedures for submitting nominations of properties to the National Park Service for inclusion in the National Register of Historic Places or for designation as National Historic Landmarks;

6. To conduct a broad survey and to maintain an inventory of buildings, structures, districts, objects, and sites of historic, architectural, archaeological, or cultural interest which constitute the tangible remains of the Commonwealth's cultural, political, economic, military, or social history;

7. To publish lists of properties, including buildings, structures, districts, objects, and sites, designated as landmarks by the Board, to inspect designated properties from time to time, and periodically publish a complete register of designated properties setting forth appropriate information concerning those properties;

8. With the consent of the landowners, to provide appropriately designed markers for designated buildings, structures, districts, objects and sites;

9. To acquire and to administer battlefield properties and designated landmarks, or easements or interests therein;

10. To aid and to encourage counties, cities and towns to establish historic zoning districts for designated landmarks and to adopt regulations for the preservation of historical, architectural, archaeological, or cultural values;

11. To provide technical advice and assistance to individuals, groups and governments conducting historic preservation programs and regularly to seek advice from the same on the effectiveness of Department programs;

12. To prepare and place, in cooperation with the Department of Transportation, highway historical markers approved by the Board of Historic Resources on or along the highway or street closest to the location which is intended to be identified by the marker;

13. To develop a procedure for the certification of historic districts and structures within the historic districts for federal income tax purposes;

14. To aid and to encourage counties, cities, and towns in the establishment of educational programs and materials for school use on the importance of Virginia's historic, architectural, archaeological, and

cultural resources;

15. To conduct a program of archaeological research with the assistance of the State Archaeologist which includes excavation of significant sites, acquisition and maintenance of artifact collections for the purposes of study and display, and dissemination of data and information derived from the study of sites and collections;

16. To manage and administer the Historic Resources Fund as provided in § 10.1-2202.1; and

17. ~~[Expired.]~~ *To manage and administer the Historical African American Cemeteries and Graves Fund as provided in § 10.1-2211.3.*

§ 10.1-2211.2. Disbursement of funds appropriated for caring for historical African American cemeteries and graves.

A. For purposes of this section:

"Fund" means the Historical African American Cemeteries and Graves Fund created pursuant to § 10.1-2211.3.

"Historical African American cemetery" means a cemetery that was established prior to January 1, 1900, for interments of African Americans.

"Qualified organization" means a charitable corporation, charitable association, or charitable trust that has been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and whose primary purpose is the preservation of historical cemeteries and graves or any person or locality that owns a historical African American cemetery.

B. At the direction of the Director, the Comptroller of the Commonwealth shall draw an annual warrant upon the State Treasurer from any sum that may be provided *to the Department* in the general appropriation act ~~in favor of the treasurer of a qualified organization caring for any cemetery set forth in this subsection~~. *Any representative of a qualified organization desiring to receive funding from such appropriation for the maintenance of qualifying cemeteries and graves pursuant to this section shall submit an application to the Department on or before May 30 each year.* Such appropriations shall be allocated on the basis of the number of graves, monuments, and markers in a cemetery of African Americans who lived at any time between January 1, 1800, and January 1, 1900, the dates to be determined by reference to grave markers or, at the discretion of the Director, other historical records. Such number of graves, monuments, and markers, ~~as set forth opposite the cemetery name or~~ as documented by the qualified organization, shall be multiplied by the rate of $5 or the average actual cost of routine maintenance of a grave, monument, or marker, whichever is greater, to determine the amount of the allocation. The Department shall determine the average actual cost of routine maintenance of a grave, monument, or marker in a biennial survey of at least four properly maintained cemeteries, each located in a different geographical region of the Commonwealth. *The Director shall deposit any appropriated funds that are not disbursed during the same fiscal year into the Fund.*

IN THE COUNTY OF:	NUMBER:
Henrico	
East End Cemetery	4,875
Loudoun	
African-American Burial Ground for the Enslaved at Belmont	44
Pulaski	
New River Cemetery	33
West Dublin Cemetery	44
IN THE CITY OF:	
Alexandria	
Baptist Cemetery of the African American Heritage Park	28
Contrabands and Freedmen Cemetery	631
Douglass Cemetery	83
Lebanon Union Cemetery	53
Methodist Protestant Cemetery	1,134
Penny Hill Cemetery	14
Charlottesville	
Daughters of Zion Cemetery	192
Hampton	
Bassette's Cemetery	212
Elmerton Cemetery	339
Good Samaritan Cemetery	37
Pleasant Shade Cemetery	29
Queen Street Cemetery	14
Tucker Family Cemetery	15
Union Street Cemetery	125
Martinsville	
Matthews Cemetery	8
The People's Cemetery	178

Smith Street Cemetery	9
Portsmouth	
Mt. Calvary Cemetery	266
Richmond	
Evergreen Cemetery	2,100
Suffolk	
Oak Lawn Cemetery	468

C. *In addition to any sum provided to a qualified organization as set forth in subsection B, the Director may disburse funds to any qualified organization to fund maintenance and care of additional historical African American graves in the Commonwealth that have been certified by the Department and documented in the Department's cultural resources database. Funds disbursed under this subsection shall be disbursed at the rate set forth in subsection B.*

D. An organization receiving funds shall expend the funds for the routine maintenance of its historical African American cemetery and its graves and the erection of and caring for markers, memorials, and monuments to the memory of such African Americans.

~~D.~~ *E.* Each qualified organization, through its proper officer, shall after July 1 of each year submit to the Director a certified statement that the funds appropriated to the organization during the preceding fiscal year were or will be expended for the purposes set forth in subsection ~~C~~ *D*. No organization that fails to comply with any of the requirements of this section shall receive moneys allocated under this section for any subsequent fiscal year until the organization fully complies with the requirements.

~~E.~~ *F*. In addition to funds that may be provided pursuant to subsection B *or C*, any organization ~~set forth in~~ *that receives funds pursuant to* subsection B *or C* may apply to the Director for a grant to perform extraordinary maintenance, renovation, repair, or reconstruction of any of its historical African American cemeteries and graves. Such a grant shall be made from any appropriation made available by the General Assembly for such purpose *or from the Fund*.

~~F.~~ *G*. Any locality may receive and hold funds drawn pursuant to subsection B *or C* on behalf of any qualified organization until such time as the organization is able to receive or utilize such funds. No local matching funds shall be required for any grants made pursuant to this section.

~~G.~~ *H.* The owner of a historical African American cemetery shall reasonably cooperate with a qualified organization that receives funds pursuant to subsection B *or C*.

§ 10.1-2211.3. Historical African American Cemeteries and Graves Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Historical African American Cemeteries and Graves Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose, all funds deposited in the Fund pursuant to subsection B or C of § 10.1-2211.2, and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set out in subsections B and C of § 10.1-2211.2. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.